

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
JULY 22, 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 and via Zoom webinar and YouTube livestreaming.

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

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Planner II Amanda DeLima; Planner II Halee Sabourin; Administrative Manager Jeannie Welter, and 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 AM0004-20 & ZC0004-20 - Comprehensive Plan Map Amendment & Zone Change - Stan Kraly** is requesting a Comprehensive Plan Map Amendment from Ag/Forest (10-20) & Rural Residential to Transition, and a Zone Change from Ag/Forest-10 & Rural Service Center to Commercial. The property is 9.03 acres and located at the corner of Highway 200 & Colburn Culver Road in Section 4, Township 57 North, Range 1 West, Boise-Meridian. The Planning & Zoning Commission at the public hearing on June 18, 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 disclosed he knows the applicant, but he has no conflict with this project. The Chair noted there were no additional disclosures or conflicts.

**STAFF PRESENTATION:** Staff Planner Amanda DeLima presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is with Bonner County Revised Code and the Bonner County Comprehensive Plan.

**APPLICANT PRESENTATION:** Project representative Travis Haller, Glahe Professional Land Surveyors stated approval of this project would bring this property into compliance and make it more compatible with the current Comprehensive Plan.

Project legal counsel Toby McLaughlin stated the subject property currently does not fit with the Comprehensive Plan and Zoning designations. He further stated properties are not intended to have split designations.

**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:**

**MOTION:** Commissioner Connolly moved to approve this project, FILE AM0004-20, requesting a comprehensive plan amendment from Ag/Forest (10-20 AC) & Rural Residential to Transition, 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 (or as amended). 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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**Comprehensive Plan Map Resolution Adoption:**

Commissioner Connolly moved to approve resolution #20-52 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:**

**MOTION:** Commissioner Connolly moved to approve this project, FILE ZC0004-20, requesting a zone change from Ag/Forest 10 & Rural Service Center to Commercial, 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:**

Commissioner Connolly 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 4, Township 57 North, Range 1 West, Boise Meridian, Bonner County, Idaho from Agriculture Forestry-10 & Rural Service Center to Commercial, and providing for an effective date. Commissioner Connolly further moved to authorize the Chair to sign the official supplementary zoning map upon publication of the ordinance. Commissioner Bradshaw seconded the motion.

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

**ROLL CALL VOTE**

Commissioner McDonald        AYE  
 Commissioner Connolly        AYE  
 Commissioner Bradshaw        AYE

**Background:**

**A. Site data:**

- Use: Mixed use commercial & residential
- Unplatted
- Size: +/- 9.0
- Zone: Ag/Forest – 10 & Rural Service Center
- Land Use: Ag/Forest (10-20) & Rural Residential (5-10)
- Legal per: Instrument # 720308

**B. Access:**

- Main access is off of Colburn Culver Rd, a paved, county road with an 80-foot R.O.W. The applicant notes that the approach off of Highway 200 has been closed off and will remain as such. The turn lane off of Highway 200 provides safe access onto the county road and easy access to the parcel.

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS); per applicant, to be delineated prior to any development.
- Site does not contain waterfront or streams. (NHD)
- Entire parcel is within SFHA Zone X, per FIRM Panel 16017C0730E, Effective Date 11/18/2009.
- Soil:
  - o Classification: A mixture of Mission silt loam & Odenson silt loam
  - o Type: Prime farmland if drained
  - o Drainage: Half of the property is somewhat poorly drained and the other half is poorly drained.

**D. Services:**

- Water: Oden Bay Water
- Sewage: Individual Septic
- Fire: North Side Fire
- Power: Avista
- School District: #84
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**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC) & Rural Residential (5-10 AC)	Agricultural/forestry 10 (A/f-10) & Rural 5 (R-5)	Mixed Use Residential/Commercial
North	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10)	Residential
East	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10)	Agriculture/Vacant Land
South	Residential (5-10 AC)	Rural 5 (R-5)	Agriculture/Vacant Land
West	Residential (5-10 AC)	Rural 5 (R-5)	Residential

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

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
  - o The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
  - o 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)

**Existing Comprehensive Plan Designation:**

1. Ag/Forest Land:

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.

- Staff: The subject parcel does not feature steeper slopes (USGS <15%). Access is provided by Highway-200, a main transportation corridor that is paved, and the parcel is afforded fire protection via Northside Fire. Soil conditions are considered "prime farmland" if drained.

## 2. 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 Highway-200, and the parcel is afforded fire protection via Northside Fire. The parcel is also serviced by Oden Water, however, surrounding properties feature agricultural uses.

**Conclusion:** Existing densities, environmental features, access and services indicate that the subject property does not conform well to either existing land use designation.

## **Proposed Comprehensive Plan Designation:**

### 1. Transition:

The Transition classification is reserved for those areas of the County where a mixture of land uses can occur which may include higher density residential uses, commercial, industrial and light industrial uses. Due to the intensity of land use, these areas require primary transportation routes, urban like water and sewer services, fire and police services.

**Conclusion:** The location of this parcel and the services available fits well with the Transition classification. Based off historical and current use, commercial type uses will serve the local community and maintain the rural character of the area.

## **Zone Change Request:**

The applicant is requesting a zone change from A/F-10 and Rural Service Center to Commercial. The standards for those districts are below:

## **Existing Zoning:**

### 1. Rural Service Center District:

The rural service center district is established to promote the development of local commercial services in small communities to meet the needs of rural residents as well as limited tourist commercial services and limited light industrial uses consistent with the maintenance of the rural character of the area. The rural service center district is also intended to provide opportunities for a variety of affordable housing types

that are within walking distance of commercial services. These purposes are accomplished by:

- a) Providing for a range of small scale retail and rural service uses.
- b) Allowing for mixed use buildings (housing over office or retail) and a range of housing types, including detached single-family dwelling units, cottage housing, townhouses, apartments and mobile home parks where sufficient services are provided.
- c) Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses are mitigated.
- d) Excluding commercial uses with extensive outdoor storage.
- e) Excluding large scale commercial uses that would be more effectively located in incorporated cities.
- f) Applying simple design standards that enhance pedestrian access and improve the character of the area. (Ord. 501, 11-18-2008)

Use of this zone is appropriate in areas designated as neighborhood commercial, resort community or transition by the comprehensive plan and community plans and that are served at the time of development by adequate sewage disposal services, water supply, roads and other needed public facilities and services. Expansion of existing rural service center districts or the creation of new rural service center districts may be considered only if the expansion will not negatively impact the safety and function of a state highway or other roadway. (Ord. 512, 1-6-2010)

### 2. Agricultural/Forest 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:

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.

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.

**Proposed Zoning:**

1. Commercial District:

The commercial district is established to promote a range of commercial uses to serve the needs of the immediate area, surrounding rural communities and visitors without adversely affecting adjacent residential neighborhoods. The commercial district is also intended to provide opportunities for a variety of affordable housing types that are within walking distance of commercial services. Intensive large scale commercial development is not appropriate due to the limited density of surrounding unincorporated areas. Access to primary transportation routes and a system of hard surfaced roads are expected and consideration is given to the potential public transportation access. These purposes are accomplished by:

- a) Providing for a wide range of small to medium scaled retail, professional, governmental and personal service uses.
- b) Allowing for mixed use buildings (housing over office or retail) and a range of housing types, including cottage housing, townhouses, apartments and mobile home parks where sufficient services are provided.
- c) Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses can be mitigated.
- d) Excluding commercial uses with extensive outdoor storage.
- e) Excluding large scale commercial uses that would be more effectively located in incorporated cities.
- f) Applying simple design standards that enhance pedestrian access and improve the character of the area.

Use of this zone is appropriate in areas designated as neighborhood commercial, urban growth area or transition by the comprehensive plan and community plans and that are served at the time of development by adequate sewage disposal services, water supply, roads and other needed public facilities and services. Expansion of existing commercial districts or the creation of new commercial districts may be considered only if the expansion

will not negatively impact the safety and function of a state highway or other roadway. (Ord. 501, 11-18-2008)

**Conclusion:** The existing commercial type use has been established, and can be traced back to 1980. Access to hard surfaced, primary transportation routes, and the availability of municipal water is in accord with the general and specific goals of the Transition land use designation. Per Bonner County Revised Code, at the time of development, adequate sewage disposal services, water supply, roads and other needed public facilities and services will be addressed. Additionally, the site meets the minimum acreage requirements where not all urban services are available. During the permitting stage, new development will be required to demonstrate that the safety and function of a state highway and county road will not be negatively impacted.

The proposal to amend the Zoning Map is in accord with the general and specific goals of the Comprehensive plan and of Bonner County Revised Code.

**G. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC 12-721.2(B) because the proposal does not result in new impervious surfaces.

**H. Agency Review:** The application was routed to agencies for comment on May 19, 2020.

*Idaho Department of Water Resources  
Oden Water District  
Bonner County Road Department  
Avista Utility Company  
U.S. Army Corps  
Idaho Department of Lands (Sandpoint)  
Idaho Department of Environmental Quality  
Idaho Department of Fish & Game  
Montana Rail Link  
(All Taxing Districts)*

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

*Bonner County Road Department – No Comment, May 20, 2020  
City of Clark Fork – No Comment, June 2, 2020  
Independent Highway District – No Comment, June 4, 2020  
Pend Oreille Hospital District – No Comment, May 26, 2020  
Kootenai-Ponderay Sewer District – No Comment, June 1, 2020*

**All other agencies did not reply.**

**I. Public Notice & Comments:** No public comments were received.

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**Comprehensive Plan Amendment Findings of Fact**

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1. The existing and historical use of the property is consistent with the Transition land use designation.
2. Access is provided by Highway 200 and Colburn Culver Rd, paved primary transportation routes.
3. Water is provided by Oden Bay Water Association
4. The property features mixed uses; commercial and residential.
5. The Rural Residential land use designation is out of compliance with the Rural Service Center zone that is currently active on the parcel.

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**Comprehensive Plan Amendment 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 Transition Land Use Designation.

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**Zone Change Findings of Fact**

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1. The property is currently and historically been used for commercial purposes.
2. The property is proposed to be designated Transition in the comp plan.
3. Access is provided by Highway 200 and Colburn Culver Rd, paved primary transportation routes.
4. Water is provided by Oden Bay Water Association.
5. No adverse comments were received from Road & Bridge and the Idaho Department of Transportation in regards to negative impacts to the safety and function of the road system.

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

**AMENDMENT**

**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 AM0006-20 – Title 12 Text Amendment – Bonner County** is proposing to amend the following: **Sections 332, 483, 484, 490, 616, 623, 647, 661, 721.2, 804, & 807** to delete portions of the code specifically related to guest homes, temporary dwellings, sewer, water and septic requirements and clean-up of other necessary code language. This includes amending **Table 3-2 Residential Use Table** and amending the **standards** in this section. The Planning & Zoning Commission at the public hearing on June 18, 2020 recommended approval of this project, adding deletions to the following sections: **487 & 652** pertaining to fuel tank requirements and shore plat procedures, 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/APPLICANT PRESENTATION:** Staff Planner Halee Sabourin presented a summary of the project and previously circulated staff report, concluding this project is with Bonner County Revised Code and the Bonner County Comprehensive Plan.

**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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**Motion by the governing body:**

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**MOTION:** Commissioner Bradshaw moved to approve this FILE AM0006-20, to amend the sections of Title 12, Bonner County Revised Code, as presented or amended in this hearing, based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further move to adopt the following findings of fact and conclusions of law as amended. 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.

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**Text Amendment - Ordinance Motion:**

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**BOARD MOTION TO ADOPT ORDINANCE:** 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 Title 12, Bonner County Revised Code, as presented or amended in this hearing, and providing for an effective date. Commissioner Connolly seconded the motion.

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

**ROLL CALL VOTE**

Commissioner McDonald	AYE
Commissioner Connolly	AYE
Commissioner Bradshaw	AYE

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**Project Authority**

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This Ordinance amendment is proposed under the authority granted at Idaho Code:

- §31-714 through §31-716 (Board of County Commissioners)
- §31-801 (Powers And Duties Of Board Of Commissioners);
- §67-6518 (Local Land Use Planning – Standards);
- §67-6509 (Procedural requirements, Recommendation and adoption, amendment, and repeal of the plan);
- §67-6511 (Zoning ordinance);

And Bonner County Revised Code:

- BCRC 12-213 (Applications, Applicants for Amendments to This Title);
- BCRC 12-214 (Procedures for Amendments to This Title);
- BCRC 12-216 (Evaluation of Amendment Proposals);
- BCRC 12-217 (Public Hearings, Notice of).

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**Public and Agency Comment:**

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**Agency Review**

The application was routed to agencies for comment on May 19, 2020.

*All Taxing Districts  
All Cities*

**The following agencies commented:**

*Independent Highway District – May 19, 2020*

*"The proposed text amendment does not pertain to the operations of the Independent Highway District."*

*City of Kootenai – June 4, 2020, Nancy Lewis, Mayor of Kootenai States: removal of guest homes and temporary dwelling units will remove options for the care of aged or handicapped individuals; potential impact on city water and sewer services; the removal and substitutions of terms from shall to may will make services and utilities optional; the stormwater management amendment will result in exceptions without the variance process and proper engineering review.*

*Panhandle Health District – June 11, 2020, Kathryn Kolberg States proper sewage disposal is fundamental to the protection of public health and an important consideration when developing property. Sanitary considerations belong in the initial states of project planning.*

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

*Pend Oreille Hospital District – May 26, 2020*

*City of Clark Fork – May 29, 2020*

*Kootenai Ponderay Sewer District – June 2, 2020*

**All other agencies did not reply.**

**Public Notice & Comments:** None have been submitted at the time of staff report.

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**Staff analysis:**

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Below are the proposed amendments to each specific section and the description of the changes. The language in **red and underlined** is recommended as additions to the existing code. Those words in **red** and strike through would be deleted from the ordinance. Additional changes that have come about as a result of comment and further review during the writing of the staff report are indicated by **orange and underlined**.

Staff recommends approval of the proposed amendment (because)

**12-332: RESIDENTIAL USE TABLE:**

TABLE 3-2  
RESIDENTIAL USE TABLE

Use	Zoning District								
	F	A/F	R	S	C	I	RSC	REC	AV
Dwelling unit, accessory (8)	P	P	P	P	P (5)		P	P	
<del>Dwelling unit, temporary</del>	-	<del>P (9)</del>	<del>P (9)</del>	<del>P (9)</del>	<del>P (5), (9)</del>	-	<del>P (5), (9)</del>	<del>P (9)</del>	<del>P (9)</del>
Farm labor housing <del>(13)</del> (11)	P	P	P						
<del>Guesthouse (10)</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P (5)</del>	-	<del>P</del>	<del>P</del>	<del>P</del>
Mobile home park <del>(12)</del> (10)				C	C (5)		C		
<del>Dwelling unit, Recreational vehicles (11)</del> (9)	P	P	P	P	P		P	P	P

Standards:

(1) Must be ~~within a mobile home or~~ living quarters within the structure of a permitted use. Caretaker must be a bona fide employee of the property ownership and/or management.

(8) Refer to section 12-490 of this title for accessory dwelling unit provisions/standards. ~~One (1) Either 1 guest home or 1~~ accessory dwelling unit is permitted per lot or parcel without respect to density. This does not apply to parcels/lots that have explicit restrictions on the number of dwellings.

~~(9) A temporary dwelling unit for care of the aged or handicapped family member shall be permitted, subject to the issuance of a building permit or building location permit, provided that:~~

~~a. The property must contain a minimum of 2 acres;~~

~~b. The temporary dwelling shall consist of an in-house apartment or a mobile, modular or manufactured home, not placed on a permanent foundation;~~

~~c. The property owner shall complete a "temporary dwelling agreement" form~~

provided by the Planning Department agreeing to comply with the provisions of this section and shall notify the Planning Department annually in writing of the status of the temporary occupancy;

~~d. As part of the agreement, the property owner shall provide a physician's certification that the handicapped or aged family member is incapable of adequately caring for himself or herself. "Incapable of adequately caring for himself or herself" is defined as the "inability to engage in any substantial gainful activity by reason of any medically determinable, physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months".~~

~~e. The use of the temporary dwelling where permitted in this title as additional living quarters for the aged or handicapped family member shall expire and shall be removed after the qualified use has ceased.~~

~~f. The temporary dwelling constitutes the second residence on the property.~~

~~(10) A building location permit or building permit application for a guesthouse shall be accompanied by an accurately drawn and scaled site plan sufficient to determine compliance with the dimensional standards of this title, and sewage disposal and water supply requirements. A guest home shall be limited to 1 per lot or parcel. A guesthouse shall: a) consisting of sleeping quarters with no kitchen facilities and a floor area of 600 square feet or less may be permitted on the same lot as the main dwelling without respect to lot density provided all dimensional and other title requirements are complied with; b) guesthouse with kitchen facilities and/or a floor area of more than 600 square feet may be permitted on the same lot as the main dwelling provided the lot is of sufficient size and design to comply with the density requirements of the zone (1 dwelling unit/minimum lot size of the zone district) and will be designed and located on the lot to accommodate future or potential lot division in compliance with all dimensional and other title requirements. Either 1 guest home or 1 accessory dwelling is permitted per lot or parcel.~~

~~(911) Building Location Permit regulations do not apply to non-commercial temporary, intermittent or occasional use of recreational vehicle. When a recreational vehicle is used in the same manner as a single family dwelling or an accessory dwelling unit, such use is limited to a maximum of two (2) recreational vehicle dwelling units per parcel, and the conditions of BCRC 12-496 apply.~~

~~(1012) See section 12-485 of this title for mobile home park standards.~~

~~(1113) Farm labor housing: Caretaker must be a bona fide employee of the property ownership and/or management. The total allowable number of dwelling units does not apply to temporary or seasonal farm labor housing, such as a bunkhouse where only sleeping quarters are provided for farmworkers.~~

~~(Ord. 501, 11-18-2008; amd. Ord. 512, 1-6-2010; Ord. 581, 10-24-2018)~~

**12-804: DEFINITIONS - D:**

~~DWELLING UNIT, TEMPORARY: One in-house apartment or mobile, modular or manufactured home, as a second dwelling on a property and not on a permanent foundation. (Ord. 558, 12-14-2016)~~

**12-807: DEFINITIONS - G:**

~~GUESTHOUSE: An accessory building located on the same lot as the main building consisting of sleeping quarters with no kitchen facilities and a floor area of six hundred (600) square feet or less for the use by temporary guests or family members of the occupants of the main structure, not rented or otherwise used as a separate dwelling.~~

**STAFF: TEMPORARY DWELLINGS**

Currently, the ordinance allows for the establishment of accessory dwelling units (ADU). One ADU is outright permitted, irrespective of density allowances, and can serve the same purpose as a temporary dwelling unit or guest house. This renders the need for these other classifications obsolete as an ADU can be an umbrella term for these different uses. ADU standards state the maximum allowances and still allow applicants to build smaller/less than what is granted. Overall, removal of these terms does not remove an applicant’s ability of pursue a dwelling that will be accessory to their property; instead, it cleans up the ordinance and provides simplicity.

**STAFF: GUEST HOMES**

Currently, we have standards to allow either 1 accessory dwelling unit or 1 guest house on the property. Accessory dwelling units have a greater impact due to the allowed larger size, kitchen facilities, and is allowed to be rented.

There have only been (7) guesthouse permits applied for in the last two years, while (49) accessory dwelling units have been applied for. The demand for larger structures with a wider range of permitted uses further illustrates that the ordinance does not need multiple tiers for secondary dwellings. Removing this definition and use will result in these secondary dwellings to all be considered as accessory dwelling units.

Overall, this will prevent owners from having to apply for a change of use permit to allow the structure to be rented and having to supply a site plan to scale when we do not require them for other residential structures.

The only increased restriction this change will result in will occur in the Alpine Village zoning. Currently, guest homes are allowed whereas accessory dwelling units are not. However, it makes sense to not allow secondary dwellings due to the typical size of the lots and PUD restrictions common in the Alpine Village zone. This will avoid the need for variances to accommodate additional dwellings in the Alpine Village zone.

**STAFF: RECREATIONAL VEHICLES**

The purpose of adding the additional language to the term is to match the term listed in the definitions of Title 12 and avoid a misinterpretation or loophole on what constitutes a recreational vehicle to be subject to the specific standards of BCRC 12-496. The change in the number for the applicable standards of the use table is due to the deletion of standards and a need to renumber.

**12-616: CERTIFICATE OF COMPLIANCE, CONDITIONAL CERTIFICATE OF COMPLIANCE:**

E. For the purposes of the administration of this section, the following shall be considered to be in compliance:

1. Any lot or parcel which is described on a recorded legal instrument of conveyance prior to November 18, 2008;
2. Any lot or parcel for which a valid building permit or building location permit has been issued by Bonner County since November 18, 2008, whereon development has occurred and a use has been established in reliance on that permit;

~~3. Any unplatted parcel which is described on a recorded legal instrument of conveyance prior to November 18, 2008;~~

~~4. Any unplatted parcel which is described on a recorded legal instrument of conveyance prior to November 18, 2008, that meets current minimum zoning district standards. (Ord. 578, 7-11-2018)~~

**STAFF: CERTIFICATE OF COMPLIANCE**

The proposed removal of BCRC 12-616 (E) (3 & 4) removes redundancies. BCRC 12-616 (E) (1 & 2) result in the same conclusions.

**12-483: ART, PERFORMING ARTS AND RECORDING STUDIOS:**

~~E. An adequate potable water supply and a sewage disposal method approved by the Panhandle Health District and/or the State of Idaho shall be provided.~~

**12-484: VACATION RENTALS:**

B. Vacation Rental Permit Procedures: A vacation rental permit approval by the Planning Director is subject to the procedures set forth in this section.



1. Vacation Rental Permit Procedures: No structure, ~~guesthouse~~, dwelling or ~~accessory~~ dwelling unit or portion thereof shall be used as a vacation rental until an application for a vacation rental permit has been reviewed and approved by the Planning Director or designee. The application shall include the following:
- ~~e. An adequate potable water supply and a sewage disposal method approved by the Panhandle Health District and/or sewer/water district and/or the State of Idaho shall be provided.~~

**12-490 Accessory Dwelling Units**

B.

~~8. An adequate potable water supply and a sewage disposal method approved by the Panhandle Health District and/or sewer/water district and/or the State of Idaho shall be provided.~~

~~9. Accessory dwelling units shall not be eligible for a condominium project. The purpose of this is to retain and expand the supply of affordable rental housing. (Ord. 501, 11-18-2008)~~

**12-623 Services and Utilities:**

B. ~~An adequate potable~~ water supply shall be provided per at least one of the following:

1. ~~Subdivisions Lots~~ to be served by an individual well on each lot: Applicants shall demonstrate how the aquifer proposed for water supply has sufficient production capability to provide drinking water to all applicable lots and that a location is available within each lot for installation of a well without conflicting with proposed sewage systems on or adjacent to the proposed lot.
2. ~~Subdivisions Lots~~ to be served by a new water system serving from two (2) to nine (9) lots: Documentation by an Idaho licensed professional engineer or professional geologist that the sources proposed for water supply have sufficient production capability to provide drinking water to the lots in the proposed subdivision.
3. ~~Subdivisions Lots~~ to be served by a new public drinking water system: Division of environmental quality written approval of an engineering report prepared by an Idaho licensed professional engineer demonstrating that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision.
4. ~~Subdivisions Lots~~ to be served by connection to an existing public or private water system: A letter from the owner of the system indicating it has sufficient reserve production capacity to supply water to the lots in the proposed subdivision.

C. ~~An adequate~~ sewage disposal method for all building sites, as approved by the Panhandle Health district and/or the state of Idaho, ~~shall may~~ be provided.

**12-647 Endorsements**

D. A place for Panhandle Health District approval ~~or the Sanitary Restriction as allowed by I.C. 50-1326.~~

**12-661: Applications for adjustments of lot lines, minor notational changes.**

- B. All applications for readjustments of lot lines and minor notational changes shall include:
2. ~~A letter from the Panhandle health district or applicable sewer and/or water district stating the requirements for the sanitary restriction as set forth in Idaho Code title 50, chapter 13, have been met, or are not affected by a readjustment of lot lines.~~

**STAFF: ADEQUATE SEWAGE AND POTABLE WATER**

Portions of the ordinance, regarding “adequate sewage disposal” and “potable water,” have proven difficult to enforce. Some criteria is defined to obtain approval from Panhandle Health District while others do not and do not further define adequate or potable. Additionally, it does not make sense to make the determination of what adequate and potable constitutes when the department of environmental quality has adopted regulations to make those determinations. Overall, removing or altering the regulations pertaining to water and sewage services from local county code does not waive the requirements set forth from other local, state and federal agencies. Requiring sign offs and outside agency approval will potentially add more time to Planning department processes. Lastly, there has been difficulty in communications with PHD to determine which building septic permits are serving. There is not enough defining parameters to match permits together to determine “adequacy.” Ultimately, leaving

Changing the term “subdivision” to “lot” for BCRC 12-623 (A) (1-4) will allow the short plat procedure to apply those standards. The definition of subdivision has changed over time to exclude short plats without considering the change in standards due to existing terminology throughout the ordinance.

Changing “shall” to “may” in BCRC 12-623 (C) will allow applicants to apply the sanitary restriction on the plat – not waive the need for adequate sewage disposal.

Lastly, only a single taxing district (PHD) related to sewage disposal or water supply provided comment.

Overall, the Bonner County Planning Department will provide copies of all permit and land use submissions to PHD as well as any other agency, at their request, should they desire to obtain evidence to enforce their regulations

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### **12-721.2: ADMINISTRATIVE EXCEPTIONS:**

It shall be the duty of the planning director to exercise sound professional judgment in the issuance of administrative exceptions and to determine that such exceptions are within the purposes set forth in this subchapter:

- B. The planning director may issue an administrative exception from the provisions of this subchapter ~~to allow for minor variations to the standards set forth herein~~ to accommodate unique topographical, existing impervious surfaces, vegetative, geological or hydrological conditions.

### **STAFF: ADMINISTRATIVE EXCEPTIONS**

Generally, the purpose of this chapter is to "protect property, surface water and groundwater against significant adverse effects from excavation, filling, clearing, unstable earthworks, soil erosion, sedimentation and stormwater runoff, and to provide maximum safety in the development and design of building sites, roads and other service amenities."

Overall, what constitutes "minor" is not further defined in the ordinance with any specificity of where the line shall be drawn. Additionally, there are other portions of this waiver that allows variations in "whole or in part" for development needing building location permits. Lastly, staff involved in making these exceptions are certified in SEEP training and have a solid basis and understanding to make reasonable and sound decisions.

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### **12-487: PROVISIONS FOR UNIQUE LAND USES:**

Certain unique land uses pose special problems that may have a detrimental influence on surrounding land uses. The following performance standards for such unique land uses shall be adhered to in addition to all other provisions of this title:

- A. Bulk Storage Of Flammable Liquids, Fuel, Gases Or Combustible Materials:

~~1. Storage of flammable liquids, fuel, gases or combustible materials shall be below ground and will be located at least three hundred feet (300') from a residential district and will meet the requirements of all local, state and federal fire codes.~~

1. ~~2.~~ Storage of flammable liquids, fuel, gases or combustible materials above ground may be permitted only for quantities over twenty thousand (20,000) gallons, provided

all of the most restrictive state, local, and federal fire codes and fire insurance underwriter's requirements are complied with.

- ~~2. 3.~~ No flammable liquids, fuel, gases or combustible materials will be stored below the surface of any lake, river, stream or water body in Bonner County.

### **STAFF: PROVISIONS FOR UNIQUE LAND USES:**

This amendment is to provide a more environmentally friendly installation of fuel tank and allow greater surveillance of the condition of the tanks and ensure proper maintenance in a timely manner. To require these tanks to remain underground can cause pollution to go unnoticed.

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### **12-652: APPLICATION/CONTENTS OF PRELIMINARY PLATS FOR SHORT PLAT PROCEDURE:**

- B. Application: Applications for short plats which contain five (5) to ten (10) contiguous lots under common ownership may be processed as "short plats" as set forth in sections ~~12-653~~ through ~~12-654~~ of this subchapter. ~~;~~ ~~provided, that no zone district change is required, or a planned unit development requested, to accommodate the proposed lot sizes.~~

### **STAFF: SHORT PLAT PROCEDURE**

The purpose of a zone change is to accurately zone an area of land to meet the criteria of the zone and/or comprehensive plan designation. If a property is eligible to be rezoned to allow smaller parcel sizes, then the property should be allowed to be divided through a short plat – where applicable – to achieve the division.

Additionally, planned unit developments are extensive planning processes that are reviewed through hearings. To require a division of land to proceed with a platting process that requires a public hearing is redundant. A short plat, essentially, has the same requirements as a regular plat. Therefore, short plats should not be limited in their development process.

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### **Findings of Fact:**

1. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, may recommend a zoning ordinance.
2. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
3. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations "...not repugnant to law,

necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein..."

The proposed ordinance making the above changes adds to the clarity intended in the interpretation of the Bonner County Revised Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining the protection of property, peace, good order, comfort and convenience of the county and its inhabitants.

4. This proposed change provides further clarifying standards enabling the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

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### **Conclusions of Law:**

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#### Conclusion 1

The proposed amendments to Title 12 **IS** in accord with Idaho Code, Chapter 7, Title 31.

#### Conclusion 2

The proposed amendments to Title 12 **IS** in accord with Idaho Code Chapter 67 Title 65.

#### Conclusion 3

The proposed zone change **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	

The Chair declared the hearing adjourned at 2:14 p.m.

Respectfully submitted, this 23<sup>rd</sup> day of July 2020,



Milton Ollerton, Planning Director