

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
March 9, 2022**

**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 and Jeff Connolly

**ABSENT:** Vice Chair Steve Bradshaw

**ALSO PRESENT:** Planning Director Milton Ollerton; Assistant Planning Director Jacob Gabell; Planner I Daniel Britt; Planner I Amy Scott and Hearing Coordinator Jenna Crone.

**PUBLIC HEARING:**

**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.

**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.

**File ZC0036-21 - Zone Change - Rural-5 to Recreation - Sean & Laura Hammond** are requesting a zone change from R-5 to Recreation. The 4.47-acre property is zoned Rural 5. The project is located off Willow Bay Road in Section 1, Township 55 North, Range 4 West, Boise-Meridian. The Planning & Zoning Commission, at the January 20, 2022, public hearing, recommended approval of this file to the Board of County Commissioners.

**STAFF PRESENTATION:** Planner Daniel Britt presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Applicant Representative, Jeremy Grimm, Whiskey Rock Consulting gave a summary of the property. Applicant Sean Hammond shared details of the property.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

**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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**BOARD OF COUNTY COMMISSIONERS**

**MOTION TO APPROVE:** Commissioner Connolly moved to approve this project, FILE ZC0036-21, 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 Connolly further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report and directed planning staff to draft written findings and conclusions to reflect this motion, have Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

Commissioner McDonald stepped down from Chair and seconded the motion.

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

**ROLL CALL VOTE**

Commissioner McDonald	Aye
Commissioner Connolly	Aye
Commissioner Bradshaw	Absent

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

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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 1, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho from Rural-5 to Recreation, 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 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	Absent

**Background:**

**A. Site data:**

- Size: 4.39 acres
- Zone: Rural 5
- Land Use: Resort Community
- Legal Description: #986519

**B. Access:**

- The property is accessed by Willow Bay Road a Bonner County owned and maintained gravel road.

**C. Environmental factors:**

- Site does 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, per FIRM Panel 16017C0895E, Effective Date 11/18/2009
- Soil:
  - Description: Bonner gravelly ashy silt loam, 0 to 4 percent slope
  - Type: Consociation
  - Drainage: Well Drained
  - Classification: Prime farmland

**D. Services:**

- Water: Individual well
- Sewage: Individual septic
- Fire: Sagle Fire District
- Power: Northern Lights Inc.
- School District: West Bonner School District #83

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Rural 5	Vacant/ 4.39 acres
North	Resort Community	Recreation	Residential/ 3.32 acres Vacant/ 3.92 acres
East	Rural Residential	Rural 5	Vacant/ 3 acres Residential/ 2.63 acres Vacant/ 2.88
South	Resort Community	Recreation	Vacant/ 3.56 acres
West	Resort Community	Rural 5	Residential/ 5 acres

**F. Review standards BCRC:**

- **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
- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
  - The application was deemed complete by staff 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:** Zoning Districts and Map Designation, Purpose:
  - 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. The purpose statements also shall guide interpretation and application of land use regulations within the zones and designations, and any changes to the range of permitted uses within each zone through amendments to this title. (Ord. 501, 11-18-2008)
- **12-320.2:** Zoning Districts and Map Designations Established:
  - In accordance with the provisions of Idaho Code and the objectives set forth in this code, all land in the unincorporated areas of Bonner County is hereby classified according to the following zoning designations and zoning map symbols, which shall be applied as shown on the official zoning district map

**Existing Comprehensive Plan Designation:**

**Resort Community:** The Resort Community provides for urban-like densities for areas centered on the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

**Comprehensive Plan Analysis:**

**Section 2.1 – Property Rights**

**Goal:** The issue of property rights is a “two-way street” and the property rights of the applicant, adjoining landowners and future generations shall be considered, as well as the short-term consequences of decisions.

**Objective:** Private property shall not be taken for public uses without just compensation or due process of law.

Impacts to other properties shall be taken into account when considering land use proposals, policies and codes.

**Staff:** The application was routed to neighbors 300' from the property line, informing neighbors of the proposed zone change. Bonner County received no objections from the neighbors as of February 24, 2022, that the zone change would impact their private property rights.

### **Section 2.2 – Population**

**Goal:** Multi-generational, multi-economic diversity shall be encouraged within Bonner County.

**Objective:** Bonner County shall keep current with the county census data, population estimates and projections and shall use the data to analyze community needs and project impacts.

**Staff:** Bonner County is awaiting results for 2020 census data, including population estimates. However, there is upward pressure on housing needs in Bonner County, both in the unincorporated portion of the County, and in the incorporated cities.

### **Section 2.3 – School Facilities & Transportation**

**Goal:** Full consideration shall be given to the county's ability to provide quality education to the current and future students of Bonner County.

**Objective:** Proposed developments and county land use decisions shall not adversely impact the local school districts and their ability to provide adequate school facilities and transportation systems.

**Staff:** The West Bonner School District #83 and Bonner County School Transportation that serves the property was notified of the proposed zone change and did not comment as to how an increase in density and development would or would not adversely impact the district's ability to provide adequate school services (and facilities) for new and existing students.

### **Section 2.4 – Economic Development**

**Goal:** Bonner County shall encourage economic diversity for the financial health of the community and maintenance of its rural atmosphere.

**Objective:** Bonner County shall provide areas for the growth of businesses, professional and technical services without adversely impacting the integrity of residential neighborhoods.

Future commercial and industrial developments shall provide adequate public/private services and access to suitable transportation systems.

Commercial and industrial areas shall be located in defined areas which encourage clustered development and discourage sprawl and strip development. Bonner County's highway systems shall be viewed primarily as transportation corridors for the efficient flow of traffic and shall not be viewed merely as frontage roads for commercial development.

Bonner County shall consider the impact of commercial and industrial development on natural resources.

**Staff:** The proposed zone change is in accord with the comprehensive plan goal and objectives of economic development as the property is accessed by suitable transportation systems. Further the proposed zone change from Rural 5-acre to Recreation will be consistent with the zoning in the area; this will not jeopardize the integrity of the neighborhood or community.

### **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 proposed zone change from Rural 5-acre to Recreation is compatible with surrounding land uses. Additionally, the property will not adversely impact natural resources as there are no mapped wetlands, streams or other riparian environments on the property.

### **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's system of lakes and waterways is one of its greatest assets, and Bonner County will strive to preserve both the quality and quantity of its water resources.

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.

Bonner County will protect its water resources by requiring adequate sewer treatment systems based on soil, density, and intensity of use to reduce impacts to water resources.

Bonner County intends to consider wetlands and aquifer recharge areas in the location and density of future development.

Bonner County intends to maintain or enhance its fish and wildlife resource

**Staff:** The impacts to wildlife and other natural resources in this area of Bonner County will be minimal, given the higher density zoning that exists nearby the proposed zone change.

#### **Section 2.7 – Hazardous Areas**

**Goal:** Bonner County desires to protect its community from the loss of lives and property and to reduce public and private financial losses due to flood, fire, mass wasting, avalanches and excessive slopes by setting standards for development within hazard areas and discouraging development in high hazard areas.

**Objective:** Bonner County intends to regulate the location and density of new development in floodplain to reduce the potential for the loss of lives and property within flood hazard areas.

Future development shall be designed to reduce exposure to wildland fire and to provide for emergency and escape routes for residents.

Development within areas of excessive slopes, unstable areas and avalanche zones shall be discouraged.

**Staff:** The subject property is not located in a mapped floodplain zone A or AE. In addition, the subject property does not have excessive slopes which may result in potential damage to property or people due to soil erosivity or avalanches. Furthermore, the property is afforded fire protection by the Sagle Fire District.

#### **Section 2.8 – Public Services, Facilities & Utilities**

**Goal:** Future development shall provide adequate services and should not adversely impact the services or utilities of present-day users.

**Objective:** Bonner County intends for new development to offset the capital costs of expanding services to its area by requiring the developer to provide infrastructure, utilities or financial support for services generated by the proposed development.

New development shall not unduly overburden the current system.

New development should be adequately served by fire protection, roads, sewer, schools, law enforcement, ambulance and emergency services, water and other public/private services.

Full urban services and provisions for continued operation and maintenance of the systems shall be provided for urban and suburban densities.

**Staff:** The property is not situated within a water or sewer district. For that reason, the effects of new development on the property are not known. If the applicant wishes to develop the property in the future, they will need to secure a water right through the Idaho Department of Water Resources and obtain an approved septic permit through the Panhandle Health District. The availability of these services, and their potential impacts to adjacent properties cannot be known at the zone change phase.

#### **Section 2.9 – Transportation**

**Goal:** Bonner County intends to provide a transportation system that is safe, uncongested, and well maintained.

**Objective:** Future development shall not adversely impact the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

Roads within new development shall be built to county standards and at the expense of the developer.

Roads within new development shall provide adequate access for fire and emergency vehicles and routes of escape.

Future access roads shall be developed to integrate with the state and county system of roads without overburdening the transportation system.

To reduce transportation costs, road building and environmental impacts, cluster development shall be encouraged.

Bonner County intends for certain intense land use developments to provide paved roads.

Bike ways and pedestrian paths shall be included in development plans to provide an integrated community transportation system wherever possible.

**Staff:** The applicant's property is accessed by a County owned and maintained road. Due to the general density in the area, staff does not anticipate that the changes to the property being zoned at a higher density will create the conditions for hazards or congestion.

## Section 2.10 - Recreation

**Goal:** Public and private recreational opportunities are recognized as a major county asset to be protected and encouraged

**Objective:** Public recreational accesses and amenities shall not be obstructed or adversely impacted by future development.

**Staff:** Re-zoning this property from Rural 5-acre to Recreation will provide more recreational opportunities in Bonner County. The permitted uses in the Recreation Zoning District allow for some activities that would otherwise be prohibited in the Rural 5-acre zone.

## Section 2.11 – Special Areas or Sites

**Goal:** Bonner County will attempt to protect special archeological and historical sites and unique visual and ecological features of the region.

**Objective:** Future developments shall not adversely affect or destroy culturally or ecologically sensitive sites.

**Staff:** Rezoning the property is not an application for development. Thus, the potential for a rezone to disturb any special archeological and historical sites is null.

## Section 2.12 – Housing

**Goal/ Objective:** Bonner County recognizes diverse housing needs are to be addressed to provide adequate shelter for all, regardless of age, income or physical abilities.

**Staff:** The application is consistent with the housing component of the comprehensive plan as the rezone may result in more opportunities for different housing options in Bonner County.

## Section 2.13 - Community Design

**Goal:** Bonner County's goal is to maintain a variety of lifestyles and a rural character in the future development of Bonner County.

**Objective:** Bonner County intends for new development to locate in areas with similar densities and compatible uses.

Bonner County intends for new development to minimize the adverse impacts on adjacent areas.

Bonner County intends to consider the protection of natural resources and the rural features and surrounding uses of the community in the design and location of new development.

**Staff:** Rezoning the property may result in increased development, but that increase in development will not compromise the existing character of the community as most properties surrounding the property are already zoned Recreation. Additionally, the property is in the Resort Community Comprehensive land use plan designation.

## 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:

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

## Proposed Zoning:

### 12-328: RECREATION DISTRICT:

B. Use of this zone is appropriate in areas designated as transition, neighborhood commercial, and urban growth area and resort community with the following conditions:

1. Land is physically suitable to accommodate a broad range of residential and recreational uses.
2. Sites are served by adequate sewage disposal service, water supply, roads and other needed public facilities and services. (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 agencies for comment on December 14, 2021

Panhandle Health District	Idaho Department of Water Resources
West Pend Oreille Fire District	U.S. Forest Service
Northern Lights Utility Company	Bonner County Road & Bridge Department
Bonner School District #83	Idaho Department of Lands, Nav. Waters
Bonner County Schools – Transportation	Army Corps (Newport)
Idaho Department of Fish and Game	U.S. Fish and Wildlife Service
Idaho Department of Environmental Quality	Idaho Department of Lands (Sandpoint)
(All Taxing Districts)	

**The following agencies provided comment:**

*Idaho Department of Environmental Quality "DEQ has no environmental impact comments at this stage of the project."*

*Idaho Department of Water Resources -see attached letter for recommendations*

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

*Idaho Department of Fish & Game*

**All other agencies did not reply.**

**I. Public Notice & Comments**

As of February 24, 2022, no public comments were received for this file.

**Zone Change Findings of Fact**

- The parcel is comprehensive planned Resort Community
- Recreational activities are in proximity of the subject parcel
- The parcel can be served by an individual well and septic system
- The parcel has access by a Bonner County owned and maintained roads
- The parcel does not contain any surface water, wetlands, floodplains, or floodways
- The parcel lies within West Pend Oreille Fire District
- Power can be provided from 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  
Community Design  
Land Use  
Public Services  
Special Areas or Sites

Population  
Implementation  
Natural Resources  
Transportation  
Housing

School Facilities Transportation  
Economic Development  
Hazardous Areas  
Recreation

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 Recreational zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

The Chair declared the hearing adjourned at 1:45 p.m.

Respectfully submitted, this 17<sup>th</sup> day of March 2022,

Milton Ollerton, Planning Director