

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
THURSDAY, DECEMBER 6, 2018**

CALL TO ORDER: Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Don Davis; Vice Chair Brian Bailey; Taylor Bradish; Trevor Kempton; Sheryl Reeve; Suzanne Glasoe; and Matt Linscott

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton, Planner I Sam Ross, and Office Manager Jeannie Welter

CONSENT AGENDA:

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: November 15, 2018. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARINGS:

VARIANCE

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 V516-18 – Side Yard Setback Variance – Sean Fitzpatrick is requesting a 0'-00" side yard setback, where 5'-00" is required, to convert an existing garage to an accessory dwelling unit. The site is located about ½ mile East of Kootenai, in Section 12, Township 56 North, Range 02 West, B.M. The site is zoned Suburban.

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.

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

APPLICANT PRESENTATION: Sean Fitzpatrick stated it is a gable roof that slopes onto the neighbor's property. He stated they are going to build so that all the water runoff stays on his property.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

PLANNING COMMISSION

MOTION TO APPROVE: Commissioner Linscott moved to approve this project FILE V516-18 for a 0'-0" Side setback to allow for the expansion of the existing attic space above the existing garage and become an Accessory Dwelling Unit with a new deck and stair way on the South and West sides of the building, finding that it is in accord with the 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 Linscott further moved to adopt the following findings of fact and conclusions of law as amended adding condition B-2 to obtain a building location permit for the Accessory Dwelling Unit. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bailey seconded the motion.

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

Background:

A. Site data: The subject property is a

- Residential Use
- Unplatted
- Size: 0.27 acres
- Suburban zone

B. Access:

- Access is provided by Kootenai Bay Road, a paved, 2-way 40' wide, county maintained road.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site is not located in a Special Flood Hazard Area (DFIRM Panel # 0720E, Zone X – 0.2% annual chance of flood hazard) (FEMA)

D. Services:

- Water: City of Sandpoint
- Sewage: Ponderay/Kootenai Sewer District
- Fire: North Side Bay Fire District
- Power: Avista

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Urban (0-2.5 Acres)	Suburban	Residential
North	Urban (0-2.5 Acres)	Suburban	Residential
East	Urban (0-2.5 Acres)	Suburban	Residential
South	Urban (0-2.5 Acres)	Suburban	Residential
West	Urban (0-2.5 Acres)	Suburban	Residential

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

- (a) **Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.**

Applicant: "The existing garage structure was built in the 1940's on the property line creating the current safety hazard of avalanching snow onto the neighbors property."

- (b) **Special conditions and circumstances do not result from the actions of the applicant.**

Applicant: "We did not create the original subdivision, lot lines or the existing structure. It is in the current built condition as when we purchased the property."

- (c) **The granting of the variance is not in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.**

Applicant: "The granting of this variance will in no way negatively affect the public. It will in fact though positively affect the safety and site conditions of the neighbors to the east"

G. Stormwater plan

A stormwater management plan was required pursuant to BCRC 12-720.2. An optional grading and stormwater plan was submitted by Sean Fitzpatrick of Fitzpatrick Architecture. The plan calls to use the existing stormwater swales, and silt fences and straw bales around excavation installation of footings. The

calculations indicated the existing site and swales are capable of retaining the first ½" of run off from the impervious surfaces and the design storm yield expected at the site.

H. Land capability report

A land capability report was submitted to the record by Sean Fitzpatrick of Fitzpatrick Architecture, in accordance with BCRC 12-233 and 12-222(j).

I. Agency Review

The application was routed to the following agencies for comment on September 27, 2018:

Kootenai Ponderay Sewer District
North Side Fire District
School District #84
Dept. of Env. Quality
Dept. of Water Resources
Army Corps (Cour d'Alene)
Fish and Wildlife Service

Bonner County Road & Bridge
Avista
Dept. of Fish and Game
Dept. of Lands (Sandpoint)
Panhandle Health District
Bonner County Schools - Transportation

The following agencies replied "No Comment":

Dept. of Lands (Sandpoint)
Panhandle Health District

Dept. of Env. Quality

The Following Agencies replied:

Kootenai Ponderay Sewer District:

"The property in question is within the boundaries of the Kootenai Ponderay Sewer District. This property only has sufficient capacity and purchased hookups to serve one (1) Single Family Residence. The Additional Dwelling Unit would be required to purchase additional NUFFs (New User Facility Fees) and would be required to have its own connection to the District's system and not connect to the current lateral connection serving the property. Shared laterals are against current District Rules and Regulations and Ordinance.

After all requirements of the District have been met, including but not limited to, Application for Service, providing sewer utility plans for review, payment of NUFFs and other applicable fees, the District would provide service to this property."

All other agencies did not reply.

J. Public Notice & Comments

As of November 8, 2018, no public comments have been formally submitted.

Findings of Fact

1. The parcel is a ± 0.27 acre area.
2. The parcel is zoned Suburban.
3. The parcel is located on Kootenai Bay Road.
4. The parcel is served by Ponderay/Kootenai Sewer District.
5. The parcel is serviced by the City of Sandpoint for water.
6. The parcel is serviced by Northside Fire District.
7. Garage below proposed Accessory Dwelling Unit is existing.

Conclusions of Law:

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

Conclusion 1

Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

Conclusion 2

Special conditions and circumstances do not result from the actions of the applicant.

Conclusion 3

The granting of the variance is not in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

Conditions of approval:

Standard permit conditions:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance 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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

Standard and site-specific conditions:

- B-1** The applicant shall satisfy Kootenai Ponderay Sewer District's requirements per the submitted comments.
- B-2** The applicant shall obtain a building location permit for the Accessory Dwelling Unit.

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.

File ZC369-18 – Zone Change – Rural-10 to Rural 5 – Dorothy Eich Living Trust is requesting to rezone 60 acres from Rural-10 to Rural-5 in the Rural Residential Comprehensive Plan designation. The property is located at 2980 South Sagle Road in a portion of Section 34, Township 56 North, Range 2 West, Boise Meridian.

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.

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.

APPLICANT PRESENTATION: Project representative Dan Provolt stated the property is up against rural five zoning on the north, northwest and west sides. He stated although the adjoining property on the east side is zoned rural 10 the subdivision was created when the zoning designation was rural 5. The treed areas on the west and east sides of the property are on higher ground and not subject to flooding.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

Zone Change Motion by the governing body:

PLANNING COMMISSION

MOTION TO APPROVE: Commissioner Bradish moved to recommend approval to the Board of County Commissioners, this project FILE ZC369-18 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 Bradish further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Linscott seconded the motion.

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

Background:

A. Site data: There is approximately 60 acres of an original 160 acre parcel.

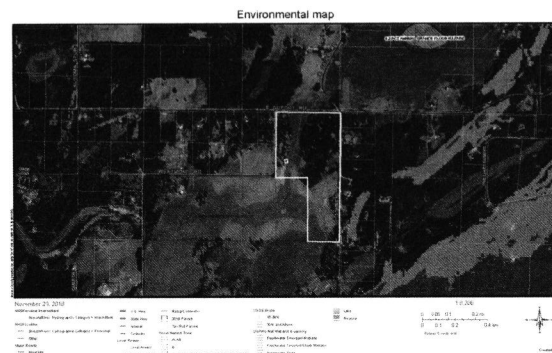
B. Access: The parcel is located on the northeast corner of Dufort and Sagle roads.

C. Environmental factors:

FEMA DFIRM Panel: 16017C0950E, Zone X.

The parcel does contain mapped wetlands and a seasonal drainage, Westmond Creek running through the western portion of the proposed area as shown below. The wetland is colored purple, while the blue dotted line is the drainage. Source: USFWS

The site is generally flat with a small sloping in the south end of the western portion of the proposed area as shown on the map below in the pink color. Source: USGS



D. Services:

- Water: Individual well.
- Septic: Residential/Individual. Septic tank and leach field.
- Fire District: Selkirk Fire
- Power: Northern Lights
- School: Bonner School District #84.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural-10	Single family residence; 20-acre parcels
North	Rural Residential	Rural-5	Large acreage – Idaho Fish and Game
East	Rural Residential	Rural-10	Six Lakes Subdivision – Twelve 5-acre lots.
South	Rural Residential	Rural-10	20-acre residential parcels
West	Rural Residential	Rural-5	5-acre residential parcels

F. Standards review

Section 12-216 of BCRC specifies that "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." Idaho Code stipulates that zoning districts "shall be in accordance with the policies set forth in the adopted comprehensive plan." (I.C., §67-6511).

BCRC 12-215 APPLICATIONS FOR ZONE CHANGES AND COMPREHENSIVE PLAN MAP AMENDMENTS, CONTENTS:

A: Site plan drawn to scale: Please see attached maps

B: A narrative statement that addresses:

1. The effects of elements such as noise, light glare, odors, fumes and vibrations on adjoining property.

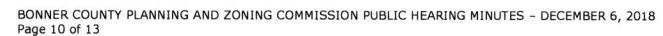
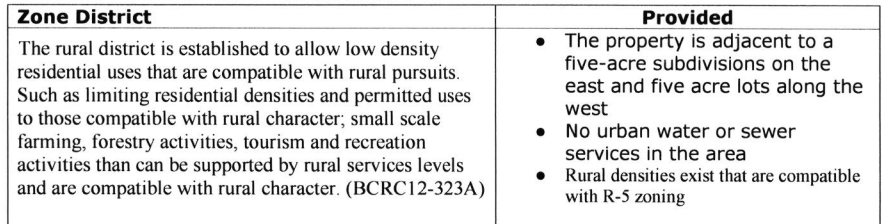
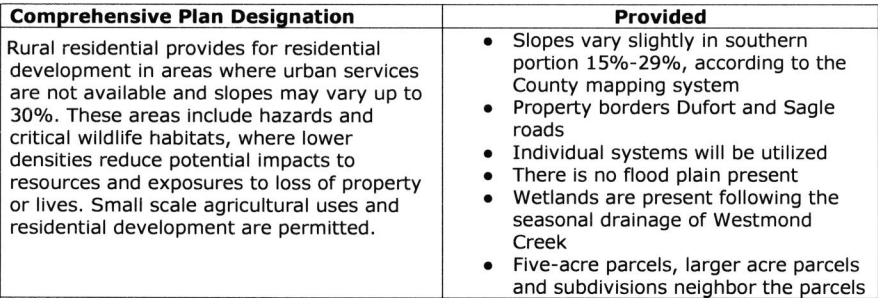
Staff: The proposal is requesting to change the zoning from 10-acre to 5-acre parcels. This will potential double the use on the proposed parcel. These will be residential lots and the change in impact will be those typical with residential homes and small farms and forestry activities.

2. The compatibility of the proposal with the adjoining land uses.

STAFF: The current adjoining uses are residential and small scale farming or forestry activities. This proposal will increase the adjoining Rural-5 zoning by 60 acres. The property is adjacent on the east side to existing 5-acre lots. The property is bounded on the north side by Dufort Road and the east side by Sagle road. The proposed zone change area is also bounded on the western side by five-acre parcels westerly along Dufort road.

3. The relationship of the proposal to the comprehensive plan/zoning district.

Comprehensive Plan Map Designation Change review



G. Land Capability Report

A land capability report was prepared by TO engineers, in accordance with BCRC 12-222(j), which states:

- The 60-acre site is capable of supporting residences on 5-acre tracts.

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

I. Agency Review: The application was routed to agencies for comment on September 28, 2018. The following agencies commented:

Department of Environmental Quality – If property is developed, storm water controls will need to be developed that adequately protect surface waters and ground water from being impacted during and after construction.

Road and Bridge: "Road & Bridge has no concerns regarding the proposed zone change."

J. Public Notice & Comments

Patricia Steffen. Received November 28, 2018. Concerns include:

- Seasonal creek flows
- Condition of Dufort and Sagle road
- Floodplain on the property
- Aquifer capacity and septic sustainability
- Increased population

Findings of Fact

1. The subject property is designated as Rural Residential by the Bonner County Comprehensive Plan.
2. The proposed zone change area is adjacent to Rural-5 zoning on the south and west sides.
3. Six Lakes Estates, a five-acre subdivision, adjoins the proposed zone change area across Sagle road on the east.
4. TO Engineering, submitted a land capability report concluding the property is adequately suited for the Rural-5 zone district.
5. Future sewage disposal will be handled through individual systems.
6. Water will be provided by individual wells.
7. The property fronts Dufort and Sagle roads. As the property is developed additional roads will be addressed through the subdivision process

8. The property is located within the Selkirk Fire District.

9. Surrounding properties are large vacant lots and/or single-family residences on 5-acre lots.

10. The property contains some wetlands, no flood hazard area, and a small portion of slopes.

Conclusions of Law:

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

Conclusion 1

The proposed zone change **is** in accord with the Bonner County comprehensive plan. (See attached comprehensive plan goals, objectives and policies.)

•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	

Conclusion 2

This proposal was reviewed for compliance with the Comprehensive plan map change criteria and standards set forth at Sections 12-212, 12-215, and 12-216, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

The proposal is in accord with the purpose of the intended zoning district, provided at Chapter 3, Bonner County Revised Code.

EXECUTIVE SESSION

At 6:01 p.m. Commissioner Linscott moved to enter into an Executive Session pursuant to Idaho Code §74-206(1)(a) to consider hiring for sub-area committees. Commissioner Reeve seconded the motion.

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

At 8:09 Commissioner Bailey moved to reconvene to the public meeting and close the executive session. Commissioner Reeve seconded the motion.

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

Chair Davis stated we are reconvened to public meeting.

MOTION: Commissioner Reeve moved to appoint Brian Domke, Christa Shanaman, Mel Lund, and Theresa Hiesener to the Priest River area committee. Commissioner Bailey seconded the motion.

Commissioner Davis stated Doug Paterson was unable to attend and will be interviewed another day.

VOTED upon and the motion was carried, unanimously.

MOTION: Commissioner Linscott moved to appoint Dan Lethco to the Blanchard area committee. Commissioner Bradish seconded the motion.

VOTED upon and the motion was carried, unanimously.

MOTION: Commissioner Bailey moved not appoint Jonna Plante to the Sagle committee at this time. Commissioner Kempton seconded the motion.

VOTED upon and the motion was carried, unanimously.

OPEN LINE DISCUSSION:

Staff updates: BOCC approved the amendments for AM167-18 and AM168-18 and they upheld the appeals. No appeal has been received for the batch plant file to date.

Discussion regarding the appeal process.

Litigation updates.

The Chair declared the hearing adjourned at 8:30 p.m.

Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 20th day of December, 2018.

Bonner County Planning and Zoning Commission



Don Davis, Chair