



Bonner County

Board of Commissioners

Luke Omodt

Asia Williams

Steve Bradshaw

Public Hearing Minutes

Planning

Date: January 10, 2024
Location: 1500 Hwy 2, Suite 338
Sandpoint, ID 83864

CONVENE AT: 1:30 p.m.

ADJOURN AT: 4:53 p.m.

COMMISSIONERS PRESENT: Williams, Bradshaw, & Omodt

OTHERS PRESENT: Planning Staff: Jake Gabell, Jenna Crone, Travis Haller and Legal: Bill Wilson

Commissioner Omodt opened the hearing at 1:30 p.m.

Commissioner Omodt asked if anyone needed assistance for this hearing, there were no requests. Commissioners Omodt, Bradshaw, and Williams advised that they had no conflicts with these files.

File ZC0008-23 – Zone Change The applicants are requesting a zone change from Rural Service Center & Agricultural/Forestry-20 to Rural Service Center. The parcel is 26.10 acres. The property is zoned Rural Service Center & Agricultural/Forestry-20. The project is located off HWY 200 in Section 34, Township 56 North, Range 2 East, Boise-Meridian. The Zoning Commission, at the November 16, 2023, public hearing, recommended approval of this file to the Board of County Commissioners.

Staff report presented by Travis Haller

Commissioner Williams inquired about the Panhandle Health District (PHD) comment.

Applicant comment – Mike Hammack addressed the PHD question brought forward by Commissioner Williams

Public comment –

Katherine Colburg attended online, Commissioner Williams stated she sent an email to Katherine at PHD, Bill Wilson stated that he felt that was inappropriate and asked Commissioner Williams to read the content of email, she then read the email into the record.

Paul McHugh, neutral, spoke regarding the comp plan and future plans for this property.

Dan Rose stated that he agreed with Paul McHugh

Public comment closed at 1:57 p.m.

Applicant rebuttal – Addressed the septic systems, old and new, and well that is approved as commercial, stated the intent is to bring the property into one zone.

Staff rebuttal – None

Commissioner Williams asked Bill Wilson a clarifying question regarding input from outside sources. Commissioner Williams asked Katherine Colburg if the issues on this property have been addressed since the original letter. Katherine at PHD stated that all issues have been resolved.

Deliberation and discussion among the Board:

Commissioner Bradshaw stated that he felt everything was in line with the applicant's request.

Commissioner Omodt reiterated/further explained Commissioner Bradshaw's statements, discussed the non-conforming nature of the lot. Stated that there is emergency services to this parcel, discussed topography and stated that there is an existing business on this site.

Commissioner Williams asked staff to clarify exactly what and why we are doing this, what we are expanding, and asked for focus.

Director Gabell went over the history of the lot, existing, old use, moving into correct zoning.

MOTION TO APPROVE:

Commissioner Bradshaw made a motion to approve this project, FILE ZC0008-23, requesting a zone change from A/F-20 and Rural Service Center to Rural Service Center, 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 the planning staff to draft written findings and conclusions to reflect this decision, have the Chairman sign, and transmit to all interested parties. This action does not result in the taking of private property. Commissioner Williams seconded the motion. Roll call vote: Commissioner Omodt – Yes, Commissioner Williams – Yes, Commissioner Bradshaw – Yes. The motion passed.

Commissioner Bradshaw made a motion 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 34, Township 56 North, Range 2 East, Boise Meridian, Bonner County, Idaho from A/F-20 and Rural Service Center to Rural Service Center, 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 Williams seconded the motion. Roll call vote: Commissioner Omodt – Yes, Commissioner Williams – Yes, Commissioner Bradshaw – Yes. The motion passed.

Zone Change Findings of Fact:

- The parcel is adjacent to Highway 200, an Idaho state owned and maintained paved right of way.
- The site currently has two permitted commercial encroachments onto Highway 200 from ITD Permit #1-06-014.
- Emergency services are provided by Bonner County Sheriff and Clark Fork Fire District.
- The proposal is within Lake Pend Oreille School District #84
- Power is provided by Avista Utilities.
- The proposal currently has three (3) permitted individual wells permit #96-9313.
- Sewage disposal is provided by a permitted septic system #06-09-98350.
- The parcel is currently ±26.10 acres.
- The proposal does contain mapped slopes up to and greater than 30% grade.
- An existing building is operating on site.
- Current services on site serve the existing commercial uses and can serve possible future uses.

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 | Agriculture | Economic Development |
| Land Use | Natural Resources | Hazardous Areas |
| Public Service | 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 Service Center zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

File AM0016-23 – Text Amendment to Bonner County Revised Code Title 12 The Bonner County Planning Commission is recommending an amendment to the Bonner County Revised Code (BCRC), Title 12, to include the following proposed changes:

1. Removal of the Vacation Rentals use from BCRC 12-333 Commercial Use Table, and addition of the Vacation Rentals use to BCRC 12-332 Residential Use Table.
2. Complete rewrite of BCRC 12-484, Vacation Rental. The proposal modifies procedures, standards; and violations and penalties.
3. Modifications to BCRC 12-496 prohibiting Recreational Vehicle Dwelling Units from being used as a vacation rental.
4. Amendment to BCRC 12-802, adding a definition for "Bedroom".

The Planning Commission, at the December 5, 2023, public hearing, recommended approval of this file to the Board of County Commissioners.

Staff report presented by Jacob Gabell, went section by section explaining each individually.

BCRC 67-6539

Dan Rose asked if the state commented on the condition of long term use
Matt Linscott stated that the vacation rental is a property right in LUPA

BCRC12-484

Commissioner Williams inquired into the maximum occupancy language. Director Gabell explained the process for requesting more than 20 people per lot or parcel. There was further discussion regarding this topic. Commissioner Omodt asked what makes something defensible in court.

Bill Wilson spoke regarding the comments submitted on this file. Spoke regarding defensibility and discussed the standard of review that would be applied if it were challenged in court. When regulating for health, safety and welfare, the greatest amount of discretion is given, the lowest standard of review. Brought up case law regarding standard of review. Very important to articulate the basis for discussion on the discussion, why is the regulation beneficial? The AGs office puts out a checklist for employees to consider the potential takings that might occur due to the passing of an ordinance, one asks is there a significant economic impact to landowners? Discussed this criterion regarding the proposal. Believes that if the Board were to adopt the language proposed it would be defensible.

Commissioner Williams asked about defensibility in the sense that saying no to utilizing various RV type structures and sheds to be utilized as vacation rentals. Also questioned the land in relation to high occupancy. Bill stated that

he would defer some questions back to planning staff or commission. Director Gabell reviewed/explained some language in the proposed ordinance. Commissioner Bradshaw inquired as to the difference between renting recreational vehicles as vacation rentals versus renting them to drive.

Alan Songstad spoke regarding the discussion that has taken place throughout the hearing thus far. Feels it is legally permissible to restrict the use of recreational vehicles for long term rentals. Knows that there are a variety of feelings about this topic. High occupancy permits came about because of an issue that came before the commission, the complaint was regarding the burden of applying for a CUP, attempting to provide an additional route for the customer. Commissioner Williams discussed occupancy to which Director Gabell responded by explaining use. Commissioner Omodt stated that this is in an elegant way to reduce regulation yet provide some oversight, giving the property owner a path forward.

Alan stated he prepared a response to the Bristol letter (submitted comment)

Bill Wilson stated that for purposes of this discussion the law says we must consider vacation rentals residential uses.

Matt Linscott absolutely agreed with Bill, the word arbitrary is a concern, discussed concerns voiced at the planning commission hearings. Idaho manufactured Housing association defined rec vehicles and their regulations, state and federal. Further discussed public comment. There needs to be equal protection and conformity for short-term rentals. Commissioner Williams asked is there needs to be a disclaimer regarding the enforcement of HOAs. There was further discussion regarding adding language about HOA's and the county's role.

Commissioner Williams inquired about signs. Stated that illuminated signs in residential areas could be difficult, also noted that the violation language should be visited.

Public comment:

Paul McHugh stated that the BOCC needs to consider the landowners near the rental and offered a series of amendments to this proposed amendment (submitted document for the record).

Dan Rose agreed with most of what the previous speaker stated. Discussed issues with lot size and maximum occupancy. Stated that changes to the onsite inspection language is too generic.

Commissioner Omodt recessed the hearing at 3:22 p.m.

Commissioner Omodt reconvened the hearing 3:28 p.m.

BCRC 12-496

Mark Linscott commented on the use of tiny homes as vacation rentals and the idea that if someone purchased a tiny home to utilize as a rental, they would be financially damaged if they were not allowed to do so.

Matt Linscott elimination of such rentals should not be arbitrary, there should not be ambiguity in code.

Commissioner Williams asked for clarification regarding "RV titles".

Paul McHugh stated that there is no requirement for PHD to approve sewage disposal.

BCRC 12-802

Paul McHugh – Stated that he feels that the occupant should be able to provide a copy of the septic permit to show how many bedrooms there are.

Dan Rose – Agreed with Paul McHugh

Commissioner Williams stated that she is not sure if she agrees with the "inspection" component.

Alan Songstad stated that there were several workshops on these changes throughout the course of 8 months. This definition is unique to the county and does not feel that this definition is surprising. The goal was to try to limit, in a reasonable manner, the effect of short-term rentals on neighborhoods. Stated that the short-term rental software will receive the complaint, then reported to the planning department.

Paul McHugh – Suggested that the commissioners possibly refer this file back to the Planning Commission.

Dan Rose – Agreed, and also requested that it be broken down further.

Public comment was closed at 3:54 p.m.

Deliberation and discussion among the Board

Director Gabell gave the Board various options to consider.

Commissioner Omodt suggested that they go through the amendments one by one.

Commissioner Williams stated that she feels as though this needs to be remanded back to the Planning Commission, many good suggestions were made here today, feels this needs more time.

Commissioner Omodt stated that he felt the 12-332/12-333 is easy to approve today. Both other commissioners stated that they were good approving these amendments today. Also stated he is not in support of 12-496 at this time, also has challenges with 12-484, stated that he is not prepared to regulate in that manner, believes that it could be tied in with existing code.

Commissioner Bradshaw stated his interpretation of what the Planning Commissions intent.

Commissioner Williams discussed 12-484 expressed concern for neighborhoods and neighbors, stated that the proposed ordinance needs to be shored up, made suggestions to the amendments. Also voiced concerns regarding the language surrounding maximum occupancy. Made several other suggestions for changes to the proposed amendments. There was a further discussion regarding protecting private property rights, neighborhood landscapes, and how to balance all of it out. Feels that the illumination and size of suggested signs does change neighborhoods. Also suggested striking the words “or more” from the violation portion and leave it at 3.

Commissioner Bradshaw asked what the difference is between renting to people for a full year or renting to different people every week, questioning the intrusion on private property rights.

12-802 definition of bedrooms: Commissioner Bradshaw advocated to leave this change as amended, stating the county needs a definition. Commissioner Omodt asked Bill Wilson to weigh in and he stated that there is no real way to enforce this change in code. Commissioner Williams advocated to strike the change in its entirety.

MOTIONS:

Commissioner Omodt stepped down from the Chair and moved to approve the text amendment to BCRC 12-332 and 12-333. Commissioner Williams seconded the motion. Roll Call Vote: Commissioner Williams- Aye, Commissioner Omodt – Aye, Commissioner Bradshaw - Aye. The motion passed.

Commissioner Omodt moved to remand BCRC 12-484, Vacation Rentals, back to the Planning Commission to reconsider the following elements: B – to consider public comments made in the 2/10/24 hearing. C – strike recreational vehicle dwelling and consider E for violations of penalty/compliance. Commissioner Bradshaw seconded the motion.

Commissioner Williams asked a question regarding the motion. Asked what Commissioner Omodt what he meant by “strike recreational vehicle”. There was a brief discussion between the Commissioners.

Roll call vote: Commissioner Williams: Stated that she thought the motion was confusing because there are decisions that can be made today. Commissioner Omodt asked if this can be sent back to planning staff or does it need to be sent back to the Planning Commission. Bill Wilson gave options.

All Motions Withdrawn

Commissioner Omodt recessed the meeting for 5 minutes at 4:41 p.m.

Commissioner Omodt reconvened the meeting at 4:46 p.m.

Commissioner Omodt stepped down from the Chair and made a motion to schedule a workshop with the planning staff to address material changes for all amendments. Commissioner Bradshaw seconded the motion. Roll Call Vote: Commissioner Williams – Aye, Commissioner Omodt – Aye, Commissioner Bradshaw – Aye. All in favor. The motion passes.

Commissioner Omodt made a motion to reconsider 12-332 and 12-333. Commissioner Williams seconded the motion. Roll Call Vote: Commissioner Williams – Aye, Commissioner Omodt – Aye, Commissioner Bradshaw – Aye. All in favor. The motion passes.

There was an additional motion to hold a workshop that was the same as above.

File AM0017-23 – Bonner County Comprehensive Plan – Component Update – Public Services, Facilities, and Utilities. The Bonner County Planning Commission is recommending an amendment to the existing Bonner County

Comprehensive Plan by updating the Public Services, Facilities, and Utilities Component, per Idaho Code Section 67-6508, Local Land Use Planning. The Planning Commission, at the December 5, 2023, public hearing, recommended approval of this file to the Board of County Commissioners.

Commissioner Williams made a motion to postpone this hearing to January 24, 2024. Commissioner Bradshaw seconded the motion. All in favor. The motion passed.

Commissioner Omodt adjourned the hearing at 4:53 p.m.

Deputy Clerk: Jessi Reinbold