

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
FEBRUARY 24, 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; Administrative Manager Jeannie Welter; and Administrative Assistant III Jenna Mickelson

PUBLIC HEARINGS:

ADMINISTRATIVE 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 VA0016-20 - Appeal – Lot Size Minimum Administrative Variance – Daum Construction, LLC is requesting a lot size minimum variance to allow 4.56 acres for lot 1 of Hunter Acres and 4.551 acres Lot 1 of Vegan Acres where 5 acres is required. The project is zoned Rural-5. The project is located off Hunter Road and Bumpy Way in Section 17, Township 54 North, Range 5 West, Boise-Meridian. On January 8, 2021 the Planning Department received a letter of appeal requesting this administrative file be forwarded to the Bonner County Commissions for consideration.

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 Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is with Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Tiffany Epse thanked staff for the presentation, and stated that the property is almost identical to the parcel below it.

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 VA0016-20, which allows for a lot size minimum of 4.5 acres where 5 acres is required as shown on the plat map; finding that it **is** in accord with the Bonner County Revised Code as enumerated in the following conclusions of law. The decision is 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. 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 Bradshaw seconded the motion.

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

Background:

A. Site data: The parcel is ±19.6 acres, located in the Blanchard area in a portion of Section 17, Township 54 North, Range 5 West, Boise Meridian, Bonner County, Idaho.

B. Access: The property is accessed off Hunter Road

C. Environmental factors:

The land is relatively flat with maximum sloping at 15%. There are no wetlands, floodplain, streams or rivers through the property.

D. Services: Sewer and water is provided by individual septic and well. Water is provided by Cougar Creek Water Users Association. The property is in the Spirit Lake Fire District.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Land Use	Zoning	Current Use
Site	Rural Residential	Rural-5	Vacant and residential
North	Rural Residential	Rural-10	Vacant and residential
East	Rural Residential	Rural-10	Vacant and residential
South	Rural Residential	Rural-5	Vacant and residential
West	Rural Residential	Rural-5	Vacant and residential

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:"

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:

Vegan Acres, Lot 1, is part of a parent parcel that consists of 19.5-acres in size. The allowed density of this site would not change upon the approval of this variance request. The site abuts a private access road and a public right-of-way dedication, which was existing at the time of the purchase.

Staff: Staff concurs the original parcel size is just shy of the required 20 acres. Parcels described as an aliquot 20 acres may be less surveyed due to earth's curvature.

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

Applicant: *Vegan Acres, Lot 1, is part of a parent parcel that consists of 19.5-acres in size. The allowed density of this site would not change upon the approval of this variance request. The site abuts a private access road and a public right-of-way dedication, which was existing at the time of the purchase.*

Staff: Staff concurs the original parcel size is just shy of the required 20 acres and is not due to the actions of the applicant.

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. (Ord. 559, 1-4-2017)

Applicant: *These lots are very close to meeting the minimum lot size and would still fit the neighborhood with 4.5 acres. Both of these parcels abut road which is unique as the other lots only have one access road touching them. Both parcels are relatively flat and have adequate access. This variance request would not have a negative effect on any surrounding properties. [See additional information per the comprehensive plan narratives]*

Staff: Staff concurs that creation of lots will lessen the low housing inventory, and will not affect surface level natural resources (there are no natural resources mapped on site or nearby). Additionally, the parcels do not have any hazardous areas.

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 agencies for comment on November 27, 2020.

Panhandle Health District	Idaho Department of Water Resources
Spirit Lake Fire District	Bonner County Road Department
Inland Power Company	U.S. Army Corps (Coeur d'Alene)
Bonner County Schools – Transportation	U.S. Fish and Wildlife Service
Idaho Department of Fish and Game	Idaho Department of Lands (Sandpoint)
Idaho Department of Environmental Quality	U.S. Forest Service

Spirit Lake Fire District commented on February 1, 2021 with concerns about increased density of homes, access/egress in the event of a fire emergency and traffic loading to Highway 41 & Hunter Road.

The following agencies replied “No Comment”:

Department of Environmental Quality – Kristie McEnroe, November 27, 2020

Inland Power Company – November 30, 2020

Idaho Department of Fish and Game – Merritt Horsmon, December 10, 2020

I. Public comments: No written comments received.

Conclusions of Law:

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

The proposed administrative variance **is** in accord with the purposes of Title 12. This action does not result in a taking of private property. The action that could be taken to obtain the administrative variance is to complete the Conditions of Approval as adopted.

1. This proposal was reviewed for compliance with the criteria and standards set forth at Sections 12-233 and 12-234, Bonner County Revised Code, storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.
2. 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.
3. Special conditions and circumstances **do not** result from the actions of the applicant.
4. 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)

Findings of Fact

- This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-238 Administrative Variances, BCRC 12-234 Variances, Standards for Review of Applications, BCRC 12-400, et seq., and BCRC Density and Development Standards if affected by the variance.
- The property is zoned Rural - 5
- Proposed Lot 1 of Vegan Acres is 4.551 acres.
- Proposed Vegan Acres has not yet been recorded.
- Neighboring properties are generally vacant, private lands.
- The lot will be served by individual well and septic.
- The variance request is against the county road Hunter Road.

Conditions of approval:

Standard permit conditions:

A-1 The use shall be developed and shall be operated in accordance with the approved plat map.

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.

File AM0017-20/ZC0013-20 – Comprehensive Plan Amendment & Zone Change- Chase Bennett is requesting a Comprehensive Plan Amendment from Rural Residential 5-10 to Resort Community, and a zone change from Rural-5 to Recreation. The 11.3 acre property is zoned Rural-5. The project is located off Mandy Lane in Section 19, Township 61 North, Range 4 West, Boise-Meridian. The Planning & Zoning Commission at the public hearing on January 21, 2021, 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: Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is with Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Travis Haller presented a PowerPoint presentation stating that the proposed zoning would better match the parcel than the current zoning.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record regarding sewer issues, rural character, transportation, and access issues: Kevin Pursifull, Pat Bartleson, Tim Vorpahl, and Fred Lund.

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Bradshaw moved to approve this project, FILE AM0017-20, requesting a comprehensive plan amendment from Rural Residential to Resort Community, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Connolly seconded the motion.

Comprehensive Plan Map Resolution Adoption:

Commissioner Connolly move to approve resolution #2021-22 amending the Bonner County Projected Land Use Map. Commissioner Bradshaw seconded the motion.

MOTION: Commissioner Bradshaw moved to approve this project, FILE ZC0013-20, 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 Bradshaw further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Connolly seconded the motion.

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 19, Township 61 North, Range 4 West, Boise Meridian, Bonner County, Idaho from Rura-5 to Recreational, 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 VOTE:

Commissioner McDonald: Aye
Commissioner Connolly: Aye
Commissioner Bradshaw: Aye

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

Background:

A. Site data:

- Use: Vacant
- Unplatted
- Size: 11.3 acres
- Zone: Rural - 5
- Land Use: Rural Residential 5-10

B. Access:

- Mandy Lane, a public, privately maintained R-O-W, and Reeder Tracts Road, a private, platted easement.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain a stream. (NHD)
- Entire parcel is SFHA Zone D, per FIRM Panel #16017C0125F, Effective Date 7/7/2014. No further flood review needed.
- Soil:
 - Majority
 - Classification: Not prime farmland
 - Type: Complex
 - Drainage: Well drained
 - Around Creek
 - Classification: Not prime farmland
 - Type: Complex
 - Drainage: Moderately well drained

D. Services:

- Water: Granite Reeder Water (Potential)
- Sewage: Granite Reeder Sewer (Potential)
- Fire: West Priest Lake Fire
- Power: Northern Lights Inc.
- School District: Bonner School #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential (5-10 AC)	Rural-5	Vacant
North	Rural Residential (5-10 AC)	Rural-5	Vacant/Residential
East	Rural Residential (5-10 AC)	Rural-5	Residential
South	Resort Community (<=2.5 AC)/ Rural Residential (5-10 AC)	Recreation/Rural-5	Residential
West	Rural Residential (5-10 AC)	Rural-5	Vacant/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:**
 - 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.
- **Proposed Comprehensive Plan Designation:**
 - The Resort Community 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 Zone Ordinance:**
 - R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - Characterized by slopes that are steeper than thirty percent (30%).
 - Located within critical wildlife habitat as identified by federal, state or local agencies.
 - Contain prime agricultural soils.
 - 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.
 - Within the floodway.

- Contain limited access to public services.
- 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.
- **Proposed Zone Ordinance:**
 - Land is physically suitable to accommodate a broad range of residential and recreational uses.
 - Sites are served by adequate sewage disposal service, water supply, roads and other needed public facilities and services.

G. Agency Review: The application was routed to agencies for comment on December 4, 2020.

<i>Bonner County Schools – Transportation</i>	<i>Idaho Department of Water Resources</i>
<i>Idaho Department of Fish and Game</i>	<i>Bonner County Road Department</i>
<i>Idaho Department of Environmental Quality</i>	<i>U.S. Army Corps (Coeur d’Alene)</i>
<i>Idaho Department of Lands (Sandpoint)</i>	<i>U.S. Fish and Wildlife Service</i>
<i>(All Taxing Districts)</i>	

The following agencies replied “No Comment”:

*Division of Aeronautics
City of Clark Fork*

All other agencies did not reply.

H. Public Notice & Comments

The following public comments were received:

Concerns regarding impacts to wildlife, wetlands, water, quality of life, character of the area, location, traffic, and recreation were addressed in the comment provided.

Staff has determined that the aspects addressed do not address how these concerns are supported by the ordinance, zoning characteristics, or comprehensive plan characteristics that these applications and procedures are limited to.

Comprehensive Plan Amendment Findings of Fact

- 1.** Parcel abuts Stimson Lumber lands where vegetation has been removed
- 2.** Wetlands and shorelands have required standards in our ordinance to ensure future development does not negatively affect these areas
- 3.** Publicly owned and accessible marina in the near vicinity
- 4.** Provided preliminary will serve letter for urban water and sewer

5. Slopes in the vicinity are predominately under 15% with little area above 15% but below 30%.
6. Not in the vicinity of a Wildlife Management Area as designated by Idaho Fish and Game.
7. Soil classifications state "not prime agricultural"
8. In proximity to county owned and maintained roads.
9. If subdividing occurs in the future, the applicable road standards will apply to ensure adequate roads.
10. No flood hazard zones per FEMA
11. Within West Priest Lake fire district
12. Most parcels surrounding are below five acres and the subject property abuts a recreation zone.
13. Groupings of residential areas connected by county maintained roads in the near vicinity.
14. Current access off Mandy Lane a County Road.

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 Recreational Land Use Designation.

Zone Change Findings of Fact

1. Parcel abuts Stimson Lumber lands where vegetation has been removed
2. Wetlands and shorelands have required standards in our ordinance to ensure future development does not negatively affect these areas
3. Publicly owned and accessible marina in the near vicinity
4. Provided preliminary will serve letter for urban water and sewer
5. Slopes in the vicinity are predominately under 15% with little area above 15% but below 30%.
6. Not in the vicinity of a Wildlife Management Area as designated by Idaho Fish and Game.
7. Soil classifications state "not prime agricultural"
8. In proximity to county owned and maintained roads.
9. If subdividing occurs in the future, the applicable road standards will apply to ensure adequate roads.
10. No flood hazard zones per FEMA
11. Within West Priest Lake fire district
12. Most parcels surrounding are below five acres and the subject property abuts a recreation zone.
13. Groupings of residential areas connected by county maintained roads in the near vicinity.
14. Current access off Mandy Lane a County Road.

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
Community Design

Population
Implementation

School Facilities Transportation
Economic Development

Land Use
Public Services
Special Areas or Sites

Natural Resources
Transportation
Housing

Hazardous Areas
Recreation

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 [PROPOSED] zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

The Chair declared the hearing adjourned at 2:36 p.m.

Respectfully submitted, this 24th day of February, 2021,



Milton Ollerton, Planning Director