

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
SEPTEMBER 9, 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, via Zoom webinar, and YouTube live streaming.

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

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Assistant Planning Director Josh Pilch; Senior Planner Amanda DeLima; Administrative Manager Jeannie Welter; Administrative Assistant III Elizabeth Jensen; and Administrative Assistant III Maria Alexander

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 AM0010-20 & ZC0007-20 – Comprehensive Plan Map Amendment & Zone Change – Benjamin M. Dorn Living Trust is requesting a Comprehensive Plan Map Amendment from Ag/Forest 10-20 to Rural Residential and a Zone Change from Ag/Forest-10 to Rural-5. The project is located along Kelso Lake Road in Section 23, Township 54 North, Range 4 West, Boise-Meridian. The Planning and Zoning Commission at the August 20, 2020 public hearing recommended this project for approval 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: Director Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Robert Dorn stated after the P&Z hearing he heard the public comments and got with the planning director and a surveyor and changed the legal description to specifically address 50 acres of the property. He further stated his intentions are to subdivide the 50 acres into eight 5-acre lots with a 10 acre buffer.

PUBLIC/AGENCY TESTIMONY: Anne Aizawa stated that due to the change made by the applicant she no longer has any objections.

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 AM0010-20, requesting a comprehensive plan amendment for the subject property from Agricultural Forest 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 Connolly further moved to recommend 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.

Comprehensive Plan Map Resolution Adoption:

Commissioner Bradshaw moved to approve resolution #2020-66 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 ZC0007-20, requesting a Zone Change from Ag/Forest-10 to R-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 Connolly further moved to recommend 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.

Zone Change Ordinance Motion: ROLL CALL VOTE

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 Ag/Forest-10 to R-5 , 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

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

ROLL CALL

Commissioner McDonald Aye
 Commissioner Connolly Aye
 Commissioner Bradshaw Aye

Background:

A. Site data: The property is approximately 113.6 acres.

B. Access: The property is accessed off Kelso Lake Road.

C. Environmental factors: There are some wetlands present in the southeast portion of the property. There is also some floodplain along the same edge as the wetland. The parcel is relatively flat with a hill beginning at the Northwest end of parcel and moving through to the Southeast corner. See the included Environmental map.

Soils: Bonner gravelly ashy silt loam, 0 to 4 percent slopes – Well Drained
 Bonner gravelly silt loam, 30 to 65 percent slopes – Well Drained

D. Services: Sewer is provided by onsite septic systems. Water is provided by onsite wells. Northern Lights provides electricity to the area.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Dorn Property	Agricultural Forest	A/F-10	Private Residence
North	Agricultural Forest	A/F-10; R-10; R-5	Clagstone Subdivision
East	Agricultural Forest	A/F-10	Residences on 6-10 acre parcels and 65 acre parcel with wetland and lake
South	Rural Residential	R-10	40+ acre parcels with some vacant and residential use
West	Rural Residential	R-10	Lion Quiet and Bull Run 5-acre subdivisions

F. Standards review

Amendment Request: Ag/Forest to Rural Residential

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. The applicant is requesting 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: Ag/Forest-10 to Rural-5

The applicant is requesting a zone change from Ag/Forest-10 to Rural-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 July 21, 2020.

All Taxing Districts	Idaho Dept. of Water Resources
Bonner County Road and Bridge	Army Corps (Coeur d’Alene)
Northern Lights	UP Railway
Idaho Dept. of Fish and Game	US Fish and Wildlife
Idaho Dept. of Env. Quality	Bonner County Schools – Transportation
Bonner County GIS	Dept. of Lands (Sandpoint)

Comments received from the following with “No comment”

City of Clark Fork
 Independent Highway District
 Pend Oreille Hospital District

I. Public Notice & Comments

There were public comments received with a variety of concerns. The applicant is aware of these concerns and is working to mitigate as best as possible.

Findings of Fact

1. The proposed area is approximately 113.6 acres.
2. The property is bordered on the west by two 5-acre subdivisions, Lion Quiet and Bull Run.
3. The property is bordered on the east by a property containing a lake and extensive wetlands.
4. The slope runs along the western side of the property along the railroad and crosses to the east side.
5. The subject property borders the Rural Residential designation on three sides.
6. The soil is listed as well drained and will accommodate individual septic and water.
7. Access is provided by Kelso Lake Road, a County maintained road.
8. The property is served by Spirit Lake Fire, Bonner County School District #83 and Northern Lights.

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 along the western edge of the property. The north property line neighbors an old sub-acre subdivision, partially developed. Much of the eastern side adjoins a lake and wetlands. There are some large neighboring parcels southern and eastern edge.
2. The property borders Rural Residential on three sides.
3. The proposed area is located on the transportation corridor of Kelso Lake Road, a County maintained roadway.
4. The property borders Rural-10 on three sides.
5. The sloping cuts through the property bordering the western edge.
6. Sewer and water are provided by individual services.
7. The soil types are listed as well drained.
8. The property is served by Spirit Lake Fire, Bonner County School District #83 and Northern Lights.

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.

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 ZC0008-20 – Zone Change – Idahope, LLC (Michael & Teresa Stevens) are requesting a Zone Change from Rural-5 to Recreation. The property's Comprehensive Plan designation is Resort Community. The project is located off U.S. Highway 200 in Section 12, Township 56 North, Range 1 East, Boise-Meridian. The Planning and Zoning Commission at the August 20, 2020 public hearing recommended this file for approval 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: Senior Planner Amanda DeLima presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: None

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Connolly moved to approve this project, FILE ZC0008-20, requesting a zone change from Rural – 5 to Recreation, 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.

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 12, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho from Rural – 5 to Recreation, 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.

ROLL CALL

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: ±13.41 acres
- Zone: Rural - 5
- Land Use: Resort Community
- Legal per: Instrument # 693701

B. Access:

- Highway 200
 - Road Class: Highway
 - Road Owner: Idaho Transportation Department
 - Surface: Paved

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- Parcel is within SFHA Zone X, per FIRM Panel 16017C1000E, Effective Date 11/18/2009.
- Soil:
 - Classification: Bonner silt loam, cool, 0 to 4 percent slopes & Pywell-Hoodoo complex, 0 to 1 percent slopes
 - Type: All areas are prime farmland & a portion prime farmland if drained
 - Drainage: Well drained & Poorly Drained

D. Services:

- Water: Individual Well
- Sewage: Ellisport Bay Sewer District
- Fire: Sam Owen Fire
- Power: Avista
- School District: #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Rural - 5	Residential
North	Resort Community	Rural - 5/Recreation	Residential/RV Park/Restaurant/Marina
East	Resort Community	Rural - 5	Residential/RV Parks/Public Boat Launch
South	Resort Community	Rural - 5	Residential/State Land/Campground/ Restaurant
West	Resort Community	Rural - 5	Residential & other small Commercial Businesses

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 on July 21st, 2020.
- **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:**

- The property is designated Resort Community. The Resort Community designation provides for urban-like densities for areas centered around the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

Existing Zoning: Rural - 5

- 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)

Conclusion:

The zoning current assigned to the subject parcel is out of compliance with the comprehensive plan. While the site may have some of the features described in the Rural zoning description, the comprehensive plan has already determined that the parcel also fits the criteria of the Resort Community designation.

Proposed Zoning - Recreation

- A. The recreation district is established to provide a wide range of recreational uses in areas where if access is by road rather than solely by waterways, the road shall be located within a recorded easement or public right of way, except where subject to the terms of an approved special use permit or a state or federal agency, adequate water and sewer services and fire services. Consideration shall also be given to access to potential public transportation systems. The recreation district is intended to provide for a range of housing types and uses that are accessory and complementary to recreational and residential uses. These purposes are accomplished by:
1. Allowing for a range of housing types provided adequate services are available.
 2. Providing for commercial and private resorts which contain provisions for a range of recreational activities.
 3. Excluding uses that are not compatible with the desired recreational character of the area.
 4. Encouraging conservation development configurations that create permanent open space, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
 5. Applying simple design standards that enhance the recreational opportunities and character of the area.
- B. Use of this zone is appropriate in areas designated as transition, neighborhood commercial, urban growth area and resort community with the following conditions:
1. Land is physically suitable to accommodate a broad range of residential and recreational uses.
 2. Sites are served by adequate sewage disposal service, water supply, roads and other needed public facilities and services. (Ord. 501, 11-18-2008)

Conclusion:

The comprehensive plan designation supports the zone change request. The land currently features residential uses, and is surrounded by recreational land uses in which the applicant hopes to extend to the subject parcel. Staff finds that the request meets the intent of the proposed zoning district as the site is located off of main highway frontage and is serviced by a sewer district, a large volume well, and a fire district. In addition the parcel is large enough to accommodate a broad range of residential and recreational uses for the proposed zone.

G. Stormwater plan: A stormwater management plan was not required, because the proposal does not result in additional impervious surfaces.

H. Agency Review: The application was routed to agencies for comment on July 21, 2020.

Idaho Department of Water Resources
Avista Utility Company

U.S. Army Corps
Bonner County Schools – Transportation
Idaho Department of Fish and Game
Idaho Department of Lands (Sandpoint)
Idaho Department of Environmental Quality
BNSF Railway
(All Taxing Districts)

The following agencies replied “No Comment”:

City of Clark Fork replied no comment on July 27, 2020
Independent Highway District replied no comment on July 31, 2020
City of Priest River replied no comment on August 5, 2020
Pend Oreille Hospital District replied no comment on July 28, 2020
Idaho Department of Environmental Quality replied with no specific comments about the project, but did submit general comments on behalf of their regulations- August 6, 2020
Idaho Department of Fish and Game replied no comment on August 7, 2020

All other agencies did not reply.

I. Public Notice & Comments

No public comments were received.

Zone Change Findings of Fact

- The subject property features a well that produces 100 gallons per minute.
- The parcel is served by Ellisport Bay Sewer District.
- The site fronts Highway 200, a primary transportation route that is paved.
- The existing parcel is designated Resort Community in the comprehensive plan.
- The site is within the boundaries of Sam Owen Fire District and is served by Avista Power.
- The parcel is ± 13.41 acres.

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

The Chair declared the hearing adjourned at 2:00 p.m.

Respectfully submitted, this 9th day of September 2020.



Milton Ollerton, Planning Director