

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
WEDNESDAY JANUARY 12, 2022**

**CALL TO ORDER:** Chair McDonald called the Bonner County Commissioners' hearing to order at 1:31 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, Planner I Daniel Britt, and Administrative Assistant III Da Niel Scott

**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.

**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.

**AMENDMENT**

**File AM0022-21 Text Amendment – Bonner County Revised Code Title 12-122 – 12-124 – Bonner County** is requesting a Text Amendment to Title 12, including the following summary of proposed changes: removing the existing language in BCRC 12-122, 12-123, and 12-124 which establishes the Planning and Zoning Commission. Adding language to BCRC 12-122 creating a Planning Commission to "prepare, implement, review, and update the comprehensive plan" and zoning ordinance. Adding language to BCRC 12-123 creating a Zoning Commission to hear all judicial files such as variances, judicial zone changes, conditional use permits, and subdivisions per Idaho code. To review the proposed Text Amendment in its entirety, visit [bonnercountyid.gov/planning/current-projects/FileAM0022-21](http://bonnercountyid.gov/planning/current-projects/FileAM0022-21).

**STAFF 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 Revised Code.

**PUBLIC/AGENCY TESTIMONY:** The following personnel spoke on the record: Don Davis, Elizabeth Iha, Susan Bowman, Dave Bowman, Jonna Plante, Susan Drumheller, and Jean Stonebeck.

**APPLICANT REBUTTAL:** Planning Director Milton Ollerton responded to public comment regarding the number of "zoning" files heard, Planning and Zoning commission being success if Latah county, KBCR amendment and other files received prior to this file, and benefit of public involvement.

Board counsel Bill Wilson responded to public comment regarding interpreting zoning code, Planning & Zoning Commission not hearing the file first follows state code, necessity of a zoning commission, and moratoria.

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

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**Motion by the Governing Board**

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**MOTION TO APPROVE:** Commissioner Bradshaw moved to approve this project File AM0022-21 to amend the sections of Title 12, Bonner County Revised Code, as presented or amended in this hearing, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan as enumerated in the following findings of fact and 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

Commissioner Connolly 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

**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 Title 12, Bonner County Revised Code, as presented or amended in this hearing, and providing for the effective date of this ordinance to be March 30, 2022 allowing for advertising and appointing the individuals to the Planning Commission and Zoning Commission.

**ROLL CALL VOTE:**

Commissioner McDonald           Aye  
Commissioner Connolly           Aye  
Commissioner Bradshaw           Aye

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**Findings of Fact:**

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1. The Board of County Commissioners, per Idaho Code Chapter 65, Title 67, may create by ordinance, a planning commission, and a zoning commission.
2. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code to comply with the Idaho Code, specifically Title 67 Chapter 65.
3. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations "...not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein..."
4. The proposed ordinance making the above changes adds to the clarity intended in the interpretation of the Bonner County Revised Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining the protection of property, peace, good order, comfort and convenience of the county and its inhabitants.
5. This proposed change provides further clarifying standards enabling the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

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**Conclusions of Law:**

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Conclusion 1

The proposed amendments to Title 12 **is** in accord with Idaho Code, Chapter 7, Title 31.

Conclusion 2

The proposed amendments to Title 12 **is** in accord with Idaho Code Chapter 67 Title 65.

Conclusion 3

The proposed zone change **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         |                                    |

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## Public and Agency Comment

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### Agency Review

The application was routed to agencies for comment on November 26, 2021

*All Taxing Districts  
All Cities*

### The following agencies commented:

None at time of staff report.

### The following agencies replied "No Comment":

City of Clark Fork – November 30, 2021

### All other agencies did not reply.

**Public Notice & Comments:** One public comment regarding concerns of hearing date for file being ahead of hearing date for AM0021-21. No other public comments have been received as of the date of the staff report.

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## Background

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Below are the proposed amendments to each specific section and the description of the changes. The language in **red and underlined** is recommended as additions to the existing code. Those words in **red** and strike through would be deleted from the ordinance.

~~12-122: ESTABLISHMENT OF PLANNING AND ZONING COMMISSION:~~

~~—A.— The planning and zoning commission (commission) shall consist of seven (7) members. They shall be appointed by the board in accordance with the provisions of Idaho Code. All members must have resided in Bonner County for at least two (2) years prior to appointment, and must reside within Bonner County while serving on the commission. The terms of office for the appointive members shall be between three (3) and six (6) years. All vacancies shall be filled in the same manner as original appointments.~~

~~—B.— Members may be removed for cause by a majority vote of the board. Members shall be selected without respect to political affiliation. (Ord. 501, 11-18-2008)~~

~~12-123: POWERS AND DUTIES OF COMMISSION:~~

~~The commission shall:~~

~~—A.— Conduct a planning process designed to prepare, implement, review and update a comprehensive plan that includes all lands within the board's jurisdiction;~~

~~—B.— Hold public hearings prior to recommending the comprehensive plan, changes to the plan and ordinances;~~

~~—C.— Provide ways and means to obtain citizen participation in the planning process and the administration of ordinances;~~

~~—D.— Recommend subdivision and zoning ordinances and plats;~~



- ~~—E. Recommend a map, a governing plan and ordinances for areas of city impact that are within the unincorporated area of Bonner County;~~
  - ~~—F. Prepare procedures for processing zoning permits, namely: special use permits, conditional use permits, rezone applications, planned unit development proposals and variance applications;~~
  - ~~—G. Hear all requests for amendment to the zoning ordinance, hold at least one public hearing and make its recommendation to the board; and~~
  - ~~—H. Regularly review, update and recommend changes to the zoning ordinance (if needed) to the board. (Ord. 501, 11-18-2008)~~
- ~~12-124: ELECTION OF CHAIRPERSON, MEETINGS, QUORUM:~~
- ~~—A. The commission shall elect a chairperson and create and fill those offices that it determines necessary for the proper conduct of the affairs and business of the commission.~~
  - ~~—B. Meetings of the commission shall be held when called by the Chairperson or a majority of the commission, by written or oral notice in accordance with the Open Meeting Law of the State of Idaho. At least one regular meeting shall be held each month for not less than nine (9) months in a year.~~
  - ~~—C. A majority of the currently appointed voting members shall constitute a quorum.~~
  - ~~—D. All meetings shall be open to the public, except as otherwise provided by Idaho Code. (Ord. 501, 11-18-2008)~~

BCRC 12-122 PLANNING COMMISSION:

- A. Establishment: The Bonner County Planning Commission is hereby established as provided for by Idaho Code section 67-6504. This commission shall be composed of seven (7) members assigned to positions A through G.
- B. Organization: The Planning Commission shall elect a Chairman and Vice Chairman. This commission shall abide by the provisions of this title, the Local Land Use Planning Act, and shall also adopt bylaws as required.
- C. Terms Of Office: Positions A, B, and C shall first expire September 30, 2025, and then every three (3) years thereafter. Positions D and E shall expire September 30, 2024, and every three (3) years thereafter. Positions F and G shall expire September 30, 2023, and every three (3) years thereafter. Appointment to complete the term of a vacated position or appointment to a new term shall be done by motion and order of the Board of Bonner County Commissioners.
- D. Jurisdiction: The Planning Commission shall be responsible for recommending amendments of the Bonner County Comprehensive Plan and land use ordinances to the Board of Bonner County Commissioners. The Planning Commission shall not consider amendments which are deemed to be quasi-judicial proceedings.

BCRC 12-123 ZONING COMMISSION:

- A. Establishment: The Bonner County Zoning Commission is hereby established as provided for by Idaho Code section 67-6504. This commission shall be composed of five (5) members assigned to positions A through E.
- B. Organization: The Zoning Commission shall elect a Chairman and Vice Chairman. This commission shall abide by the provisions of this title, the Local Land Use Planning Act, and shall also adopt bylaws as required.
- C. Terms Of Office: Position A shall first expire September 30, 2023, and then every three (3) years thereafter. Positions B and C shall expire September 30, 2024, and every three (3) years thereafter. Positions D and E shall expire September 30, 2025, and every three (3) years thereafter. Appointment to complete the term of a vacated position or appointment to a new term shall be done by motion and order of the Board of Bonner County Commissioners.



D. Jurisdiction: The Zoning Commission shall be responsible for holding quasi-judicial hearings required by this title and Idaho Code for applicant-initiated land use requests. When requested by staff, by a majority of the Zoning Commission members, or by the Board of Bonner County Commissioners, the Zoning Commission or Board of Bonner County Commissioners may appoint a hearings examiner in accordance with Idaho Code section 67-6520 upon approval by the Board of Bonner County Commissioners.  
BCRC 12-124: Reserved.

## **AMENDMENT AND ZONE CHANGE**

**File AM0019-21 & ZC0032-21 Comprehensive Plan Map Amendment & Zone Change – David Hunter** is requesting a Comprehensive Plan Map Amendment from Ag/Forest to Rural Residential and a Zone Change from Rural 10 to Rural 5. The 20-acre project is located off Hunter Road in Section 17, Township 54 North, Range 5 West, Boise-Meridian. The Planning & Zoning Commission, at the December 2, 2021 public hearing, recommended approval of this file to the Board of County Commissioners.

**STAFF PRESENTATION:** Staff 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:** Landowner David Hunter provided comments on Property being farmland, wetlands, Hunter road conditions, private maintenance of road, subdividing of neighboring properties, powerline easement, subdividing of property for family, and forest service access.

**PUBLIC/AGENCY TESTIMONY:** The following personnel spoke on the record:  
Elizabeth Iha

**APPLICANT REBUTTAL:** None

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

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## **Comprehensive Land Use Plan Amendment Motion by the Governing Body**

**MOTION TO APPROVE:** Commissioner Connolly moved to approve this project, File AM0019-21, requesting a comprehensive land use plan amendment from Ag/Forest Land to Rural Residential, finding that it is in accord with the general and specific objectives of the BonnerCounty 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. 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.

**ROLL CALL VOTE**

Commissioner McDonald	Aye
Commissioner Connolly	Aye
Commissioner Bradshaw	Aye

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**Comprehensive Plan Map Resolution Adoption**

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**MOTION:** Commissioner Bradshaw moved to approve resolution 22-003 amending the Bonner County Projected Land Use Map. Commissioner Connolly 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

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**Zone Change Motion by the Governing Body**

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**MOTION TO APPROVE:** Commissioner Connolly moved to approve this project, File ZC0032-21, requesting a zone change from Rural-10 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. 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.

**ROLL CALL VOTE**

Commissioner McDonald	Aye
Commissioner Connolly	Aye
Commissioner Bradshaw	Aye

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**Zone Change Ordinance Motion:**

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**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 17, Township 54 North, Range 5 West, Boise Meridian, Bonner County, Idaho from Rural-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.

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

**ROLL CALL VOTE**

Commissioner McDonald           Aye  
Commissioner Connolly           Aye  
Commissioner Bradshaw           Aye

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**Comprehensive Plan Amendment Findings of Fact**

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1. The site does contain mapped slopes between 15-29% and 30% or greater, but in general, steeper slopes do not prevail.
2. There is a mapped riverine (wetland) and intermittent stream on the property, but the property is not located within a floodway.
3. The site is accessed by Hunter Road, a County owned but privately maintained road.
4. The property is served by an individual well, septic, and Inland Power LLC, and is within the Spirit Lake Fire District.
5. The soil(s) present on site include:
  - Kootenai gravelly ashy silt loam (23), 0 to 4 percent slopes
  - Melder loam (30), 35 to 65 percent slopes
  - Rathdrum-Bonner ashy silt loams (45), 0 to 8 percent slopes

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**Comprehensive Plan Amendment Conclusions of Law:**

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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  
Transportation                      Community Design              Implementation



Economic Development  
Hazardous Areas  
Recreation

Land Use  
Public Services  
Special Areas or Sites

Natural Resources  
Agriculture  
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.

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**Zone Change Findings of Fact**

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1. The entire acre parcel is proposed to be rezoned from Rural-10 to Rural-5.
2. The site is accessed by Hunter Road, a County owned, privately maintained road.
3. The property contains slopes between 15-29% and some slopes greater than 30% in the northern part of the subject property. The property is served by an individual well and septic system, the Spirit Lake Fire District, and Inland Power.
4. There is a mapped riverine (wetland) and intermittent stream on the property, but the property is not within a mapped floodway.

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**Zone Change Conclusions of Law**

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**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.

**Background:**

The applicant, David Hunter, acquired the property in 2001 per Warranty Deed, Instrument No. 583380. To date, Mr. Hunter has owned the property.

**A. Site data:**

- Use: Residential
- Unplatted parcel
- Size: ≈20 parcel
- Zone: Rural-10
- Land Use: Ag/Forest Land

**B. Access:**

- Hunter Road
  - Road Class: Local
  - Road Owner: Bonner County
  - County Maintained: No

**C. Environmental factors:**

- Site does contain mapped slopes between 15-29% and 30%+. (USGS)
- Site does contain mapped riverine (wetland). (USFWS)
- Site does contain an intermittent stream. (NHD)
- JRJ, 10.12.2021: Parcel is within SFHA Zone X, per FIRM Panel 16017C1100E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.

**Soils:**

Description	Farmland Classification	Drainage Class
Kootenai gravelly ashy silt loam (23)	Prime farmland if irrigated	Well drained
Melder loam (30)	Not Prime Farmland	Well drained
Rathdrum-Bonner ashy silt loams	All areas are prime farmland	Well drained

**D. Services:**

- Water: private well
- Sewage: private septic
- Fire: Spirit Lake Fire District
- Power: Inland Power
- School District: Bonner County Schools #83

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land	Rural-10	Rural residence
North	Ag/Forest Land	Ag/Forestry-10	Rural residence

<b>East</b>	Ag/Forest Land	Rural-10 & Prime Ag Forest land 20+	Rural residence
<b>South</b>	Ag/Forest Land	Rural-10	Rural residence
<b>West</b>	Ag/Forest Land	Rural-10	Rural residence

**F. Standards of review: Bonner County Revised Code**

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
  - A. The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
  - A. 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)

**G. Agency Review:** The application was routed to the following agencies for comment on November 2, 2021.

Panhandle Health District	Idaho Department of Water Resources
Spirit Lake Fire District	Bonner County Road Department
Inland Power	U.S. Army Corps (Coeur d'Alene)
Bonner School District #83	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
Idaho Department of Lands, Nav. Waters	(All Taxing Districts)

**The following agencies commented:**

Spirit Lake Fire, rec'd Dec. 2, 2021

"In review of this project on Hunter Road, the access/egress is limited to one way in and one way out. As home density increases and the area grows, this will impact our ability to provide service to residents. The larger Hunter fire was 700 acres. The limited access and egress affected our fire-fighting abilities.

There should be road improvements on Hunter Road for the increased density...Hunter Road needs to be paved, widened, and have two points of access/egress for the current density and to be functional for future growth"

Idaho Department of Fish and Game, rec'd Nov. 18, 2021

"The Idaho Department of Fish and Game does not have any comments to submit for this application"

**The following agencies replied “no comment”:**

Inland Power & Light Co, rec’d November 11, 2021

Idaho Department of Lands, rec’d November 3, 2021

All other agencies did not respond.

As of January 03, 2022, no public comments were received for this file.

**Comprehensive Land Use Plan Designation**

**Current – Ag/Forest Land**

**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.”

**Proposed – Rural Residential**

**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.”

**Comprehensive Land Use Plan Designation – Staff analysis:**

- ✘ Steeper slopes do not prevail on the property.
- ✘ The property does not have poor soil conditions since most of the property contains prime agricultural soils, if irrigated.
- ✓ The property is accessed by a privately maintained, County owned road (Hunter Road). Properties to the south of the subject parcel are zoned Rural 5-acre and are accessed by Hunter Road.
- ✘ The property does not have a lack of police or fire services as it is afforded fire protection by the Spirit Lake Fire District.

**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%)
      - ✗ **Staff:** the property is not characterized by slopes that are steeper than thirty percent.
    - b. Located within critical wildlife habitat as identified by federal, state or local agencies.
      - ✗ **Staff:** The Idaho Department of Fish and Game did not submit comments for the application, nor did they identify critical wildlife habitat in the area (since they did not comment).
    - c. Contain prime agricultural soils.
      - ✓ **Staff:** there are three (3) soil type(s) on the property, two of which are characterized as prime farmland. 1) Kootenai gravelly ashy silt loam which is prime farmland if irrigated (≈16.4 acres), 2) Melder loam which is not prime farmland (≈3.55 acres), and 3) Rathrum-Bonner ashy silt loams (≈0.02 acres) which is characterized as 'all areas are prime farmland'.
    - 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.
      - ✓ **Staff:** the subject property is served by Hunter Road which is a County owned but privately maintained road.
    - e. Within the floodway.

- ✘ **Staff:** the property is not within a floodway.
- f. Contain limited access to public services.
- ✘ **Staff:** the property is afforded fire protection by the Spirit Lake Fire District, is in the Bonner County Ambulance District, and has access to electricity provided by Inland Power.
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).
- ✓ **Staff:** based on the above Rural 10-acre criteria, the property aligns better with the rural 5-acre zoning district.

**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.

## **ZONE CHANGE**

**File ZC0031-21 - Zone Change - Cayton Revocable Trust** is requesting a zone change from Rural-10 to Rural-5. The 40-acre parcel is located off Langille Canyon Road in Section 13, Township 56 North, Range 6 West, Boise-Meridian. The Planning & Zoning Commission, at the December 2, 2021 public hearing, recommended approval of this file to the Board of County Commissioners.

**STAFF PRESENTATION:** Staff 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:**

Project Representative Joshua Provolt, Provolt Land Surveying, Inc., submitted Exhibit A (map), provided comments on R-10 zoning, second access to the property, review of staff report, soils, power, and sewer district.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

Chair opened for public testimony and Project Representative Dan Provolt, Provolt Land Surveying, Inc., provided comments on road easement, bringing road up to county standards for legal access to properties, road design, ownership of property with access to county-maintained road, zone change at the development phase, and 40-foot easement to provide access to the R-10 portions of the property.

Board counsel Bill Wilson commented on separate, independent basis for R5 criteria.

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

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**Zone Change - Motion by the Governing Body**

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**MOTION TO APPROVE:** Commissioner Bradshaw moved to approve this project, File ZC0031-21, requesting a zone change Rural-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 Bradshaw further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property. Commissioner Connolly 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

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**Zone Change Ordinance Motion (Roll Call Vote):**

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**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 13, Township 56 North, Range 6 West, Boise Meridian, Bonner County, Idaho 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.

## ROLL CALL VOTE

Commissioner McDonald      Aye  
Commissioner Connolly      Aye  
Commissioner Bradshaw      Aye

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### Zone Change Findings of Fact

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- The parcel is comprehensive planned Rural Residential.
- The parcel does not contain any slopes greater than 30%.
- The soils found on the parcel are non-prime farmland soils.
- The parcel has access by a Bonner County owned and maintained road and gravel surfaced easement.
- The parcel does not contain any surface water, wetlands, floodplains, or floodways
- The parcel lies within West Pend Oreille Fire District.
- The parcel can be served by an individual well and septic system.
- Power can be provided from Northern Lights.
- The parcel is located near other parcels that are currently developed at or near Rural 5 zoning.

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### Zone Change Conclusions of Law

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**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.

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### Background:

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#### **A. Site data:**

- Use: Vacant



- Unplatted
- Size: 40 acres
- Zone: Rural 10
- Land Use: Rural Residential
- Legal per: #979894

**B. Access:**

- Property is accessed off Langille Canyon Road, a gravel county-maintained road, and a gravel surfaced 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)
- Parcel is within SFHA Zone X, Shaded Zone X, Zone AE, and Zone AE Floodway, per FIRM Panel 16017C0850E, Effective Date 11/18/2009.
- Soil:
  - Description: Kootenai gravelly ashy silt loam, 0 to 4 percent slope
  - Type: Consociation
  - Drainage: Well Drained
  - Classification: Prime farmland if irrigated
  
  - Description: Kootenai gravelly silt loam, 20 to 55 percent slopes
  - Type: Consociation
  - Drainage: Well Drained
  - Classification: Not prime farmland

**D. Services:**

- Water: Individual well
- Sewage: Individual septic
- Fire: West Pend Oreille Fire District
- Power: Northern Lights
- School District: School District #83

**E. Comprehensive Plan, Zoning and Current Land Use**

<b>Compass</b>	<b>Comp Plan</b>	<b>Zoning</b>	<b>Current Land Use &amp; Density</b>
<b>Site</b>	Rural Residential	Rural-10	Vacant 30 acres
<b>North</b>	Rural Residential	Rural-10	Residential 17 acres/ Vacant 18 acres
<b>East</b>	Rural Residential	Rural-5	Vacant 100 acres
<b>South</b>	Rural Residential	Rural-5	Residential 20acres/ Vacant 51 acres
<b>West</b>	Rural Residential	Rural-10	River

**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

**Existing Zoning:**

**BCRC 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.

**Proposed Zoning:**

**BCRC 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:
  - 2. R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above. (Ord. 501, 11-18-2008)

**G. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC 12-720.3(J) because the proposal does not result in the creation of additional "impervious surface", as defined in BCRC 12-809.

**H. Agency Review:** The application was routed to the following agencies for comment on November 2, 2021:

Panhandle Health District	Idaho Department of Water Resources
West Pend Oreille Fire District	Bonner County Road Department
Northern Lights Utility Company	U.S. Army Corps (Coeur d'Alene)
Bonner School District #83	Army Corps (Newport)
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
Idaho Department of Lands, Nav. Waters	(All Taxing Districts)

**The following agencies provided comment:**

*Panhandle Health District- "We recommend the applicant contact PHD to assess the septic feasibility of the proposed parcels." November 16, 2021*

**The following agencies replied "No Comment":**

*Idaho Department of Lands- November 3, 2021*

*Idaho Department of Fish and Game- November 18, 2021*

**All other agencies did not reply.**

**I. Public Notice & Comments**

As of November 24, 2021, one comment was received with concerns that increase in density will affect groundwater and wetlands and is opposed to the zone change.

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The Chair declared the hearing adjourned at 3:25 p.m.

Respectfully submitted, this 18<sup>th</sup> day of January 2022.



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Milton Ollerton, Planning Director