

**BONNER COUNTY COMMISSIONERS/PLANNING DEPARTMENT
PUBLIC MEETING MINUTES
FEBRUARY 10, 2022**

CALL TO ORDER: Chair McDonald called the Bonner County Commissioners' meeting to order at 1:33 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 I Chad Chambers; Hearing Coordinator Jenna Crone and Administrative Assistant III Janna Berard

PUBLIC MEETING:

MINOR LAND DIVISION APPEAL:

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.

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.

Appeal File MLD0186-21 Rockstarr Acres First Addition – Rockstarr Land, LLC located off Sundance Road in Section 1, Township 54 North, Range 6 West, Boise Meridian, Bonner County, Idaho. The Planning Department on November 29, 2021 administratively denied this file. On December 6, 2021, a written appeal was received requesting this file be heard by the Board of County Commissioners.

STAFF PRESENTATION: Planner Chad Chambers presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is not consistent with Bonner County Revised Code.

APPELLANT PRESENTATION: Appellant Christian Starr submitted Exhibits A-F and presented his reasons for appeal.

PUBLIC COMMENT: None

APPELLANT REBUTTAL: None

DISCUSSION: The Commission discussed the proposed appeal.

DECISION TO DENY: Commissioner Connolly moved to uphold the administrative decision of the Bonner County Planning Department for denial of this project FILE MLD0186-2, Rockstarr Acres First Addition, a request to divide a 22-acre parcel into three (3) lots, two (2) 5-acre lots, and one (1) 12.5-acre lot, finding that it is not in accord with the Bonner County Revised Code. Commissioner Connolly further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Memo and direct planning staff to draft written findings and conclusions to reflect this decision, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain land division is to:

- 1) File a new short plat application with the Planning Department and meet the standards required by Bonner County Revised Code.

Commissioner Bradshaw seconded the motion.

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

Background:

A. Site data:

- 22-acre parcel
- Zone: Rural 5-acre (Ord. 626, Instrument #987396)
- Land Use: Rural Residential (Res. 21-58, Instrument #987395)

B. Access:

- The subject property is accessed by Sundance Lane, a county owned and maintained road.

C. Environmental factors:

- Site does not contain mapped slopes between 15-29% or 30%+. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake.
- Site does contain one (1) soil type: Stapaloo-Kanlksu, dry complex which is characterized as farmland of statewide importance and is well drained.
- ABS: Entire parcel is SFHA Zone X per FIRM Panel #16017C1075E, Effective Date 11/18/2009. No further flood review needed.

D. Services:

- Water: "nearby wells show water is about 150' and produce sufficient water 50+ gpm"
- Sewage: "septic"
- Fire: Spirit Lake Fire
- Power: Avista
- School District: West Bonner School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural 5-acre	Currently vacant
North	Rural Residential	Rural 5-acre	Rural residences / vacant
East	Ag/Forest Land	Agricultural/Forestry 20-acre	U.S. Govt. land
South	Rural Residential & Ag/Forest Land	Agricultural/Forestry 20-acre & Rural 5-acre	Rural residences & bison ranch
West	Ag/Forest Land	Agricultural/Forestry 20-acre	Currently vacant

F. Standards review

BCRC 12-411, Density and Dimensional Standards; Forestry, Agricultural/Forestry and Rural Zones

- **Staff:** The proposed division of land is consistent with BCRC 12-411; all proposed lots are above the 5-acre minimum standard.

BCRC 12- Chapter 6, Subdivisions

BCRC 12-600: Purpose: (C). It is unlawful for a person or group of persons acting in concert to attempt to avoid this article by acting in concert to divide a parcel of land or sell subdivision lots using a series of owners or conveyances or by any other method that ultimately results in the division of lands into a subdivision or the sale of subdivided land. (Ord. 501, 11-18-2008; amd. Ord. 634, 8-4-2021)

- × **Staff:** the proposed minor land division (MLD) constitutes a contiguous MLD. Rockstarr Acres, File MLD0009-20 (Instrument No. 953629, Recorded February 25, 2020) to the immediate north, sharing a border with the subject property, parcel # RP54N06W019500A was previously processed as a Minor Land Division.

BCRC 12-611: Definitions: MINOR LAND DIVISION – Any division of land into four (4) or fewer lots or parcels. Exception: those lots under common ownership and limited in use to common open space or agricultural pursuits, need not be counted as a lot for purposes of determining applicable land division procedures only. A minor land division shall not be used contiguously to avoid the regular subdivision process (See BCRC 12-600 C).

- × **Staff:** The Rockstarr Acres minor land division (MLD0009-20, filed with the planning department on January 27, 2020) includes the same applicant information (i.e – the applicant name, address, and email) as File MLD0186-21, Rockstarr Acres First Addition. The naming convention of Rockstarr Acres First Addition implies a 'addition' to the original 'Rockstarr Acres' minor land division. Moreover, the Rockstarr Acres First Addition Plat identifies 'Rockstarr Acres' as the minor land division just north of the proposed MLD.

G. Comprehensive Plan Land Use Designation

The comprehensive plan designation of 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.

H. 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.

Findings of Fact

1. File MLD0009-20 Rockstarr Acres was received by the planning department on JAN 27 2020, per the stamp on the application.
2. Rockstarr Acres shares a property line with the proposed Rockstarr Acres First Addition.
3. At the time in which File MLD0009-20 was filed with the planning department (Jan. 27, 2020), Rockstarr Land LLC was the applicant. This LLC, mailing address, and email address was also used for File MLD0186-21, Rockstarr Acres First Addition.
4. The naming convention of Rockstarr Acres First Addition implies a 'second addition' to the original Rockstarr Acres minor land division.
5. File MLD0186-21 was received by the planning department on Nov 04, 2021.
6. Ordinance 634, which became effective when published in the Daily Bee on August 12, 2021, prohibits the creation of contiguous lots or parcels via multiple minor land divisions.
7. The Rockstarr Acres First Addition plat recognizes Rockstarr Acres minor land division (MLD) is just north of the proposed land division.
8. Per the application, the proposed lots would be served by individual wells, septic systems, and Avista for power.
9. The subject property is within the Spirit Lake Fire District.
10. The subject property is not situated within an Area of City Impact.
11. The applicant has not had Panhandle Health District lift the sanitary restrictions on the property.
12. There are no mapped wetlands, rivers, streams or mapped slopes on the property.

13. To date, Rockstarr Land LLC does not own any of the lots created via Rockstarr Acres minor land division.

- Lot 1 transferred ownership from Rockstarr Land LLC to Anthony and Brittany Brandt in March 2020, per Warranty Deed #954371.
- Lot 2 transferred ownership from Rockstarr Land LLC to Kyle and Jordan Frates in April 2020, per Warranty Deed #956167.
- Lot 3 transferred ownership from Rockstarr Land LLC to Thomas Lee Fitzmorris in September 2020 per Warranty Deed #964453.
- Lot 4 transferred ownership from Rockstarr Land LLC to Joshua Cole Hopkins in November 2020 per Warranty Deed #969427.

Conclusions of Law:

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

Conclusion 1

The minor land division **is** in accord with the Rural 5-acre zoning district.

Conclusion 2

The minor land division **is** in alignment with existing roads, and easements.

Conclusion 3

The minor land division **does not** meet the standards set forth in BCRC Chapter 6, Title 12.

Conditions of Approval:

- A-1** A final plat shall be recorded.
- A-2** The preliminary plat of a minor land division shall be valid for a period not to exceed two (2) calendar years from the date of approval. Within two (2) years of the approval of the preliminary plat, the applicant shall submit the final plat to the Planning Director. At any time prior to the expiration date of the preliminary plat, an applicant may make a written request to the Planning Director for an extension of the preliminary plat for a period up to two (2) years. The Planning Director may consider such request for extension. The extension request must be approved or denied prior to the expiration date of the preliminary plat.
- A-3** The applicant must complete any and all corrections, as required by the Assessor, GIS, County Surveyor, Bonner County Road & Bridge, Planning Department, and pay all applicable fees (including conformed copies of the plat), prior to recording the final plat.

INTERPRETATION OF BCRC TITLE 12, CHAPTER 6 APPEAL:

Appeal File APPL0001-22 Interpretation of BCRC Title 12, Chapter 6. Travis Haller, of Glahe & Associates, is appealing the Planning Directors interpretation of BCRC Title 12 Chapter 6 requiring a short plat application where the applicant requested to process a Lot Line Adjustment then subsequently process a Minor Land Division on two adjoining properties under common ownership.

STAFF PRESENTATION: Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is not consistent with Bonner County Revised Code.

APPELLANT PRESENTATION: Appellant Travis Haller, Glahe & Associates presented a Powerpoint for his appeal. Toby McLaughlin, Attorney and Joel Andring, Glahe & Associates spoke on additional definitions/interpretations of Minor Land Divisions and Lot Line Adjustments.

PUBLIC COMMENT: None

STAFF REBUTTAL: Director Milton Ollerton reviewed 12-600C: Purpose stating "It is unlawful for a person or group of persons acting in concert to attempt to avoid this article by acting in concert to divide a parcel of land or sell subdivision lots by using a series of owners or conveyances or by any other method that ultimately results in the division of the lands into a subdivision or the sale of subdivided land."

DISCUSSION: The Commission discussed the purposed appeal.

Upon discussion, Commissioner Bradshaw moved to uphold the administrative decision of the Bonner County Planning Department for the interpretation of BCRC 12-600 as applicants cannot use several land division methods to avoid a greater land division method.

Commissioner Connolly seconded the motion.

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

The Chair declared the hearing adjourned at 2:47 p.m.

Respectfully submitted, this 14th day of February 2022,



Milton Ollerton, Planning Director