

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
WEDNESDAY FEBRUARY 9, 2022**

CALL TO ORDER: Chair McDonald called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 1st Floor Conference Room 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 HEARING:

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. Commissioner McDonald stated he does know the Skinners and after conferring with Bill Wilson it was decided there is no conflict of interest.

ZONE CHANGE

File ZC0028-21 – Zone Change - A/F-20 to A/F-10 Don & Julie Skinner and James & Diane Otis are requesting a Zone change from A/F-20 to A/F-10. The project is located off Colburn Culver Road, Rapid Lightning Road, Lower Pack River Road and Red Cedar Lane in Section 14, 23, 24, 25, 26 Township 58 North, Range 1 West, Boise-Meridian. The Planning and Zoning Commission, at the November 18, 2021 public hearing, recommended denial of this file to 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 consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Dan Provolt, Provolt Land Surveying submitted Exhibit C (multiple pdfs) and provided records and history on the property.

Applicant Don Skinner discussed the history of the property and the reason why he is going forward with the file.

The applicant's attorney, John Finney, spoke regarding the zoning history of the property.

Planning Director Milton Ollerton provided comments regarding the Planning and Zoning decision letter and the findings of facts A-F.

PUBLIC/AGENCY TESTIMONY: The following personnel spoke on the record: Jeanelle Shields, Diane Green, Tamara Joyner, Luke Webster, Jennifer Wood, Glenn Wood, Nathan Wood, Betty Anderson, Melissa Dawson, Ann Coward, Steve Wood, Janice Skinover, Patrick Meyers, Dave Bowman, Susan Bowman, Maureen Patterson, Catherine Roser, Fernando Herrera, Amy Lunsford, Michelle Sharp, Sheryl Kins, and Dan Harvard.

At 4:02 p.m. Commissioner McDonald recessed the hearing.

At 4:10 p.m. Commissioner McDonald continued the hearing with public comment: Cinda Parker, Debra Douglas, Dan Rose, Carolyn Knaack, Kristina Kingsland, Doug Gunter, Nick Corial, George Gehrig, Vern Spencer, Christine Lowe, Jerry Nelson, Keith Felts, Samuel Williams, Jonna Plante, Molly Fay, Wayne Martin, and Sherry DesRosier.

STAFF REBUTTAL: Planner Chad Chambers responded to the public comments regarding the Comprehensive Land Use Map, agency comments and the staff report analysis.

Director Milton Ollerton responded to public comment on the Bonner County Code requiring the applicant to prove the necessity.

Board Counsel Bill Wilson responded to a public comment regarding the spot zoning definition.

APPLICANT REBUTTAL: John Finney, attorney, responded to the public comments regarding wells and water rights, agriculture soil based on the Comp Plan and the term "necessity".

Board Counsel Bill Wilson responded to a public comment regarding the interpretation of the term "necessity".

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

Motion by the Governing Board:

MOTION TO DENY: Commissioner Bradshaw moved to deny this project FILE ZC0028-21, requesting a zone change from requesting a zone change from

Agricultural/ Forestry-20 to Agricultural/ Forestry-10 for the parcel noted in the staff report, based upon the following conclusions: [REFER TO FOLLOWING CONCLUSIONS OF LAW AND SPECIFY WHICH CONCLUSIONS THE PROJECT MEETS AND FAILS TO MEET]. Failed to meet the necessity. 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 findings of fact and conclusions of law as set forth in the Staff Report as amended during this hearing 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.

- 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.

No commissioner seconded the motion. The chair declared the motion dead due to no second.

MOTION TO APPROVE: Commissioner Connolly moved to approve this project, FILE ZC0028-21, requesting a zone change Agricultural/ Forestry-20 to Agricultural/ Forestry-10 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 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 McDonald stepped down from the chair and seconded the motion.

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

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 14, 23, 26 Township 58 North, Range 1 West, Boise Meridian, Bonner County, Idaho Agricultural/ Forestry-20 to Agricultural/ Forestry-10, 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 McDonald stepped down from the chair and seconded the motion.

Roll Call Vote:

Commissioner McDonald	Aye
Commissioner Connolly	Aye
Commissioner Bradshaw	Nay

Background:

A. Site data:

- Unplatted
- Sizes: 41.24, 130.27, 18.34, 314.78, 80.00, 21.27, 21.06, 39.80, 7.50, 18.40, 0.11, 0.64, 21.45, and 3.10
- Zone: A/F-20
- Land Use: Agricultural/ Forestry Land
- Legal per: Instrument #629543, #702083, #522701, #690779, #880970, #890432, #973399, #753245, #678937, #684529, #882999

B. Access:

- The parcels are generally accessed on or near Colburn Culver Road, Rapid Lighting Road and Lower Pack River Road.

C. Environmental factors:

- Nine parcels contain mapped slopes from 15 to 30% and above. (USGS)
- Three parcels contain mapped wetlands. (USFWS)
- Five parcels contain either waterfront or streams. (NHD)
- One parcel is the floodway and floodplain SFHA Zone A 16017C0735E Effective Date 11/18/2009; AE FIRM Panel 16017C_FIRM1
- One parcel is in the floodway SFHA Zone AE FIRM Panel 16017C0730E, Effective 11/18/2009

Soils:

- Classification: Colburn very fine sandy loam, 0 to 4 percent slopes (9)
- Type: Consociation
- Drainage: Somewhat poorly drained
- All areas are prime farmland

- Classification: Selle fine sandy loam, 0 to 8 percent slopes (48)
- Type: Consociation
- Drainage: Well drained
- All areas are prime farmland

- Classification: Capehorn silt loam, 0 to 2 percent slopes (8)
- Type: Consociation
- Drainage: Poorly drained
- Farmland of statewide importance, if drained and either protected from flooding or not frequently flooded during the growing season

- Classification: Mission silt loam, 0 to 2 percent slopes (31)

- Type: Consociation
- Drainage: Somewhat poorly drained
- Prime farmland if drained

- Classification: Mission silt loam, 2 to 12 percent slopes (32)
- Type: Consociation
- Drainage: Somewhat poorly drained
- Farmland of statewide importance, if drained
- Classification: Pywell-Hoodoo complex, 0 to 1 percent slopes (42)
- Type: Complex
- Drainage: Very Poorly drained
- Prime farmland if drained

- Classification: Dufort-Rock outcrop complex, 5 to 45 percent slopes (11)
- Type: Complex
- Drainage: Well drained
- Not prime farmland

- Classification: Haploxerafls and Xerochrepts, 30 to 55 percent slopes (14)
- Type: Undifferentiated group
- Drainage: Well drained
- Not prime farmland

- Classification: Mission silt loam 12 to 30 percent slopes (33)
- Type: Consociation
- Drainage: Somewhat poorly drained
- Not prime farmland

- Classification: Pend Oreille- rock outcrop complex, 5 to 45 percent (37)
- Type: Complex
- Drainage: Well Drained
- Not prime farmland

D. Services:

- Water: Individual well
- Sewage: Individual septic
- Fire: Northside Fire District
- Power: Northern Lights Inc.
- School District: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land	A/F-20	Residential/ Vacant
North	Ag/Forest Land	A/F-20	Vacant

East	Ag/Forest Land	A/F-20	Residential
South	Ag/Forest Land	A/F-20	Residential
West	Ag/Forest Land	A/F-10	Vacant

F. Standards Review: Bonner County Revised Code

12-111: The zoning regulations and districts for the unincorporated areas of Bonner County, as herein established, have been made in accordance with a comprehensive plan and Idaho Code for the purpose of promoting the health, safety and general welfare of the people of Bonner County

12-112(C): Interpretation, Relation to other Ordinances:

The provisions of this title shall be interpreted to carry out the purpose and intent of the zone district as shown on the official zoning maps on file in the planning department office, this title as adopted, and the Bonner County comprehensive plan.

The use of the following words shall apply:

1. "Shall" and "must" are mandatory and not discretionary.
2. "May" is permissive.
3. "Should" refers to a guideline that is encouraged, but not mandatory.

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)

12-320.1: The purpose statements for each zone and map designation set forth in the following sections shall be used to guide the application of the zones and designations to all lands in unincorporated Bonner County.

Existing Comprehensive Plan Designation:

Ag/Forest Land- The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% or greater) and transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope.

Comprehensive Plan Goals and Objectives:

Section 2.5 Land Use

Goal:

Bonner County intends to balance and integrate its land use policies and proposed land use map with the components of the comprehensive plan to encourage the community to grow while retaining its rural character and protecting its unique natural resources.

Objective:

Bonner County will develop and maintain a future land use map and land use codes that acknowledge the values of its agricultural and timber land, protects the water and wildlife resources, identifies and avoids hazard areas, provides areas for economic growth, encourages affordable housing and centers growth in areas where adequate public and private services can be provided.

Staff: The proposal is in keeping with the goal for Land Use portion of the comprehensive plan. The proposal will remain with in the current land use designation of Agricultural/ Forestry.

Section 2.6 Natural Resources:

Goal:

Bonner County places a high value on its natural resources and amenities and desires to protect these features that make the county unique place to live, work and play. The county recognizes that natural resources, such as pure water, clean air and diverse wildlife, are important to preserve and once lost, they may not be recovered. Bonner County will strive to manage its natural resources to attain the greatest long term public benefit.

Objective:

Bonner County values its productive agricultural lands and forests, its fisheries, wildlife and wetlands, and will provide measures to protect and maintain these natural features.

Staff: The proposal is meeting the objective of the Natural Resources portion of the comprehensive plan as the proposal is remaining with in the Agricultural/ Forestry district which encourages pursuit to maintain natural features.

Existing Zoning:

12-322: AGRICULTURAL/FORESTRY DISTRICT:

A. The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to

preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:

1. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
 2. Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture or requiring close proximity for the support of agriculture.
- B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
1. A/F-20 in all areas designated as prime ag/forest land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated ag/forest land in the comprehensive plan that also feature
 - a. Prime agricultural soils.
 - b. Are characterized by agricultural or forestry uses.
 - c. Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to ag/forest production.

Proposed Zoning:

12-322 AGRICULTURAL/FORESTRY DISTRICT:

- A. The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:
1. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
 2. Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture or requiring close proximity for the support of agriculture.
- B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
2. A/F-10 in areas designated as ag/forest land in the comprehensive plan that do not feature prime agricultural soils, but where agricultural and forestry pursuits remain viable. These areas may be within or adjacent to areas of city impact or where lands are afforded fire protection, access to standard roads and other services.

12-720 Grading, Stormwater Management and Erosion Control:

A stormwater management plan was not required, pursuant to BCRC 12-720.3(K)...the creation of additional "impervious surface", as defined in section 12-809 of this title.

G. Agency Review:

The application was routed to the following agencies for comment on August 24, 2021.

Panhandle Health District	Idaho Department of Water Resources
Northside Fire District	Bonner County Road Department
Northern Lights Utility Company	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	U.S. Forest Service
Idaho Department of Environmental Quality	Idaho Department of Lands, Nav. Waters
(All Taxing Districts)	

The following agencies provided comment:

Bonner County Floodplain review "A Rezone application is not a proposal for development as defined in BCRC Title 14. A re-review of the flood issues on this site will be done when and if an application for development (as defined in BCRC Title 14) is made with this department" July 19, 2021

Panhandle Health District "Prior to any building of structures on any new properties they will need to have Septic Approval via a valid Septic Permit" September 14, 2021

Idaho Department of Fish and Game- See attached letter- September 15, 2021

DEQ" has no environmental impact comments at this stage of the project." September 17, 2021

The following agencies replied "No Comment":

Independent Highway District "No Comment" September 9, 2021

All other agencies did not reply.

H. Public Notice & Comments:

Several written comments were received opposing the zone change from the public. The comments expressed concerns about impact on wildlife, wells, traffic, schools, housing density, emergency services, wetlands and rivers.

Zone Change Findings of Fact

- The parcels are comprehensive planned Agricultural/ Forestry Land.
- Prime agricultural soils are found on the parcels, however no one parcel is characterized by prime soils.
- Slopes are present and are mostly 15-29% grade with isolated areas that are 30% or greater.
- The parcels contain surface water, wetlands, floodplains, or floodways.
- Agricultural and forestry activities remain viable.
- The parcels are not within in area of city impact.
- Parcels have access to a standard road system.
- Fire protection is provided by Northside Fire District.
- Services are an individual well and septic system.
- Utilities are provided by Northern Lights.

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

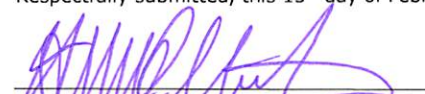
This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **is** found to be in compliance.

Conclusion 3

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

The Chair declared the hearing adjourned at 5:47 p.m.

Respectfully submitted, this 15th day of February, 2022,



Milton Ollerton, Planning Director