

**PLANNING DEPARTMENT  
BOARD OF COUNTY COMMISSIONERS DECISION MINUTES  
APRIL 13, 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; Vice Chair Steve Bradshaw; and Jeff Connolly

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Assistant Planning Director Jacob Gabell; Planner I Swati Rastogi; Planner I Chad Chambers; Planner I Daniel Britt; Hearing Coordinator Jenna Crone; and Civil Attorney Bill Wilson

**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.

**File ZC0003-22 – Zone Change – Ag/Forest 20 to Ag/Forest 10 – Howard** is requesting a Zone Change from AF-20 to AF-10 on a 20-acre unplatted parcel. The project is located off West Shingle Mill Road in Section 29, Township 58 North, Range 1 West, Boise-Meridian, Bonner County, Idaho. The Planning & Zoning Commission, at the March 17, 2022 public hearing, recommended approval of this file to the Board of County Commissioners.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner McDonald, Commissioner Connolly and Commissioner Bradshaw stated they do know the Applicant but there is no conflict of interest. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Planner I 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:** The applicant offered no comment.

**PUBLIC/AGENCY TESTIMONY:** 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 ZC0003-22, requesting a zone change from Agricultural/Forestry-20 to Agricultural/ Forestry-10, 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 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: Roll Call Vote**

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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 29, Township 58 North, Range 1 West, Boise Meridian, Bonner County, Idaho from Agricultural/Forestry-20 to Agricultural/ Forestry-10, 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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**Zone Change Findings of Fact**

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- The parcel does not feature prime agricultural soils.
- Agricultural/ Forestry pursuits remain viable for this parcel.
- The parcel is within area of city impact of Kootenai.
- The parcel lies within Northside Fire District.
- Access to the property is on Bonner County owned and maintained road.
- The parcel is comprehensive planned Agricultural/ Forestry Land.
- Utilities are provided by Northern Lights.
- Water is provided by Oden Water Association.
- Sewage disposal is an existing septic system.
- The parcel is currently 20 acres in size.

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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
Community Design	Implementation	Transportation
Land Use	Natural Resources	Economic Development
Public Services	Transportation	Hazardous Areas
Special Areas or Sites	Housing	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.

**MOD0005-21 – Modification of Ordinance No. 575 for file ZC365-18 – Doug & Gina Hoyt, Stan & Lisa Jewett** are requesting to remove the language “future divisions of land within the rezone boundaries warrant paved surface low volume private roadways” from Ordinance No. 575 for Zone Change file ZC365-18 on two (2) ≈10.02-acre lots. The properties are zoned Rural 5-acre. The project is located off Goldfinch Lane in Section 21, Township 54 North, Range 4 West, Boise-Meridian. The Planning & Zoning Commission, at the August 5, 2021 public hearing, recommended denial of this file to the Board of County Commissioners.

**STAFF PRESENTATION:** Planner I 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:** No Comment

**PUBLIC/AGENCY TESTIMONY:** None

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

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**Motion by the Governing body:**

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**BOARD OF COUNTY COMMISSIONERS**

**MOTION TO APPROVE:** Commissioner Bradshaw moved to approve this project file MOD0005-21, requesting to remove the language from “Section 3: Improvements” which states that “Divisions of land within the rezone boundaries described herein shall be developed with roadways meeting the ‘low volume private road’ standard set forth in Bonner County Revised Code, Title 12, Appendix A, Section 2.5A. Such roadways shall be paved” and “Whereas, the Board of County Commissioners did find that the zone change request ZC365-18 is in accordance with the Bonner County Comprehensive Plan; and have determined that future divisions of land within the rezone boundaries warrant paved surface low volume private roadways” from Ordinance No. 575 for Zone Change file ZC365-18, 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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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 21, Township 54 North, 4 Range West, Boise Meridian, Bonner County, 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 Second the Motion.

Roll Call Vote:

Commissioner McDonald Aye  
Commissioner Connolly Aye  
Commissioner Bradshaw Aye

**Findings of Fact**

1. The subject properties are within the Rural 5-acre zoning district and in the Rural Residential Comprehensive land use plan designation.
2. The properties are served by an individual well, septic system, Inland Power, and are in the Spirit Lake Fire District.
3. Both properties are platted and are part of the Qual Ridge 1<sup>st</sup> Addition Subdivision, Book 12 of Plats, Page 96.
4. The properties are not within a floodway and do not contain any mapped wetlands, slopes that are steeper than thirty percent (30%), rivers, streams, creeks, and the properties do not front a lake.
5. Both properties are currently zoned Rural 5-acre. Removing the requirement for paving prior to a land division will not result in a major increase to the density in the area in general.

**Conclusions of Law:**

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

Conclusion 1

The proposed conditional use permit is in accord with the Bonner County comprehensive plan.

- |                                    |                         |                     |
|------------------------------------|-------------------------|---------------------|
| •Property Rights<br>Transportation | •Population             | •School Facilities, |
| •Economic Development              | •Land Use               | •Natural Resources  |
| •Hazardous Areas                   | •Public Services        | •Transportation     |
| •Recreation                        | •Special Areas or Sites | •Housing            |
| •Community Design                  | •Implementation         | •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 proposed use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

**File MOD0010-21 – Conditional Use Permit Modification – Spires PUD** is requesting to modify the Conditional Use Permit for Spires Planned Unit Development to add note #4 to condition A-7 item C – “Setbacks” to file C892-07 to include the following: 4.) Authorization to deviate further from these standards shall be approved by the Homeowners’ Association Board of Directors on a case-by-case basis. The project is located in a portion of the S1/2 of the SW1/4 & S1/2 of N1/2 of SW1/4 Section 20, Township 58 North, Range 2 West, Boise-Meridian, Bonner County Idaho. The Planning & Zoning Commission, at the March 17, 2022 public hearing, recommended approval of this file to the Board of County Commissioners.

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

**PUBLIC/AGENCY TESTIMONY:** None

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

**Motion by the governing body:**

**BOARD OF COUNTY COMMISSIONERS**

**MOTION TO APPROVE:** Commissioner Bradshaw moved to approve this project FILE MOD0010-21 requesting to to modify the Conditional Use Permit for Spires Planned Unit Development to add note #4 to condition A-7 item C – “Setbacks” to file C892-07 to include the following: “4.) Authorization to deviate further from these standards shall be approved by the Homeowners’ Association Board of Directors on a case-by-case basis”, 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. I further move 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. The action that could be taken to obtain the request to modify the Spires PUD conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

Commissioner Connolly seconded the Motion.

Roll Call Vote:

Commissioner McDonald Aye  
Commissioner Connolly Aye  
Commissioner Bradshaw Aye

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

**Findings of Fact**

1. The Spires PUD is in the Alpine Village District and in the Alpine Community comprehensive land use designation.
2. Steeper slopes ≥30% prevail for properties generally located in the Spires PUD.
3. Soils in the Spires PUD include:
  - Prouty gravelly loam (40) – Not prime farmland – well drained
  - Brickel-Rubble land (5) – Not prime farmland – well drained
  - Rock outcrop-Rubble land complex (46) – Not prime farmland
  - Vay silt loam – Not prime farmland – well drained
  - Jeru gravelly loam – Not prime farmland – well drained
4. Properties in the Spires PUD are afforded fire protection by the Schweltzer Fire.
5. The site is within SFHA Zone X & Zone D, per FIRM Panel 16017C0685E, Effective Date 11/18/2009 & FIRM Panel 16017C0705E, Effective Date 11/18/2009.
6. The original conditional use permit (file CUP at C0892-07) was approved on February 13, 2008.

**Conclusions of Law:**

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

Conclusion 1

The proposed modification to the Spires PUD is in accord with the Bonner County comprehensive plan. (See attached comprehensive plan goals, objectives and policies)

- |                                    |                         |                     |
|------------------------------------|-------------------------|---------------------|
| •Property Rights<br>Transportation | •Population             | •School Facilities, |
| •Economic Development              | •Land Use               | •Natural Resources  |
| •Hazardous Areas                   | •Public Services        | •Transportation     |
| •Recreation                        | •Special Areas or Sites | •Housing            |

- Community Design
- Implementation

Conclusion 2

The proposed Spires PUD modification use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

Conclusion 3

The proposed Spires PUD modification use **IS** in the public interest.

**Conditions of approval:**

**Standard continuing permit conditions. To be met for the life of the use:**

- A-1** The modification, as approved or amended, shall not supersede deed restrictions.
- A-2** The proposed Spires PUD modification permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Modification Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Modification Permit.
- A-3** Prior to issuance of any building location permit, any landowner situated within the Spires PUD deviating further from the setback standards set forth in File C892-07, condition A-7 Item C - "Setbacks" must provide the following:
  - A written letter signed by the president of the Homeowners Association detailing approval of the applicants request to deviate from the required PUD setbacks.
- A-4** Any property line setback deviation shall not encroach onto another property. Any such request for an encroachment shall be denied, and require the applicant(s) to obtain a lot line or boundary line adjustment, as needed.

**File AM0001-22 & ZC0002-22 – Comprehensive Plan Map Amendment & Zone Change – Miller and Shaw** are requesting a Comprehensive Plan Map Amendment from Ag/Forest to Rural Residential and a Zone Change from Ag/Forestry-10 to Rural-5 on Lot 1 (~10.01 ac.), Lot 2 (~11.52 ac) and Lot 3 (~11.50 ac) of Jamie's Lots subdivision. The project is located off Loose Horse Lane in Section 32, Township 58 North, Range 1 West, Boise-Meridian. The Planning & Zoning

Commission, at the March 17, 2022 public hearing, recommended denial of this file to the Board of County Commissioners.

**STAFF PRESENTATION:** Planner I 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:** Kayleigh Miller, Applicant Representative presented a PowerPoint of the history of the property and background information for current zoning.

**PUBLIC/AGENCY TESTIMONY:** The following members of the Public spoke on the record: Kirsten Davidson

**APPLICANT REBUTTAL:** Kayleigh Miller spoke in response to public comment.

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

#### COMPREHENSIVE LAND USE PLAN AMENDMENT MOTION

#### BOARD OF COUNTY COMMISSIONERS

**MOTION TO APPROVE:** Commissioner Connolly moved to approve this project, FILE AM0001-22, 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 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. I further move 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

Roll Call Vote:

Commissioner McDonald Aye  
Commissioner Connolly Aye  
Commissioner Bradshaw Aye

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

#### Comprehensive Plan Map Resolution Adoption:

Commissioner Bradshaw moved to approve resolution #2022-31 amending the Bonner County Projected Land Use Map.

Roll Call Vote:

Commissioner McDonald Aye  
Commissioner Connolly Aye  
Commissioner Bradshaw Aye

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

#### Comprehensive Plan Amendment Findings of Fact

1. The lots do not contain mapped slopes between 15-29% and 30% or greater. In general, steeper slopes do not prevail.
2. There are mapped wetlands, including a Riverine (on Jamie's Lots, Lot 1) and Freshwater Forested/shrub Wetlands located on all three (3) lots. There are mapped intermittent streams that run through all three (3) lots. All three (3) lots are not located with a FEMA mapped floodway.
3. The lots are accessed by Loose Horse Lane, a privately owned and maintained road.
4. The lots are currently served by individual septic systems, Oden Water Association for water, Avista Utilities for power and are situated in the North Side Fire District.
5. The soil(s) present on site include:

Mission silt loam and Haploxeralfs and Xerochrepts.

- o Mission silt loam is characterized as prime farmland, if drained; however, the drainage class of mission silt loam is 'somewhat poorly drained'.
- o Haploxeralfs and Xerochrepts, is characterized as not prime farmland but is well drained.

#### Comprehensive Plan Amendment Conclusions of Law:

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

##### Conclusion 1

The proposal **IS** in accord with the following elements of the Bonner County Comprehensive Plan:

Property Rights	Population	School	Facilities,
Transportation			
Transportation	Community Design		Implementation
Economic Development	Land Use		Natural Resources
Hazardous Areas	Public Services		Agriculture
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 Rural Residential Land Use Designation.

**ZONE CHANGE MOTION  
BOARD OF COUNTY COMMISSIONERS**

**MOTION TO APPROVE:** Commissioner Bradshaw moved to approve this project, FILE ZC0002-22, requesting a zone change from Agricultural/Forestry-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 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

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

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 32, Township 58 North, Range 1 West, Boise Meridian, Bonner County, Idaho from Agricultural/Forestry 10 to Rural 5, and providing for an effective date. I further move 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

**Zone Change Findings of Fact**

1. The applicants are proposing that all three (3) lots be rezoned from Agricultural/Forestry-10 to Rural-5.
2. The site is accessed by Loose Horse Road, a privately owned and maintained road.
3. The lots do not contain mapped slopes between 15-29% or slopes  $\geq 30\%$ . The properties are currently served by Oden Water, individual septic systems, Avista for power, and are situated in the North Side Fire District.
4. There is a mapped riverine (wetland) and intermittent stream on the property, but the property is not within a mapped floodway.
5. There are mapped wetlands, including a Riverine (on Jamie's Lots, Lot 1) and Freshwater Forested/shrub Wetlands located on all three (3) lots. There are mapped intermittent streams that run through all three (3) lots. All three (3) lots are not located with a FEMA mapped floodway.
6. Staff concludes that the general density and character of parcels adjacent to the lots (to the east of the subject properties) are developed at, near, and even substantially below one dwelling unit per 5-acres. This finding, by itself, suggests that all three (3) lots should be re-zoned to Rural 5-acre to better conform with the community's character in general.

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**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	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.

The Chair declared the hearing adjourned at 3:01 p.m.

Respectfully submitted, this 15<sup>th</sup> day of April 2022,



Milton Ollerton, Planning Director