

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
MAY 13, 2020**

**CALL TO ORDER:** Chair McDonald called the Bonner County Commissioners' hearing to order at 1:33 p.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho and via online webinar.

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

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton and Planning Operations Manager Josh Pilch

**VIA WEBINAR:** Planner II Halee Sabourin, Administrative Assistant II Emily Aerni

**PUBLIC HEARINGS:**

**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 AM0001-20 & ZC0001-20 – Comprehensive Plan Map Amendment & Zone Change – Janna & Donald Richardson** are requesting a Comprehensive Plan Map Amendment from Rural Residential to Urban and a Zone Change from Rural-5 to Suburban. The property is 4 acres. The project is located off Pierce Lane in Section 35, Township 57 North, Range 2 West, Boise-Meridian. The Planning & Zoning Commission at the public hearing on March 5, 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. Commissioner Bradshaw disclosed he has known the applicant for many years, but it did not create a conflict for him. The Chair noted that there were no additional 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 and Bonner County Comprehensive Plan.

**APPLICANT PRESENTATION:** Project Representative Dan Provolt stated the subject property contains more suburban zoning than the online county GIS map shows.

**PUBLIC/AGENCY TESTIMONY:** None.

**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:** Commissioner Connolly moved to approve this project, FILE AM0001-20, requesting a comprehensive plan amendment from Urban Growth Area/Rural Residential to Urban Growth Area, 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 Connolly 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.

---

**Comprehensive Plan Map Resolution Adoption:**

Commissioner Connolly moved to approve resolution #2020-33 amending the Bonner County Projected Land Use Map. Commissioner Bradshaw seconded the motion.

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

---

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

**MOTION:** Commissioner Bradshaw moved to approve this project, FILE ZC0001-20, requesting a zone change from Suburban/Rural-5 to Suburban, 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 Connolly seconded the motion.

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

---

**Zone Change Ordinance Motion:**

---

**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 35 & 36, Township 57 North, Range 2 West, Boise Meridian, Bonner County, Idaho from Rural-5 to Suburban, 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 Connolly seconded the motion.

**ROLL CALL VOTE**

Commissioner McDonald        AYE  
Commissioner Connolly        AYE  
Commissioner Bradshaw        AYE

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

---

**Background:**

---

**A. Site data:**

- Use: Residential
- Unplatted
- Size: 4.67 acres
- Zone: Suburban & Rural-5
- Land Use: Urban Growth Area (<=2.5 AC) & Rural Residential (5-10 AC)
- Legal per: Instrument #572132

**B. Access:**

- The property is access off Pierce Lane (private road) from Birch Haven Drive (county owned and maintained).

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain waterfront on Lake Pend Oreille. (NHD)
- This is a proposal for a density increase in Special Flood Hazard Areas (SFHA), per submitted application and FIRM Panel 16017C0950E, Effective Date 11/18/2009. Approval of this application may render Bonner County ineligible to continue as a member-in-good-standing in the NFIP CRS. (See agency comments)
- Soil: Pend Oreille Silt Loam, 5 To 45 Percent Slopes
  - Classification: Not Prime Farmland
  - Type: Consociation
  - Drainage: Well Drained

**D. Services:**

- Water: Individual system, Mountain Springs Water District, and adjacent to Southside Water and Sewer.
- Sewage: Individual system and adjacent to Southside Water and Sewer
- Fire: Selkirk Fire District
- Power: Avista
- School District: Bonner School #84

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential/ Urban Growth Area	Rural-5/ Suburban	Residential
North	Lake Pend Oreille	Lake Pend Oreille	Lake Pend Oreille
East	Rural Residential	Rural-5	Railroad/Residential
South	Rural Residential/ Urban Growth Area	Rural-5/ Suburban	Railroad/Residential
West	Urban Growth Area	Suburban	Residential

**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 Designation: Urban Growth**
  - The Urban Growth Areas are designed to recognize the historic developments of communities and neighborhoods which are served by either urban water or sewer services or are located within the fringes of incorporated cities where such services have or can be extended to serve these areas. These areas are generally level to moderately sloped and served by a network of primary transportation systems.
- **Comprehensive Plan Designation: 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.

- **12-324 Suburban District:**

- The suburban district is established to promote the development of residential uses located on the edges of the incorporated cities or other developed communities or areas, where urban sewer and water services are either available or have the potential to become available in the near future by reason of their inclusion in service districts, city service areas, or are adjacent to those areas or areas of city impact. Access to primary transportation routes and a system of hard surfaced roads are expected. The purpose can be accomplished by:
  - a. Providing for single-family detached dwelling units and other compatible housing forms, with a variety of densities in locations appropriate for urban densities.
  - b. Allowing only those accessory and complementary nonresidential uses that are compatible with urban residential communities.
  - c. Establishing density designations to facilitate advanced area wide planning for public facilities and services, and to protect environmentally sensitive sites from over development.
  - d. Encouraging conservation development configurations that create permanent open space, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
  - e. Requiring conservation development configurations in areas where all urban services are not available to provide the opportunity in the future to subdivide the land at urban densities.
- Use of this zone is appropriate in areas designated by the comprehensive plan as transition, urban growth area, resort community or suburban growth area in the comprehensive plan where a network of hard surfaced roads provides good access to primary transportation routes or potential public transportation systems. Urban services may not be available immediately, but are capable of being extended or constructed in the area.

- **12-323 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:
  - a. 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.
  - b. 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.
  - c. 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:

- a. 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.

**G. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC Title 12, Chapter 7.

**H. Agency Review:** The application was routed to agencies for comment on February 4, 2020.

<i>All Taxing Districts</i>	<i>U.S. Army Corps (Coeur d'Alene)</i>
<i>Bonner County Road Department</i>	<i>Idaho Department of Lands (Sandpoint)</i>
<i>Avista Utilities</i>	<i>BNSF Railway</i>
<i>Idaho Department of Lands, Nav. Waters</i>	<i>U.S. Fish and Wildlife Service</i>
<i>Idaho Department of Fish and Game</i>	<i>Idaho Department of Environmental Quality</i>
<i>Idaho Department of Water Resources</i>	

**The following agencies replied "No Comment":**

*City of Clark Fork  
Idaho Department of Environmental Quality  
Idaho Department of Fish and Game  
Bonner County Road Department  
Idaho Department of Lands  
Independent Highway District  
Kootenai-Ponderal Sewer District  
U.S. Fish and Wildlife Service*

**The following agencies replied:**

*Floodplain Manager – Jason Johnson, February 24, 2020*

*This is a proposal for a density increase in Special Flood Hazard Areas (SFHA), per submitted application and FIRM Panel 16017C0950E, Effective Date 11/18/2009.*

*Membership in the National Flood Insurance Program Community Rating System (NFIP CRS) requires Bonner County to maintain existing low-density zoning within all regulated SFHAs within Bonner County. Bonner County is required to re-certify continued CRS eligibility annually. Part of this recertification process includes confirmation from the Bonner County Floodplain Manager that Bonner County continues to maintain existing low-density zoning within the regulated SFHA. This proposal is contrary to this required maintenance of low density.*

*Approval of this application may render Bonner County ineligible to continue as a member-in-good-standing in the NFIP CRS, and may require withdrawal by Bonner County from the NFIP CRS. This would result in Bonner County losing existing NFIP flood insurance discounts, which are currently 10% below full-prices. This would lead to an increase in flood insurance costs county-wide.*

*Panhandle Health District – Timothy French, February 25, 2020.*

Stated they do not have a comment for the file but wanted to submit a reminder to the applicant to ensure any land division or development obtain a valid septic permit.

**All other agencies did not reply.**

**I. Public Notice & Comments**

Ann M. Hargis & H. Denny Liggitt, February 26, 2020 – Has concerns regarding increased density and future subdivisions affecting narrow private road and only venue for emergency access; pollution of their artesian well; and regulations on septic development. They addressed previous subdivision proposals in the area that were denied and may have a basis in this file decision.

David and Caroline Argo, February 27, 2020 – Has concerns regarding future subdivisions, traffic impacts for narrow road, snow removal, lack of urban services for subject property, pollution from new septic systems. Requests that decision consider previous denials of subdivisions in the area.

Robert & Carolyn Gumerman, February 27, 2020 – Has concerns regarding future subdivisions, traffic impacts for narrow road, snow removal, lack of urban services for subject property, pollution from new septic systems. Requests that decision consider previous denials of subdivisions in the area. Stated the Richardson Property cannot obtain a hook up to Mountain Springs Water Company without other property owner’s approval.

---

**Comprehensive Plan Amendment Findings of Fact**

---

- Property is split by the Rural Residential and Urban Growth Area Comprehensive Plan designations
- Property is split by the Rural-5 and Suburban Zones
- Adjacent properties lie within the Urban Growth Areas and Suburban zone and feature the same soil types.
- The parcels lie within the Selkirk Fire district.
- Site is adjacent to Southside Water and Sewer District.
- The subject parcels are accessed off of Pierce Lane, a paved, private road, off Birch Haven Drive (county owned and maintained).
- The parcel features Pend Oreille Silt Loam, 5 To 45 Percent Slopes and supports timber production, livestock grazing, wildlife habitat, recreation, hay and pasture, and home site development.
- The parcels generally do not feature slopes in excess of 15%.

- Site partially within Special Flood Hazard Area AE along the waterfront.
- Site partially within a mapped wetland along the water front.
- Adjacent to Urban Growth Areas and Suburban zones and surrounding lands, including parcel in question, are not consistently 5-acre or larger parcels characteristic of the Rural-5 Zone.
- Site is located in a developed community/neighborhood.

---

**Comprehensive Plan Amendment 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 Urban Growth Area Land Use Designation.

---

**Zone Change Findings of Fact**

---

- Property is split by the Rural Residential and Urban Growth Area Comprehensive Plan designations
- Property is split by the Rural-5 and Suburban Zones
- Adjacent properties lie within the Urban Growth Areas and Suburban zone and feature the same soil types.
- The parcels lie within the Selkirk Fire district.
- Site is adjacent to Southside Water and Sewer District.
- The subject parcels are accessed off of Pierce Lane, a paved, private road, off Birch Haven Drive (county owned and maintained).



- The parcel features Pend Oreille Silt Loam, 5 To 45 Percent Slopes and supports timber production, livestock grazing, wildlife habitat, recreation, hay and pasture, and home site development.
- The parcels generally do not feature slopes in excess of 15%.
- Site partially within Special Flood Hazard Area AE along the waterfront.
- Site partially within a mapped wetland along the water front.
- Adjacent to Urban Growth Areas and Suburban zones and surrounding lands, including parcel in question, are not consistently 5-acre or larger parcels characteristic of the Rural-5 Zone.
- Site is located in a developed community/neighborhood.

---

**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 Suburban zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

**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 ZC0003-20 – Zone Change – Harry Reichelt** is requesting a Zone Change from Agricultural/Forestry 20 to Agricultural/Forestry 10. The project is located off Baldy Mountain Road in a portion of Section 12, Township 57 North, Range 3 West, Boise-Meridian. The Planning & Zoning Commission at the public hearing on March 5, 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 Josh Pilch presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code and Bonner County Comprehensive Plan.

**APPLICANT PRESENTATION:** Project Representative Dan Provolt stated the applicant’s request fits very well with the surrounding properties.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

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

---

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

---

**MOTION:** Commissioner Connolly moved to approve this project, FILE ZC0003-20, requesting a zone change from Ag/Forest-20 to Ag/Forest-10, 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 Connolly 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.

---

**Zone Change Ordinance Motion:**

---

**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 12, Township 57 North, Range 3 West, Boise Meridian, Bonner County, Idaho from AG/Forest-20 to AG/forest-10, 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 Connolly seconded the motion.

**ROLL CALL VOTE**

Commissioner McDonald        AYE  
 Commissioner Connolly        AYE  
 Commissioner Bradshaw        AYE

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

**Background:**

**A. Site data:**

- a. Residential use
- b. Unplatted
- c. Size: 20 acres
- d. Zone: Rural-10
- e. Land Use: Ag/Forest Land (10-20 AC)
- f. Legal per: exempt from platting per BCRC 12-612 (F)

**B. Access:**

- This lot has Access to baldy Mountain Road, a 60 foot wide public right of way.

**C. Environmental factors:**

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain waterfront or streams. (NHD)
- Soil:
  - Classification: Not Prime Farmland
  - Type: Pend Orelle Silt Loam, 5 To 45 Percent Slopes
  - Drainage: Well Drained

**D. Services:**

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire
- Power: Avista
- School District: #84

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	AF-10/20	AF-20	Residential & Forestry
North	AF-10/20	AF-20	Residential & Forestry
East	AF-10/20	AF-20	Residential & Forestry
South	AF-10/20	AF-10	Residential & Forestry
West	AF-10-20	AF-10	Residential & Forestry

**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.
- **12-322 Agricultural/Forestry District:**
  - The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:
    - a. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
    - b. Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture, or requiring close proximity for the support of agriculture.
  - Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

- a. A/F-20 in all areas designated as prime ag/forest land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated ag/forest land in the comprehensive plan that also feature:
  1. Prime agricultural soils.
  2. Are characterized by agricultural or forestry uses.
  3. Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to ag/forest production.
- o A/F-10 in areas designated as ag/forest land in the comprehensive plan that do not feature prime agricultural soils, but where agricultural and forestry pursuits remain viable. These areas may be within or adjacent to areas of city impact or where lands are afforded fire protection, access to standard roads and other services. (Ord. 501, 11-18-2008)

**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 February 4, 2020.

- All Taxing Districts*
- Idaho Department of Water Resources*
- Bonner County Road Department*
- U.S. Army Corps*
- Avista Utilities*
- U.S. Fish and Wildlife Service*
- Bonner County Schools – Transportation*
- U.S. Forest Service*
- Idaho Department of Fish and Game*
- Idaho Department of Environmental Quality*

**The following agencies replied:**

- DEQ – no comment
- City of Clark Fork – no comment
- Idaho F&G – no comment
- Kootenai-Ponderay Sewer District – no comment
- US Fish & Wildlife – no comment
- Dover City Council – no comment and no objections

**I. Public Notice & Comments:** No comment was received

---

**Zone Change Findings of Fact**

---

- Adjacent properties lie within the A/F-10 district and feature the same soil types.
- The parcels lie within the Selkirk Fire district.

- The subject parcels are accessed off of standard, county maintained, roads (major collector).
- The parcel features Colburn Silty Loam Soil and supports ag/forestry pursuits.
- Adjacent to A/F-10 zones and surrounding lands are not consistently large acre parcels devoted to ag/forest production

---

**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 A/F-10 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

**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 AM0009-19 & ZC0008-19 – Comprehensive Plan Map Amendment & Zone Change – Bonner County**

is initiating a Comprehensive Land Use Map Amendment from Agricultural/Forest (10-20) to Rural Residential (5-10) and a Zone Change from Agricultural/Forest 20 to Rural 5 in Section 27, Township 54 North, Range 4 West, Boise-Meridian, and a Zone Change from Rural 10 to Rural 5 for Section 35, Township 54 North, Range 4 West, Boise-Meridian. The Planning & Zoning Commission at the public hearing on March 5, 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.

**APPLICANT/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 Revised Code and Bonner County Comprehensive Plan.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record in opposition of the project: Judy Stark, Darren Tabor, Michael Paden, and Dan Baker

**APPLICANT/STAFF REBUTTAL:** Mr. Ollerton stated the Planning & Zoning Commission sent these files to the Southwest Bonner County (SWBC) subarea committee. At the meetings there was discussion regarding creating a Rural-20 zone and a 6 ½ acre minimum, but neither are currently in our code and would require extensive work to change. He further stated the SWBC committee recommended approval of the proposed change.

**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:** Commissioner Connolly moved to approve this project, FILE AM0009-19, requesting a comprehensive plan amendment for the subject property from Agricultural Forest to Rural Residential for Section 27, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho, 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 Connolly 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.

---

**Comprehensive Plan Map Resolution Adoption:**

**MOTION:** Commissioner Bradshaw moved to approve resolution #2020-34 amending the Bonner County Projected Land Use Map. Commissioner Connolly seconded the motion.

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

---

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

**MOTION:** Commissioner Connolly moved to approve this project, FILE ZC0008-19, requesting a Zone Change from A/F-20 to R-5 for Section 27, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho and from R-10 to R-5 for Section 35, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho, 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 Connolly 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.

---

**Zone Change Ordinance Motion:**

**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 from A/F-20 to R-5 for Section 27, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho, and a reclassification of lands from R-10 to R-5 for Section 35, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho, 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 Connolly seconded the motion.

**ROLL CALL VOTE**

Commissioner McDonald	AYE
Commissioner Connolly	AYE
Commissioner Bradshaw	AYE

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

---

**Background:**

- A. Site data:** The two sections contain approximately 1280 acres.
- B. Access:** The property is accessed off Clagstone Road at Satchel Drive, Pend Oreille Drive and Dylan Road.
- C. Environmental factors:** There are no wetlands or other hydrology or floodplain in these two sections. The only slope in this area follows Clagstone Road and cuts the Northeast corner of Section 27.
- D. Services:** Sewer is provided by onsite septic systems. Water is provided by onsite wells. Inland Power provides electricity to the area.

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Section 27	Agricultural Forest	A/F-20	Vacant land and limited residential use. 4 5-acre lots and 6 10-acre lots.
Section 35	Rural Residential	R-5 and R-10	Some vacant land.
North	Agricultural Forest	A/F-20	Idaho State Land and US Government
East	Agricultural Forest	A/F-20	Idaho State Land and US Government
South	Agricultural Forest	A/F-20	Idaho State Land and Kootenai County
West	Agricultural Forest	A/F-20	Idaho State Land

**F. Standards review**

**Amendment Request:**

**12-215: Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents**

The application was considered complete and routed to agency review on November 19, 2018.

**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)

From the Land Use Chapter of the Comprehensive Plan. Section 27, Township 54 North, range 4 West is being proposed to change from Agricultural Forestry to Rural Residential. The standards for those land use designations from the comprehensive plan are below:

**Agricultural Forest:** The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% 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.

**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.

**Zone Change Request**

Section 27 the zone change request is from A/F-20 to R-5 and for Section 35 the zone change request is from R-10 to R-5. The standards of the zones are below:

**12-322: AGRICULTURAL/FORESTRY DISTRICT:**

A. The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:

1. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
2. Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture, or requiring close proximity for the support of agriculture.

B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

1. A/F-20 in all areas designated as prime ag/forest land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated ag/forest land in the comprehensive plan that also feature:
  - a. Prime agricultural soils.
  - b. Are characterized by agricultural or forestry uses.
- c. Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to ag/forest production.
2. A/F-10 in areas designated as ag/forest land in the comprehensive plan that do not feature prime agricultural soils, but where agricultural and forestry pursuits remain viable. These areas may be within or adjacent to areas of city impact or where lands are afforded fire protection, access to standard roads and other services. (Ord. 501, 11-18-2008)

**12-323: RURAL DISTRICT:**

A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:

1. 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.
2. 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.

3. Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

1. R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
  - a. Characterized by slopes that are steeper than thirty percent (30%).
  - b. Located within critical wildlife habitat as identified by federal, state or local agencies.
  - c. Contain prime agricultural soils.
  - d. 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.
  - e. Within the floodway.
  - f. Contain limited access to public services.
2. 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)

**G. 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.

**H. Agency Review:** The application was routed to the following agencies for comment on November 19, 2018

All Taxing Districts	Dept. of Water Resources
Bonner County Road and Bridge	Army Corps (Coeur d'Alene)
Northern Lights	Forest Service
Dept. of Fish and Game	Dept. of Lands, Nav. Waters
Dept. of Env. Quality	Bonner County Schools - Transportation
Dept. of Transportation	Dept. of Lands (Sandpoint)
BNSF Railway	

**Comments received from the following with "No comment"**

City of Clark Fork	Department of Environmental Quality
Idaho Department of Lands	Independent Highway District
Kootenai-Ponderay Sewer District	Panhandle Health District

**I. Public Notice & Comments**

Public comments received from one individual in Section 35 requesting her property continue to be zoned R-10. **Staff:** Even though a property is zoned R-5 does not mean the property has to be divided to the lowest minimum lot size. The owner may keep the property at ten acres or greater. Most of the neighbors are currently five acres lots.

---

**Findings of Fact**

---

1. The proposed area is a section of land – approximately 640 acres.
2. The neighboring sections are State Land.
3. The section is touched on three corners by five and ten-acre lots.
4. There is little to no slope with a small area of slopes in the Northeast corner.
5. The subject property is consistent with the Rural Residential designation.
6. The good soil can accommodate individual septic and water.
7. Access is provided by Clagstone Road, a County maintained road.
8. The property is served by Spirit Lake Fire, Bonner County School District #83 and Inland Power.

---

**Conclusions of Law:**

---

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

Conclusion 1

The proposed comprehensive plan map amendment **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

The proposal is in accord with the purpose of the Rural Residential land use designation, provided in the Land Use section of the Bonner County Comprehensive Plan.

Conclusion 3

The proposal is appropriate for the area based on the existing residential uses, soil types, access to public services and maintained county roads.

---

**Zone Change Findings of Fact**

---

1. There are numerous five-acre lots in Section 35.



2. Section 35 is designated as Rural Residential in the comprehensive plan. Section 27 is proposed to be Rural Residential in this proposal.
3. The proposed area is located on the transportation corridor of Clagstone Road, a County maintained roadway.
4. The two sections are touched on corners by R-10 and R-5 zoning with checkerboard state and federal land abutting.
5. The only steep slopes follow Clagstone Road and cut the corner of Section 27.
6. Sewer and water are provided by individual services.
7. The soil types lend to the Rural-5 zone district.

---

**Zone Change Conclusions of Law:**

---

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

Conclusion 1

The proposed zone change **is** in accord with the Bonner County comprehensive plan.

Conclusion 2

This proposal was reviewed for compliance with the zone change criteria and standards set forth at Sections 12-212, 12-215, and 12-216, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the purpose of the Commercial zoning district, provided at Chapter 3, Bonner County Revised Code.

Conclusion 4

The proposal **is** appropriate for the area based on the number of five acre lots in the area and the location of public service and access to County maintained roads.

The Chair declared the hearing adjourned at 2:50 p.m.

Respectfully submitted, this 26<sup>th</sup> day of May, 2020.



Milton Ollerton, Planning Director