

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
AUGUST 25, 2021**

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 Steve Bradshaw; and Jeff Connolly

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Assistant Planning Director Jacob Gabell; Planner II Jason Johnson; Planner I Chad Chambers; Planner I Daniel Britt; and Administrative Manager Jeannie Welter

PUBLIC HEARINGS:

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.

AMENDMENT & ZONE CHANGE

File AM0012-21 & ZC0020-21 – Comprehensive Map Plan Amendment & Zone Change – Jeff McClintock and Tiesha & Robert Saddler are requesting a Comprehensive Plan Map Amendment from Prime Ag/Forest Land (20+ AC) to Rural Residential (5-10 AC) and a Zone Change from Agricultural/Forestry 20 (A/f-20) to Rural 5 (R-5). The property is zoned Agricultural/Forestry 20 (A/f-20). The project is located off Road 32 in Section 3, Township 54 North, Range 3 East, Boise-Meridian. The Planning & Zoning Commission, at the July 1, 2021 public hearing, recommended approval of File AM0012-21 and recommended denial of File ZC0020-21 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: Planner Jason Johnson presented a 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 Dan Provolt gave a summary of the project and submitted four photos of the site (exhibit D).

Applicant Jeff McClintock stated work has been done to ensure this project meets the standards of the Bonner County Revised Code.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record: Katherine Spann submitted a comment letter and map into the record (exhibits A & B), Tom Petroff, Loretta Ballard submitted a one-page affidavit into the record (exhibit C), and Hank Clemmons.

APPLICANT REBUTTAL: Applicant Jeff McClintock responded to public comments pertaining to soils, wildlife, roads, easements, building sites, water lines in the road, a pond, culvert, and density.

Mr. Provolt commented on the current zoning, stating R-5 zoning is within close proximity to the subject property, not right next door, but close. He commented further regarding wildlife, roads, and the Rural Residential Comp Plan designation.

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

MOTION TO DENY: Commissioner Bradshaw moved to deny this project, FILE ZC0020-21, requesting a zone change from Ag/Forest-20 to Rural-5, based upon the following conclusions. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact and conclusions of law as amended. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the zone change is to:
1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code.

The Chair stated there was no second on the motion and therefore, the motion dies.

MOTION TO APPROVE: Commissioner Connolly moved to approve this project, FILE AM0012-21, requesting a comprehensive plan amendment from Prime Ag/Forest Land to Rural Residential, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner 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 McDonald, after stepping down from the chair, seconded the motion.

VOTED upon and the Chair declared the motion carried, 2-1. Commissioners McDonald and Connolly voted in favor of the motion. Commissioner Bradshaw voted in opposition of the motion.

Comprehensive Plan Map Resolution Adoption:

Commissioner Connolly moved to approve Resolution #2021-72 amending the Bonner County Projected Land Use Map. Commissioner Bradshaw seconded the motion.

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

Zone Change

MOTION: Commissioner Connolly moved to approve this project, FILE ZC0020-21, requesting a zone change from Ag/Forest-20 to Rural-5, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner 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 Bradshaw moved to approve an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of the Official Zoning Map of Bonner County by the reclassification of lands located in Section 33, Township 59 North, Range 1 East, Boise-Meridian, Bonner County, Idaho from Ag/Forest-10 to Rural-5, and providing for an effective date. Commissioner Bradshaw further moved to authorize the Chair to sign the official supplementary zoning map upon publication of the ordinance. Commissioner Connolly seconded the motion.

ROLL CALL VOTE

Commissioner McDonald Aye
Commission Connolly Aye
Commission Bradshaw Aye

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

Background:

A. Site data:

- Use: Residential use and vacant land, parcels are unplatted
- Size: ~20.05 acres; ~20.05 acres; ~14.98 acres
- Zone: Agricultural/forestry 20 (A/f-20)

- Land Use: Prime Ag/Forest Land (20+ AC)
- Legal: 3-54N-3E W 708.73FT OF GOV LOT 3 1993 SKYLINE 14 X 48 MH; 3-54N-3E W 84.98FT GOV LOT 2,E 624.53FT GOV LOT 3; 3-54N-3E W 533.02FT OF GOV LOT 2 LESS R/W

B. Access:

- Applicant: "County Road 32, gravel surface, 50' wide easement."
- The project is located at the end of Road 32, a local county-owned road in Section 3, Township 54 North, Range 3 East, Boise-Meridian. Road 32 is the road seen branching to the right in the photo below:

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. They are mapped primarily in the center of parcel RP54N03E032401A. (USFWS)
- Parcel is within SFHA Zone D, per FIRM Panel 16017C1255E, Effective Date 11/18/2009; FIRM Panel 16017C1260E, Effective Date 11/18/2009 & FIRM Panel 16017C1275E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
- The site features no mapped watercourses or water bodies.
- The Comp Plan Amendment application states that there is 59-acre freshwater pond on the southwest section of the west parcel. The Zone Change application states that this pond is 0.59 acres. This water body is not mapped into the National Hydrography Dataset and is not visible in county aerial photography.
- Soils:
 - Cabinet silt loam, 2 to 12 percent slopes
 - Farmland of statewide importance, if drained &
 - Pearsoncreek-Marblecreek families, complex, alluvial fans on glaciated landscapes
 - Not prime farmland

D. Services:

- Water: Well
- Sewage: Existing septic system
- Fire: Clark Fork Fire
- 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	Prime Ag/Forest Land (20+ AC)	Agricultural/forestry 20 (A/f-20)	Residential & Vacant Land
North	Rural Residential (5-10 AC)	Rural 10 (R-10)	Residential

Compass	Comp Plan	Zoning	Current Land Use & Density
East	Prime Ag/Forest Land (20+ AC)	Agricultural/forestry 20 (A/f-20)	Residential
South	Remote Ag/Forest (40+ AC)	Forest 40 (F)	Vacant
West	Prime Ag/Forest Land (20+ AC)	Agricultural/forestry 20 (A/f-20)	Vacant

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)
- **Existing Comprehensive Plan Designation:**
 - Prime Ag/Forest Land (20+ AC): The prime agricultural/forest land is designed to preserve the productive farm and ranch land and timber land to promote its important economic and environmental contributions to the County. This area may have a range of road systems serving it and is generally served by individual sewer and water systems. These areas generally have prime agricultural land soils and soils of recognized state importance and active farm and ranch operations.
- **Proposed Comprehensive Plan Designation:**
 - Rural Residential: The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.
- **12-322 - Agricultural/Forestry District:**
 - The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:

- Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
- Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture, or requiring close proximity for the support of agriculture.
- Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - A/F-20 in all areas designated as Prime Ag/Forest Land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated ag/forest land in the comprehensive plan that also feature:
 1. Prime agricultural soils.
 2. Are characterized by agricultural or forestry uses.
 3. Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to ag/forest production.
 - 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.
- **12-323 – Rural District:**
 - The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
 - Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
 - Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
 - Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
 - Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 1. Characterized by slopes that are steeper than thirty percent (30%).
 2. Located within critical wildlife habitat as identified by federal, state or local agencies.
 3. Contain prime agricultural soils.

4. Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in BCRC Title 2 (public roads) of this code or Appendix A (private roads) of this title or are absent.
 5. Within the floodway.
 6. Contain limited access to public services.
- o R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above.

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.2 – Applicability.

H. Agency Review: The application was routed to agencies for comment on June 1, 2021.

Panhandle Health District	Idaho Department of Water Resources
Idaho Department of Environmental Quality	Bonner County Road Department
Clark Fork Fire District	U.S. Army Corps (Coeur d'Alene)
Northern Lights	U.S. Forest Service
School District #84	U.S. Fish and Wildlife Service
Bonner County Schools – Transportation	Idaho Department of Lands (Sandpoint)
Idaho Department of Fish and Game	(All Taxing Districts)

Idaho Department of Environmental Quality (DEQ) does not review projects on a project-specific basis and sent their standard 5-page recommendation letter.

Idaho Fish & Game (IDFG) sent a two-page comment letter that concluded:

Following any future development in the area, wildlife may be displaced, but will likely still use available corridors through this section for travel and migration. With Kootenai National Forest land bordering the proposed application area, there will continue to be plentiful wildlife habitat in close proximity to any further development. Deer, elk, and turkeys will remain in the area and may be problematic to residents. Moose, black bears, grizzly bears and mountain lions are also present and create the potential for human-wildlife conflicts if residential development occurs.

In summary, wildlife use will likely be negatively impacted within the immediate areas where conversion of to rest to further subdivision and development occur. While the habitat and many of the wildlife species are currently common and similar resources are available nearby, continued development will change the abundance, diversity, and distribution of wildlife within Bonner County.

All other agencies replied “No comment” or provided no response.

I. Public Notice & Comments

No public comments were received.

Comprehensive Plan Amendment Conclusions of Law:

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

Conclusion 1

The proposal is in accord with the following elements of the Bonner County Comprehensive Plan:

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

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and is found to be in compliance.

Conclusion 3

The proposal is in accord with the Rural Residential Land Use Designation.

Comprehensive Plan Amendment Findings of Fact

- Site does not contain mapped slopes.
- Site does contain mapped wetlands. They are mapped primarily in the center of parcel RP54N03E032401A.
- The site is not within the floodplain.
- The site has no known hazard areas.
- The site features no mapped watercourses or water bodies.
- Based on the analysis contained in this report, the site does not contain prime agricultural land soils or soils of recognized state importance.
- The site in question does not have access to urban sewer or urban water.
- No agency responded to these applications identifying this site as critical wildlife habitat
- The site has no known active farm and ranch operations.
- The site does not have limited services.
- The site is served by a road that does not appear to meet the applicable roadway standards set forth in BCRC title 2 (public roads) or Appendix A (private roads) of BCRC Title 12.

Zone Change Findings of Fact

- Site does not contain mapped slopes.
- Site does contain mapped wetlands. They are mapped primarily in the center of parcel RP54N03E032401A.
- The site is not within the floodplain.
- The site has no known hazard areas.
- The site features no mapped watercourses or water bodies.

- Based on the analysis contained in this report, the site does not contain prime agricultural land soils or soils of recognized state importance.
- The site in question does not have access to urban sewer or urban water.
- No agency responded to these applications identifying this site as critical wildlife habitat
- The site has no known active farm and ranch operations.
- The site does not have limited services.
- The site is served by a road that does not appear to meet the applicable roadway standards set forth in BCRC title 2 (public roads) or Appendix A (private roads) of BCRC Title 12.

Zone Change Conclusions of Law:

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

Conclusion 1

The proposal is in accord with the following elements of the Bonner County Comprehensive Plan:

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

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and was found to be in compliance.

Conclusion 3

The proposal is in accord with the purpose of the Rural-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

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 ZC0019-21 - Zone Change – Ag/Forest 10 to Rural 5 – Mike McKee is requesting a Zone Change from Agricultural/Forestry 10 to Rural 5. The property is zoned A/F-10 The project is located off Redneck Drive/Saunders in Section 1, Township 54 North, Range 6 West, Boise-Meridian. The Planning & Zoning Commission, at the June 24, 2021 public hearing, recommended approval of this file 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: Planner Daniel Britt presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Mike McKee stated this project is to bring his family together in the same place. He stated he lives there, his dad lives there, and they would like his sister to live there as well. Mr. McKee commented about easements.

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 ZC0019-21, requesting a zone change from Agricultural/ Forestry 10 to Rural 5 for the parcel noted in the staff report, 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.

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 12, Township 57 North, Range 3 West, Boise Meridian, Bonner County, Idaho from Agricultural/ Forestry-10 to Rural-5, 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: Residential
- Unplatted
- Size: 10 acres
- Zone: A/F- 10
- Land Use: Rural Residential
- Legal per: #522249

B. Access:

Saunders Road is a treated gravel county-maintained road
 Redneck Drive is a gravel easement

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)
- This parcel is within SFHA Zone X, per FIRM panel 16014C1075E, effective date 11/18/2009
- Soil:
 - o Classification: Stapaloo- Kaniksu, dry complex, 8 to 25 % slopes
 - o Type: Complex
 - o Drainage: Well drained

D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Spirit Lake Fire
- Power: Avista utilities
- School District: Bonner County Schools #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	A/F-10	Residential
North	Ag/Forest	A/F-10	Three residential units
East	Ag/Forest	A/F-20	Vacant
South	Ag/Forest	A/F-10	Residential
West	Ag/Forest	A/F-10	Residential

F. Standards review: Bonner County Revised Code

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

The application was considered complete and routed to agencies accordingly.

- **12-216:** Evaluation of Amendment Proposals

Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)

- **Existing Comprehensive Plan Designation:**

Rural Residential- The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

12-322: 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.

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.

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.

R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above.

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.1 because the proposal does not result in BCRC 12-720.3 (J) Subdivisions in which all lots contain five (5) acres or greater, and no additional "impervious surface", as defined in section 12-809 of this title, are created. For subdivisions in which all lots contain five (5) acres or greater and new impervious surface is limited to driveways and roads only, the driveways and roadways only shall be subject to this subchapter.

H. Agency Review: The application was routed to agencies for comment on May 25, 2021.

Panhandle Health District	Idaho Department of Water Resources
Idaho Department of Lands (Sandpoint)	U.S. Forest Service
Spirit Lake Fire District	Bonner County Road Department
Applicable Utility Company	Idaho Transportation Department
Bonner School District #83	Idaho Department of Environmental Quality
Bonner County Schools – Transportation	U.S. Fish and Wildlife Service
Idaho Department of Fish and Game	(All Taxing Districts)

The following agencies provided comment: None.

The following agencies replied "No Comment":

Idaho Department of Lands – May 26, 2021
DEQ- June 15, 2021

All other agencies did not reply.

I. Public Notice & Comments

The following public comments were received: None were received.

Zone Change Findings of Fact:

- The parcel is comprehensive planned Rural Residential
- The parcel is will not negatively affect Saunders Road or other roadways
- Residential neighborhoods will not be impacted negatively
- The parcel lies within Selkirk Fire District
- The parcel has an individual well

- The parcel will be on individual septic system
- The parcel does not feature any slope, surface water, wetlands, floodplains, or floodways
- Adjacent properties lie within the A/F-10 zoning and feature the same soil types
- The acreage of properties in the vicinity are similar in size as the proposed zone change. Parcels range from 5 to 20+/- acres

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 ZC0021-21 – Zone Change – Rural 10 to Rural 5 - Peter and Shelagh Kaseburg

are requesting a Zone Change from Rural 10 to Rural 5 on a 9.80-acre lot. The property is zoned Rural 10. The project is located off Mclean Drive in Section 8, Township 56 North, Range 1 East, Boise-Meridian. The Planning & Zoning Commission, at the June 24, 2021 public hearing, recommended denial of this file 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: Planner Chad Chambers presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Peter Kaseburg submitted a printed presentation packet (exhibit A) to the board along with a verbal presentation regarding the history of the property and summary of his proposal.

Legal counsel for the project John Finney, Attorney At Law, stated the property meets the R-5 standards of the Bonner County Revised Code.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record pertaining to this project file: Laurence Harvey Nelson, Tom Trulock, George Cogelton, Bill Berg, and Mark Nelson.

APPLICANT REBUTTAL: Mr. Kaseburg responded to comments pertaining to the history of the property ownership and total acreage.

Mr. Finney responded regarding standards, stating the Commissioners need only consider the zoning standards when making their determination for this project.

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

Zone Change - Motion by the Governing Body:

MOTION: Commissioner Connolly moved to APPROVE this project File ZC0021-21 for a zone change from Rural 10-acre to Rural 5-acre, 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 Adoption:

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 8, Township 56 North, Range 1 East, Boise Meridian, Bonner County, Idaho from Rural-10 to Rural-5, 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.

Background:

A. Site data:

- Per GIS Map: ≈9.80-acre lot
- Per applicant's survey ≈9.25 (≈7.89 "usable" acres; ≈1.36 submerged)
- Zone: Rural-10

- Land Use: Rural-Residential

B. Access:

- Mclean Drive
 - o Road Class: Local
 - o Road Owner: Private
 - o County Maintained: No

C. Environmental factors:

- Site does contain mapped slopes between 15-29% and 30% or greater. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does contain a waterfront. (NHD)
- Per Bonner County CFM: JRJ, 5.25.2021: Parcel is within SFHA Zone X and Zone AE, per FIRM Panel 16017C1000E, Effective Date 11/18/2009. A rezoning is not development, as defined in BCRC Title 14. No further floodplain review is required on this proposal.

Soils

- Treble-Rock outcrop association (55)
 - o Not prime farmland
 - o Well drained
- Pend Oreille-Hoodoo silt loams (36)
 - o Not prime farmland
 - o Well drained

D. Services:

- Water: the lot is operating under permitted draw from the lake
- Sewage: Individual septic
- Fire: Sagle Fire District
- Power: Northern Lights Inc.
- School District: Bonner County Schools #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural-10	Rural Residential
North	Rural Residential	Rural-10	Rural Residential
East	Rural Residential	Rural-10	Rural Residential
South	Rural Residential	Rural-10	Rural Residential
West	Rural Residential	Rural-10	Rural Residential

F. Agency Review: the application was routed to the following agencies for comment on **May 25, 2021.**

Panhandle Health District	Idaho Department of Water Resources
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Sagle Fire District	Bonner County Road Department
Northern Lights Inc.	U.S. Army Corps (Coeur d'Alene)
Bonner School District #84	U.S. Fish and Wildlife Service
Bonner County Schools – Transportation	Idaho Department of Lands (Sandpoint)
Idaho Department of Fish and Game	Idaho Department of Environmental Quality
Idaho Department of Lands, Nav. Waters	(All Taxing Districts)

The following agencies commented:

Idaho Department of Environmental Quality, June 15, 2021:

“DEQ has no environmental impact comments at this stage of the project.”

The following agencies replied “no comment”:

All other agencies did not respond.

G. Standards of review: Bonner County Revised Code

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).

Proposed Zoning: BCRC 12-323 Rural District (Rural-5)

- The applicants are proposing a zone change from Rural-10 acre to Rural-5 acre.
- BCRC 12-323(B)(2): **Rural-5** in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling per five (5) acre density and/or do not meet the criteria for R-10 above.

H. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC12-720.3(K) because the proposal does not result in the creation of additional “impervious surface”, as defined in section 12-809 of Title 12.

I. Public Notice & Comments: The application was routed to property owners within 300’ of the subject property and posted in the newspaper on **May 25, 2021.**

Public comment rec’d June 16, 2021

- Concerns about the property being split in the future.
- Raised issue with the submerged/buildable property.
- Raised issue with the lot size minimum in relation to the R-5 zoning district and its limitations.

Zone Change Findings of Fact

- 1. The site’s Comprehensive Plan land use designation is Rural Residential which permits Rural-10 and Rural-5 zoning districts.
- 2. The site does have slopes between 15-29% and some slopes 30% or greater, but the property is not characterized by slopes steeper than 30% in general.
- 3. The site contains two (2) soil types, 1) Treble-Rock outcrop association which is not prime farmland soil and 2) Pend Oreille-Hoodoo silt loams which is also not prime farmland soil.

4. The site is served by Mclean Drive, a private road that is not owned nor maintained by Bonner County.
5. The site is not situated within a mapped floodway which is a characteristic of the Rural 10-acre zoning district.
6. The site is served by a permitted draw from the lake, individual septic system, Selkirk Fire, Rescue, & EMS and Northern Lights Inc. for power.
7. Properties surrounding the parcel are all zoned Rural-10 acre.

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	Agriculture

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the purpose of the RURAL-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

The Chair declared the hearing adjourned at 4:11 p.m.

Respectfully submitted, this 31st day of August 2021,

Milton Ollerton, Planning Director