

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
DECEMBER 5, 2019**

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Don Davis; Vice Chair Brian Bailey; Trevor Kempton; Suzanne Glasoe; and Matt Linscott

ABSENT: Sheryl Reeve and Taylor Bradish

ALSO PRESENT: Planning Director Milton Ollerton; Planner II Halee Sabourin; Planner I Amanda DeLima; and Administrative Manager Jeannie Welter

CONSENT AGENDA:

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: November 21, 2019 and November 26, 2019. Hearing no changes or objections, the Chair declared the minutes approved as written.

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 AM0008-19 & ZC0007-19 – Comprehensive Plan Map Amendment & Zone Change – Bonner County is initiating a Comprehensive Land Use Map Amendment from Agricultural/Forest to Transition and a Zone Change from Rural Service Center and Agricultural/Forestry-10 to Commercial. The project is located off Highway 95 at the intersections of Highway 95 and Samuels Road and Upper Pack River Road in a portion of Section 29 and 32, Township 56 North, Range 1 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed that he has a conflict and is stepping down from the vote. The Chair noted that there were no additional disclosures or conflicts.

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

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

Comprehensive Plan Amendment Motion by the governing body:

MOTION TO APPROVE: Commissioner Kempton moved to recommend approval to the Board of County Commissioners on this project, FILE AM0008-19, requesting a comprehensive plan amendment for the subject property from Agricultural Forest 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 Kempton further moved to recommend the following findings of fact and conclusions of law as amended. This action does not result in a taking of private property. Commissioner Glasoe seconded the motion.

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

Zone Change Motion by the Governing Body:

MOTION TO APPROVE: Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0007-19, requesting a Zone Change from Rural Service Center and A/F-10 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 Linscott further moved to recommend the following findings of fact and conclusions of law as amended. This action does not result in a taking of private property. Commissioner Glasoe seconded the motion.

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

Background:

A. Site data: The parcel is ±68 acres. There are six parcels.

B. Access: The property is accessed off Highway 95.

C. Environmental factors: The Upper Pack River is near these properties with a little flood plain showing on the mill site parcel.

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

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Agricultural Forest	A/F-10 and Rural Service Center	Gas Station, mini mart and restaurant. Mill site with Rail road spur, vacant land, duplex and residential uses.
North	Agricultural Forest	A/F-10	Residential uses on large acre parcels
East	Agricultural Forest	A/F-10	Residential uses on large acre parcels
South	Agricultural Forest	A/F-10	Residential uses on large acre parcels
West	Agricultural Forest	A/F-10	Residential uses on large acre parcels

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 5, 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.

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.

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, urbanlike water and sewer services, fire and police services.

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:

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)

12-327: RURAL SERVICE CENTER DISTRICT:

A. 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:

1. Providing for a range of small scale retail and rural service uses.
2. 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.

3. Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses are mitigated.
4. Excluding commercial uses with extensive outdoor storage.
5. Excluding large scale commercial uses that would be more effectively located in incorporated cities.
6. Applying simple design standards that enhance pedestrian access and improve the character of the area. (Ord. 501, 11-18-2008)

B. 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)

12-325: COMMERCIAL DISTRICT:

A. 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:

1. Providing for a wide range of small to medium scaled retail, professional, governmental and personal service uses.
2. 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.
3. Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses can be mitigated.
4. Excluding commercial uses with extensive outdoor storage.
5. Excluding large scale commercial uses that would be more effectively located in incorporated cities.
6. Applying simple design standards that enhance pedestrian access and improve the character of the area.

B. 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)

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 9, 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
Idaho Transportation Department	Dept. of Lands (Sandpoint)
BNSF Railway	

I. Public Notice & Comments

There were no public comments received.

Findings of Fact

1. The proposed area contains over 60 acres.
2. The neighboring properties are large lots with residential uses consistent with the Agricultural/Forest designation.
3. The existing and grandfathered uses are consistent with the Transition land use designation.
4. The properties are served by Northside Fire with a fire house located on the mill site.
5. This establishes the center of the Samuels area consistent with the Comprehensive Plan.
6. Sewer and water are provided onsite for the current uses.
7. Future uses will address urban like services through the permitting process.
8. Access is provided by primary transportation routes of Highway 95, Upper Pack River Road and Samuels Road.

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 Transition 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 and grandfathered commercial uses.

Zone Change Findings of Fact

1. The properties are well known for its existing uses of gas station, restaurant, and mill site.
2. The proposed area is located on the transportation corridor of Highway 95 at the major intersections of Samuels Road and Upper Pack River Road.
3. The parcel is surrounded by A/F-10 zoning helping establish the proposed commercial zone as a center for the Samuels area.
4. The existing subject property uses are consistent with the Commercial zone.
5. Sewer and water are provided onsite for existing uses.
6. The property is proposed to be designated Transition in the Comp Plan.

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 existing uses as a gas station, restaurant and mill site.

VARIANCE

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 V0023-19 – Side Yard Setback Variance – Paul Banducci is requesting a 5-foot side yard setback where 25-feet is required to bring the property into compliance after the construction of a single family dwelling. The property is zoned Rural-5. The project is located off East Mountain View Road in Section 23, Township 56 North, Range 02 East, Boise-Meridian.

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

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

APPLICANT PRESENTATION: The applicant Mr. Banducci stated they closed on the property a few months ago and would like to come into compliance. He stated the neighbors are in support of the project.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Linscott moved to approve this project FILE V0023-19, request for a 5-foot side yard setback where 25-feet is required to bring the property into compliance after the construction of a single family dwelling, finding that it is in accord with the 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 Linscott further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bailey seconded the motion.

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

Background:

A. Site data:

- Residential Use
- Unplatted
- Size: 5.0 Acres
- Zone: Rural – 5
- BV2015-16; for SFD & Notice to title
- BLP2015-0220; Abandoned for SFD
- BLP2019-0756 In progress for abatement of BV2015-16

B. Access:

- This property is accessed off of E. Mountain View Road, an existing, gravel, private easement road.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain a river frontage on Lighting Creek.
- The structure is located within the Special Flood Hazard Zone AE, per FIRM Panel 16017C1016E, Effective Date 11/18/2009. Flood permit for SFD structure was approved under DP2015-018 by C. Marley on 7/7/2015.

D. Services:

- Water: Individual Well
- Sewage: Individual Septic Tank
- Fire: None
- Power: Information Not Provided
- School District: LPOSD 84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential 5-10 acres	Rural – 5	Single Family Residence
North	Rural Residential 5-10 acres	Rural – 5	Single Family Residence
East	Prime Ag/Forest Land 20+ acres	AF - 20	Single Family Residence
South	Rural Residential 5-10 acres	Rural – 5	Single Family Residence
West	Rural Residential 5-10 acres	Rural – 5	Single Family Residence

F. Standards review

BCRC 12-234 specifies that “Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that: [Insert specific findings addressing each of the standards.]

(a) Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

Applicant: “The condition that applies to this property that generally does not apply to other properties is that the home was built without a permit in 2015. BLP 2015-0220 was abandoned when it became known that the slab on grade dwelling did not comply with the 25-foot side yard setback required in the R-5 zone. The previous land owner then failed to pursue a BLP.”

Staff: The conditions associated with this parcel are almost entirely unique and completely out of the control of the applicant. Due to the actions of the previous homeowner, the applicant was not able to adequately perform their due diligence at the time of purchase as the parcel number had changed after a boundary line adjustment that was performed by the previous owners. Since the violations were discovered after the closing, the new homeowners must bear the responsibility of bringing a non-conforming structure into compliance with current zoning.

(b) Special conditions and circumstances do not result from the actions of the applicant.

Applicant: “When a violation was opened by the Bonner County Planning Dept. in 2015 (BV2015-016), the previous landowner sought to comply by getting a BLP. It turns out that the SFD did not meet the required setback and so a boundary line adjustment was required as the parcel line actually went through the house. At this point, the county compliance officer has sent the violation to Notice to Title. When the boundary line was moved (record of Survey #928008), the parcel number changed. This resulted in my title company not discovering the Notice to Title. As such, I closed on the property and am facing the violation even after all the due diligence.”

Staff: The applicant did not purchase the property with the knowledge that these circumstances existed on this parcel. Due to the actions of the previous landowner the notice to title failed to prevent the sale of this parcel and to resolve the violation that was created. Per BCRC 11-124D, a notice to title is placed on parcels to identify the building violation, location and the actions required to resolve the violation. This process is intended prevent the transfer of such violations to new landowners. The circumstance associated with this parcel is rare and not one that the applicant had any control over.

(c) The granting of the variance is not in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare,

or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.

Applicant: "The variance is not in conflict with public interest. The property lines have been adjusted so that the parcel line no longer lies over the house. The house now lies entirely on the property and maintains a 5-foot setback from the property line. The use of the structure as a dwelling is allowed in the R-5 zone. This property was actually developed by the brother of the landowners to the south. It was intended to be used by their mother. Consequently, a building location permit will be purchased to ensure that the home is compliant with Title 11 & 12, Bonner County Code. "

Staff: Both the public and governmental agencies expressed no concern regarding the proposal. Additionally, the conditions of approval will ensure that the granting of this variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.

G. Stormwater plan: A stormwater management plan is 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 agencies for comment on October 21, 2019. The following agencies commented:

- | | |
|---------------------------------|--------------------------------------|
| Panhandle Health District | Bonner County Schools Transportation |
| Bonner County Road & Bridge | Avista Utilities |
| Bonner County Schools #84 | Army Corps |
| Dept. of Environmental Quality | |
| Dept. of Water Resources | |
| Area of City Impact: Clark Fork | |

The following agencies replied "No Comment":

- City of Clark Fork – October 25, 2019*
 - Panhandle Health District – October 25, 2019*
 - Bonner County Road and Bridge – October 29, 2019*
- All other agencies did not reply.**

I. Public Notice & Comments: No public comments were submitted.

Findings of Fact

1. The parcel is 5.0 acres.
2. The parcel is zoned Rural – 5
3. The parcel was boundary line adjusted in 2015 as recorded by Instrument # 928008.
4. The applicant did not acquire the property until 2019.

5. The single family dwelling was developed in a special flood hazard area and a flood permit was issued in 2015.
6. The property contains mapped wetlands and cuts across Lighting Creek.

Conclusions of Law:

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

Conclusion 1

Conditions apply to the property that **do not** apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

Conclusion 2

Special conditions and circumstances **do not** result from the actions of the applicant.

Conclusion 3

The granting of the variance **is not** in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

Conditions of approval:

Standard permit conditions:

A-1 A building location permit shall be filed with the Bonner County Planning Department, and all fees shall be paid to abate and lift any violations set forth unto the parcel.

ZONE CHANGES

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 ZC0005-19 – Zone Change – Jonathan & Chelsea Mowery are requesting a Zone Change from Agricultural/Forestry 20 to Agricultural/Forestry 10 for the purpose of dividing the twenty (20) acre parcel into two ten (10) acre lots. The project is located off Grouse Creek Cutoff Road in Section 2, Township 58 North, Range 1 West, Boise-Meridian.

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

STAFF PRESENTATION: Staff Planner Halee Sabourin 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: Bryan Quayle stated he is the representative for this project. He commented on the size of the property. He responded to language in the staff report. He further stated it is the applicant's belief that the property should not have been rezoned in 2008.

PUBLIC/AGENCY TESTIMONY: The following individual spoke on the record in opposition of the project:

Kirk Westfall; Connie Yost; Robin McNall-Roff; Charles Pope; and Lindsey McNall-Duggin

Chris Neu submitted a letter in favor of the project (exhibit A) into the record.

APPLICANT REBUTTAL: Bryan Quayle responded to the public testimony stating this twenty-acre property came out of an eighty-acre parcel owned by the Westfalls. Mr. Quayle stated nothing in our ordinances support the statement that this project should not be allowed. He responded to comments pertaining to the fence and removal of snow. He responded to comments relating to farming and complaints.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Kempton moved to recommend approval of this project, FILE ZC0005-19, requesting a zone change from Ag/Forest-20 to Ag/Forest-10 for the purpose of dividing the twenty (20) acre parcel into two ten (10) acre lots, 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 Kempton 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 Bailey seconded the motion.

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

Background:

A. Site data:

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

B. Access:

- Property fronts on Grouse Creek Cutoff, a county maintained, 24' wide, paved road.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- Entire parcel is SFHA Zone X, per FIRM Panel #16017C0520E, Effective Date 11/18/2009.
- Soil: Colburn Very Fine Sandy Loam, 0 To 4 Percent Slopes
 - Classification: All Areas Are Prime Farmland
 - Type: Consociation
 - Drainage: Somewhat Poorly Drained

D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Northside Fire District
- Power: Northern Lights
- School District: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 acres)	A/F-20	Residential & Farming
North	Ag/Forest Land (10-20 acres)	A/F-10	Vacant 5 acre lots
East	Ag/Forest Land (10-20 acres)	A/F-20	Residential pasture land
South	Ag/Forest Land (10-20 acres)	A/F-20	Vacant
West	Ag/Forest Land (10-20 acres)	A/F-10	Vacant 10 acre lots

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:

- o 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.
- o 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:
 - i. Prime agricultural soils.
 - ii. Are characterized by agricultural or forestry uses.
 - iii. 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. 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 November 7, 2019.

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

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

The following agencies replied “No Comment”:

Dept. of Env. Quality – Kristie McEnroe November 8, 2019
All other agencies did not reply.

I. Public Notice & Comments

- Kirk & Debbie Westfall November 14, 2019 & November 16, 2019
 - o Against – Concerned splitting and rezoning will negatively impact the ability of the land for agricultural purposes, will set a precedent for future rezoning in the area, and encourage more complaints regarding the shared fence and agricultural pursuits.

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 Northside Fire district.
- The subject parcels are accessed off of standard, county maintained, roads (major collector).
- The parcel features Colburn Very Fine Sandy Loam and supports ag/forestry pursuits.
- The parcels generally do not feature slopes in excess of 15%.
- 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 Agriculture/Forestry-10 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

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 ZC0006-19 – Zone Change – Jerry Lamar is requesting a Zone Change from Rural Service Center to Commercial. The project is currently a vacant lot located at the corner of Highway 95 and Westmond Road in a portion of Section 5, Township 55 North, Range 2 West, Boise-Meridian.

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

STAFF PRESENTATION: Staff Planner Halee Sabourin 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: Project representative Bryan Quayle stated the Commercial designation aligns better with what is going on with the property than the Rural Service Center designation. He gave a brief history of the property. He stated there will be future discussion with the Idaho Transportation Department regarding access.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

MOTION TO APPROVE: Commissioner Linscott moved to recommend approval of this project, FILE ZC0006-19, requesting a zone change from 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 Linscott 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 Glasoe seconded the motion.

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

Background:

A. Site data:

- Unknown use (single storage building)
- Unplatted
- Size: 1.8 acres
- Zone: Rural Service Center
- Land Use: Transition (<=2.5 AC)
- Legal per: Instrument #760924

B. Access:

- Property is located on the corner of Highway 95, and Westmond road, a county maintained, 24’ wide, paved road.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- Entire parcel is SFHA Zone X, per FIRM Panel # 16017C0950E, Effective Date 11/18/2009.
- Soil: Bonner Gravelly Silt Loam, 0 To 4 Percent Slopes
 - Classification: All Areas Are Prime Farmland
 - Type: Consociation
 - Drainage: Well Drained

D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire District
- Power: Northern Lights
- School District: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Transition (<=2.5 AC)	Rural Service Center	Vacant with one outbuilding
North	Transition (<=2.5 AC)	Rural Service Center	Residential, tire shop and storage
East	Transition (<=2.5 AC)	Rural Service Center	RV park
South	Transition (<=2.5 AC)	Rural Service Center	Chevron gas station, bar, laundry mat
West	Transition (<=2.5 AC)	Rural Service Center	Highway 95

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:**
 - 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.
- **12-325 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:
 1. Providing for a wide range of small to medium scaled retail, professional, governmental and personal service uses.
 2. 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.
 3. Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses can be mitigated.
 4. Excluding commercial uses with extensive outdoor storage.
 5. Excluding large scale commercial uses that would be more effectively located in incorporated cities.
 6. 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)

- **12-327: 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:
 1. Providing for a range of small scale retail and rural service uses.
 2. 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.
 3. Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses are mitigated.
 4. Excluding commercial uses with extensive outdoor storage.
 5. Excluding large scale commercial uses that would be more effectively located in incorporated cities.
 6. 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)

G. Stormwater plan

- A stormwater management plan was not required, pursuant to BCRC Title 12, Chapter 7.
- A stormwater management plan was submitted showing the storage facility proposal and serves as the site plan.

H. Agency Review: The application was routed to agencies for comment on November 5, 2019.

*All Taxing Districts
Bonner County Road Dept.
Northern Lights
BNSF Railway*

*Bonner County Schools – Transportation
Dept. of Fish and Game
Dept. of Env. Quality*

The following agencies provided comment:

Idaho Transportation Department – William Roberson November 18, 2019
"Although the Department is not opposed to the requested change in zoning, based on the provided Grading, Stormwater Management & Erosion Control Plan; the encroachment (approach) onto the highway system north of Westmond Rd. is not permitted, and based on Idaho Administrative Code (IDAPA) does not meet spacing requirement from Westmond Rd. The Department recommends access to the highway system be from Westmond Rd. as indicated in IDAPA. If you have any questions please contact me."

The following agencies replied "No Comment":

Dept. of Env. Quality – Kristie McEnroe November 8, 2019

All other agencies did not reply.

I. Public Notice & Comments

None provided at this time.

Zone Change Findings of Fact

- Adjacent properties are Rural Service Center. In the near vicinity Commercial parcels and Rural-5 and suburban zones can be found.
- The parcels lie within the Northside Fire district.
- The subject parcel is accessed off of standard, county maintained, roads (major collector).
- The parcels do not feature slopes in excess of 15%.

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

File AM0007-19 RV'S and RV Parks

At the public hearing on November 21, 2019, the Planning Commission forwarded a recommendation of approval on this file AM0007-19 a text amendment addressing permanent RV use in the residential zones, RV Parks and Campgrounds as a commercial use, striking the sentence in 12-497 B.a. "A five (5) foot setback from forest service or state property lines is permitted." Along with the recommendation of approval, the planning commission requested a time extension, from the Board to reconsider sections 12-332 note 11; 12-801 A. definitions Accessory RV Parking Space; and 12-496 Recreational Vehicles.

At the December 3rd business meeting, the Board of County Commissioners voted to hear the AM0007-10 file in its entirety and not send this portion back to the Planning Commission for reconsideration.

Motion: Commissioner Kempton moved to submit a memorandum as amended to the Board of County Commissioners for their hearing on December 18, 2019 relative to AM0007-19 RV's and RV Parks and Campgrounds as a public comment. Commissioner Bailey seconded the motion.

VOTED upon and the Chair declared the motion carried, with a vote of 3-1.

The Chair called for a Roll Call vote as follows:

Commissioner Kempton	Aye	
Commissioner Bailey		Aye
Commissioner Glasoe	Nay	
Commissioner Linscott	Aye	

At this meeting the Planning Commission received proposed language from the Planning Department that led to this decision to move forward and provides the following comments:

The purpose for the new language was to address the removal of the temporary use of RV's limited to 120 days and create language that indicated if the RV was to be a permanent use, there would be standards and a permit required similar to a single family dwelling and ADU. The original language provided confusion as it attempted to define the elements of a permanent dwelling instead of the dwelling itself. The County does not regulate sewer, water and power hookups and including this language in the ordinance was leading the confusion with the public.

The proposed language, calling the permanent use of an RV a dwelling unit, defines clearly what the intent of the use of the RV is to be. The language also clearly defines the ordinance is not regulating temporary use of an RV on a property.

Having reviewed and considered the proposed language, the Planning Commission agrees with the Board's decision to move forward with a hearing and would recommend the Board consider adding the proposed language to the ordinance and replacing the old language regarding residential RV use.



Don Davis, Chair

BCRC 12-332 Note (11) Land use 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.

12:801-D: "Dwelling Unit, Recreational Vehicle: A recreational vehicle used in the same manner as a single family dwelling or an accessory dwelling unit."

BCRC 12-496

A. Dwelling Unit, Recreational Vehicle

- a. Limited to one (1) per lot or parcel for lots or parcels less than one (1) acre in size, or limited to two (2) per lot or parcel for lots, or parcels greater than one (1) acre in size without respect to density.
- b. Each recreational vehicle dwelling unit requires a building location permit.
- c. Shall meet all residential building setbacks.
- d. Each recreational vehicle dwelling unit may be inside a garage or under a snow roof.
- e. It may be used as a vacation rental subject to the standards and conditions in BCRC 12-484.

OPEN LINE DISCUSSION:

Staff updates.

Sub-area committee updates.

At 8:25 p.m., the Chair declared the hearing adjourned until December 19, 2019.

Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 19th day of December 2019.

Bonner County Planning and Zoning Commission