

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
MARCH 5, 2020**

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 3rd Floor BOCC 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; Suzanne Glasoe; and Matt Linscott

ABSENT: Sheryl Reeve

ALSO PRESENT: Planning Director Milton Ollerton; Operations Manager Josh Pilch; Planner II Amanda DeLima; Planner II Halee Sabourin; Planner I Tessa Vogel; and Administrative Assistant Emily Aerni.

CHANGES IN AGENDA: No minutes for review and approval.

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 V0001-20 – Front Yard Setback Variance – Charles & Rosalyn Wilson are requesting a 10-foot front yard setback where 25 feet is required to allow for the construction of a single family dwelling and a garage on a 0.92 acre lot. The property is zoned Rural-5. The project is located off Dirks Road, in Forest Lane Tracts, Lots 13 and 13A, in Section 13, Township 56 North, Range 5 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: Staff Planner Tessa Vogel presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Rose Wilson, co-owner of the property stated they are getting a septic permit, and have purchased a drain field easement across the road even though Panhandle Health District does not have it on record. Ms. Wilson further stated erosion control measures are not finished and they are considering putting in a cistern and a culvert.

PUBLIC/AGENCY TESTIMONY: The following individual spoke neutral of the proposed changes: Ted Piche.

The following individual spoke in opposition of the proposed changes: Katie Elsaesser.

APPLICANT REBUTTAL: Rose Wilson responded to public comments stating she has not touched trees on her neighbor's property and her bank was not unstable.

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

Motion by the Governing Body:

MOTION: Commissioner Linscott moved to approve this project FILE V0001-20 for a 10-foot front yard setback where 25 feet is required to allow for the construction of a single family dwelling and a detached garage, 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 written. The action that could be taken to obtain the variance is to complete the Conditions of Approval with the change on A-4 to read "At time of building location permit, a professional stormwater management plan shall be submitted to the Bonner County Planning Department for review and approval." 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:

- Parcel Area: 0.92 acres
- Use: Residential
- Lots 13 & 13A of Forest Lane Tracts
- Zone: Rural-5 (R-5)
- Land Use Designation: Rural Residential (5-10 AC)

B. Access:

- Dirks Road
 - i. Owner: Bonner County (public)
 - ii. Road Class: Local
 - iii. Surface Type: dirt/gravel

C. Environmental factors:

- Floodplain: SFHA X
 - i. Per FEMA
- Floodway: SFHA AE
 - i. Per FEMA
- Soil Type(s): Mission Silt Loam, 12-30 Percent Slopes

- i. Not Prime Farmland
- ii. Somewhat Poorly Drained
- Slopes: 15-29% slopes going downward toward Priest River.
- Wetlands: None

D. Services:

- Water: Individual well
- Sewage: Individual septic system with drainfield
- Fire: West Pend Oreille Fire District
- Power: Northern Lights, Inc.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential (5-10 AC)	Rural-5	Residential – vacant
North	Rural Residential (5-10 AC)	Rural-5	Vacant 1.17 acre lot
East	Rural Residential (5-10 AC)	Rural-5	County road Residential 5 acre parcel
South	Rural Residential (5-10 AC)	Rural-5	Summer Home – 1.34 acres
West	Priest River	Priest River	Priest River

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: [Insert specific findings addressing each of the standards.]

- (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: Constraints of our land include excessive slope, dog-leg in road, and floodplain which all prevent us from meeting the required setbacks. The neighboring lots are on the straight part of the road. Our lot, however, has a dog-leg angle that protrudes into the buildable area of our parcel. The road also climbs in elevation at our parcel which created an excessive slope that limits our building pad. The bottom two-thirds of our lot is in the floodplain of Priest River.

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

Applicant: We did not reduce the size of the lot, creating an unbuildable parcel. The road, slope, and floodplain were part of the property when we purchased it.

- (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: By granting this variance, it will not impact the County road usage or the safety and welfare of others. The variance would land on the pre-existing building pad. The lots on either side of our property are unaffected and topographically unchanged. There is no public access on our property so therefore there is no safety hazard to others. There are no effects of elements on adjoining properties.

G. Stormwater plan: A stormwater management plan was not required at the time of the variance, pursuant to BCRC 12-721.2(B), but an erosion control plan will be required at the time of building location permit. See conditions.

H. Agency Review: The application was routed to the following agencies for comment on **February 04, 2020**.

Bonner County Road & Bridge Department – *Road & Bridge has no objections to the proposed 10ft setback. Dirks Rd. is a 60ft wide public ROW that is privately maintained. As such, it will not affect our operations, and the proposed setback should still be sufficient for private maintenance needs.*

City of Priest River (ACI) – *No Comment*
 Idaho Department of Environmental Quality – *No Response*
 Idaho Department of Lands – Navigable Waters: *No Comment*
 Idaho Department of Lands – Sandpoint: *No Comment*
 Idaho Department of Water Resources – *No Response*
 Northern Lights, Inc. – *No Comment*

Panhandle Health District – *Panhandle Health District (PHD) does not have a comment regarding the yard setback. However, PHD notes that the application states there is septic approval for the adjacent property. PHD has no current records of any septic approval for the property. We recommend the applicant contact PHD to assess the septic feasibility.*

U.S. Army Corps of Engineers – *No Response*
 West Pend Oreille Fire District – *No Response*

I. Public Notice & Comments: The application was routed to neighbors within 300 feet of the subject property for comment on **February 04, 2020**. As of the date of this report, no public comments were received.

Findings of Fact

1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-234 Variances, Standards for Review of Applications, and BCRC 12-400, et seq., Density and Dimensional Standards.

2. The subject property is 0.92 acres located in the Rural-5 Zone and is lots 13 and 13A of the Forest Lane Tracts subdivision.
3. The subject property is accessed off Dirks Road., a public road located within the area of city impact for the City of Priest River.
4. The property has excessive slopes of 15-29% over half of the property.
5. The slope located near Dirks Road climbs upward toward the road and also drops off significantly going towards the rear of the property (Priest River), created a limited building area.
6. The applicants purchased the property in 2018 per the warranty deed under Instrument #922213.
7. Forest Lane Tracts was created in 1967 well before the applicants purchased the property. The applicants were also not part of the design planning for the subject property.
8. The site is to be served by an individual septic system, an individual well, West Pend Oreille Fire District, and Northern Lights, Inc.
9. The subject property borders the Priest River to the west and a portion of the floodway is located on the property along the river. The project site however, is located entirely within the special flood hazard area Zone X.
10. The proposed single family dwelling and detached garage will encroach into the front yard setback along Dirks Road by 15 feet, allowing a 10-foot front yard setback.
11. The proposed project will not be a detriment to the public health, safety, or welfare as the Bonner County Road and Bridge Department, who has jurisdiction over the roadway, has reviewed the proposal and had the following comment, *"Road & Bridge has no objections to the proposed 10ft setback. Dirks Rd. is a 60ft wide public ROW that is privately maintained. As such, it will not affect our operations, and the proposed setback should still be sufficient for private maintenance needs."*

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 highlight site plan.
- A-2** At time of building location permit, a geotechnical evaluation shall be done to determine whether or not a full geotechnical analysis should be required.
- A-3** At the time of building location permit, the applicant shall submit the proper documentation for two building location permits (one for the single family dwelling and one for the detached garage) to the Bonner County Planning Department for review and approval.
- A-4** At time of building location permit, a professional stormwater management plan shall be submitted to the Bonner County Planning Department for review and approval.

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 ZC0003-20 – Zone Change – Harry Reichelt is requesting a Zone Change from Agricultural/Forestry 20 to Agricultural/Forestry 10. The project is located off Baldy Mountain Road in a portion of Section 12, Township 57 North, Range 3 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 Operations Manager Josh Pilch presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Dan Provolt submitted two maps as Exhibits A and B to the record.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

Motion by the Governing Body:

MOTION TO APPROVE: Commissioner Kempton moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0003-20, requesting a zone change from Ag/Forest-20 to Ag/Forest-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 Kempton 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:

- Residential use
- Unplatted
- Size: 20 acres
- Zone: Rural-10
- Land Use: Ag/Forest Land (10-20 AC)
- Legal per: exempt from platting per BCRC 12-612 (F)

B. Access:

- This lot has Access to baldy Mountain Road, a 60 foot wide public right of way.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain waterfront or streams. (NHD)
- Soil:
 - Classification: Not Prime Farmland
 - Type: Pend Oreille Silt Loam, 5 To 45 Percent Slopes
 - Drainage: Well Drained

D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire
- Power: Avista
- School District: #84
-

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	AF-10/20	AF-20	Residential & Forestry
North	AF-10/20	AF-20	Residential & Forestry
East	AF-10/20	AF-20	Residential & Forestry
South	AF-10/20	AF-10	Residential & Forestry
West	AF-10-20	AF-10	Residential & Forestry

F. Standards review: Bonner County Revised Code

- **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)
- **Comprehensive Plan:**
 - Ag/Forest Land: The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% Land Use Component Bonner County Comprehensive Plan CHAPTER 6-4 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, poor soil conditions, hazard areas and lack of police or fire services.
- **12-322 Agricultural/Forestry District:**
 - 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:
 - Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.

- 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.
- Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - 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:
 1. Prime agricultural soils.
 2. Are characterized by agricultural or forestry uses.
 3. 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.
 - 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. (Ord. 501, 11-18-2008)

G. Storm water plan: A storm water management plan was not required, pursuant to BCRC Title 12, Chapter 7.

H. Agency Review:

The application was routed to agencies for comment on February 4th 2020.

*All Taxing Districts
Idaho Department of Water Resources
Bonner County Road Department
U.S. Army Corps
Avista Utilities
U.S. Fish and Wildlife Service
Bonner County Schools – Transportation
U.S. Forest Service
Idaho Department of Fish and Game
Idaho Department of Environmental Quality*

The following agencies provided comment:

No comment was received

The following agencies replied “No Comment”:

DEQ – no comment
City of Clark Fork – no comment
Idaho F&G – no comment

Kootenai-Ponderay Sewer District – no comment
US Fish & Wildlife – no comment

All other agencies did not reply.

I. Public Notice & Comments:

No comment was received

Zone Change Findings of Fact

- Adjacent properties lie within the A/F-10 district and feature the same soil types.
- The parcels lie within the Selkirk Fire district.
- The subject parcels are accessed off of standard, county maintained, roads (major collector).
- The parcel features Colburn Silty Loam Soil and supports ag/forestry pursuits.
- Adjacent to A/F-10 zones and surrounding lands are not consistently large acre parcels devoted to ag/forest production

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 was found to be in compliance.

Conclusion 3

The proposal is in accord with the purpose of the A/F-10 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

AMENDMENT & 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.

Files AM0001-20 & ZC0001-20 – Comprehensive Plan Map Amendment & Zone Change – Janna & Donald Richardson are requesting a Comprehensive Plan Map Amendment from Rural Residential to Urban and a Zone Change from Rural-5 to Suburban. The property is 4 acres. The project is located off Pierce Lane in Section 35, Township 57 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: Staff Planner Halee Sabourin presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Dan Provolt discussed some the existing zoning on neighboring parcels. Mr. Provolt stated he thought the wetland delineation would show that the wetlands don't come as close as the map shows. Mr. Provolt submitted eleven (11) pictures (Exhibits A-K) that he took of the road due to road width concerns and vicinity to the railway.

PUBLIC/AGENCY TESTIMONY: The following individual spoke on the record and in opposition of the project: Robert Gumerman submitted a letter on behalf of Mr. Lewis as Exhibit A-1 to the record.

Frank Duffy also spoke on the record.

APPLICANT REBUTTAL: Project Representative Dan Provolt reviewed the public exhibits submitted during public comment and submitted an additional exhibit A-2 to the record.

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

Comprehensive Plan Amendment - Motion by the Governing Body:

MOTION TO APPROVE: Commissioner Kempton moved to recommend approval to the Board of County Commissioners on this project, FILE AM0001-20, requesting a comprehensive plan amendment from Urban Growth Area/Rural Residential to Urban Growth Area, 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 Kempton 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 with a vote of 4-1. Commissioners Kempton, Bradish, Glasoe, and Linscott voted in favor of the motion. Commissioner Bailey voted in opposition of the motion.

Zone Change - Motion by the Governing Body:

MOTION TO APPROVE: Commissioner Kempton moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0001-20, requesting a zone change from Suburban/Rural-5 to Suburban, 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 Kempton 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 with a vote of 4-1. Commissioners Kempton, Bradish, Glasoe, and Linscott voted in favor of the motion. Commissioner Bailey voted in opposition of the motion.

Background:

A. Site data:

- Use: Residential
- Unplatted
- Size: 4 acres
- Zone: Suburban & Rural-5
- Land Use: Urban Growth Area (<=2.5 AC) & Rural Residential (5-10 AC)
- Legal per: Instrument #572132

B. Access:

- The property is access off Pierce Lane (private road) from Birch Haven Drive (county owned and maintained).

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain waterfront on Lake Pend Oreille. (NHD)
- This is a proposal for a density increase in Special Flood Hazard Areas (SFHA), per submitted application and FIRM Panel 16017C0950E, Effective Date 11/18/2009. Approval of this application may render Bonner County ineligible to continue as a member-in-good-standing in the NFIP CRS. (See agency comments)
- Soil: Pend Oreille Silt Loam, 5 To 45 Percent Slopes
 - Classification: Not Prime Farmland
 - Type: Consociation
 - Drainage: Well Drained

D. Services:

- Water: Individual system, Mountain Springs Water District, and adjacent to Southside Water and Sewer.
- Sewage: Individual system and adjacent to Southside Water and Sewer
- Fire: Selkirk Fire District
- Power: Avista
- School District: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential/ Urban Growth Area	Rural-5/ Suburban	Residential
North	Lake Pend Oreille	Lake Pend Oreille	Lake Pend Oreille
East	Rural Residential	Rural-5	Railroad/Residential
South	Rural Residential/ Urban Growth Area	Rural-5/ Suburban	Railroad/Residential
West	Urban Growth Area	Suburban	Residential

F. Standards review: Bonner County Revised Code

- **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)
- **Comprehensive Plan Designation: Urban Growth**
 - The Urban Growth Areas are designed to recognize the historic developments of communities and neighborhoods which are served by either urban water or sewer services or are located within the fringes of incorporated cities where such services have or can be extended to serve these areas. These areas are generally level to moderately sloped and served by a network of primary transportation systems.
- **Comprehensive Plan Designation: Rural Residential**
 - The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.
- **12-324 Suburban District:**

- The suburban district is established to promote the development of residential uses located on the edges of the incorporated cities or other developed communities or areas, where urban sewer and water services are either available or have the potential to become available in the near future by reason of their inclusion in service districts, city service areas, or are adjacent to those areas or areas of city impact. Access to primary transportation routes and a system of hard surfaced roads are expected. The purpose can be accomplished by:
 - Providing for single-family detached dwelling units and other compatible housing forms, with a variety of densities in locations appropriate for urban densities.
 - Allowing only those accessory and complementary nonresidential uses that are compatible with urban residential communities.
 - Establishing density designations to facilitate advanced area wide planning for public facilities and services, and to protect environmentally sensitive sites from over development.
 - Encouraging conservation development configurations that create permanent open space, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
 - Requiring conservation development configurations in areas where all urban services are not available to provide the opportunity in the future to subdivide the land at urban densities.
- Use of this zone is appropriate in areas designated by the comprehensive plan as transition, urban growth area, resort community or suburban growth area in the comprehensive plan where a network of hard surfaced roads provides good access to primary transportation routes or potential public transportation systems. Urban services may not be available immediately, but are capable of being extended or constructed in the area.
- **12-323 Rural District:**
 - The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
 - 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.
 - 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.
 - Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
 - Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

- o 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.

G. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC Title 12, Chapter 7.

H. Agency Review: The application was routed to agencies for comment on February 4, 2020.

All Taxing Districts
Bonner County Road Department
Avista Utilities
Idaho Department of Lands, Nav. Waters
Idaho Department of Fish and Game
Idaho Department of Water Resources

U.S. Army Corps (Coeur d'Alene)
Idaho Department of Lands (Sandpoint)
BNSF Railway
U.S. Fish and Wildlife Service
Idaho Department of Environmental Quality

The following agencies replied "No Comment":

City of Clark Fork
Idaho Department of Environmental Quality
Idaho Department of Fish and Game
Bonner County Road Department
Idaho Department of Lands
Independent Highway District
Kootenai-Ponderal Sewer District
U.S. Fish and Wildlife Service

The following agencies replied:

Floodplain Manager – Jason Johnson, February 24, 2020

This is a proposal for a density increase in Special Flood Hazard Areas (SFHA), per submitted application and FIRM Panel 16017C0950E, Effective Date 11/18/2009.

Membership in the National Flood Insurance Program Community Rating System (NFIP CRS) requires Bonner County to maintain existing low-density zoning within all regulated SFHAs within Bonner County. Bonner County is required to recertify continued CRS eligibility annually. Part of this recertification process includes confirmation from the Bonner County Floodplain Manager that Bonner County continues to maintain existing low-density zoning within the regulated SFHA. This proposal is contrary to this required maintenance of low density.

Approval of this application may render Bonner County ineligible to continue as a member-in-good-standing in the NFIP CRS, and may require withdrawal by Bonner County from the NFIP CRS. This would result in Bonner County losing existing NFIP flood insurance discounts, which are currently 10% below full-prices. This would lead to an increase in flood insurance costs county-wide.

Panhandle Health District – Timothy French, February 25, 2020.

Stated they do not have a comment for the file but wanted to submit a reminder to the applicant to ensure any land division or development obtain a valid septic permit.

All other agencies did not reply.

I. Public Notice & Comments

Ann M. Hargis & H. Denny Liggitt, February 26, 2020 – Has concerns regarding increased density and future subdivisions affecting narrow private road and only venue for emergency access; pollution of their artesian well; and regulations on septic development. They addressed previous subdivision proposals in the area that were denied and may have a basis in this file decision.

Comprehensive Plan Amendment Findings of Fact

- Property is split by the Rural Residential and Urban Growth Area Comprehensive Plan designations
- Property is split by the Rural-5 and Suburban Zones
- Adjacent properties lie within the Urban Growth Areas and Suburban zone and feature the same soil types.
- The parcels lie within the Selkirk Fire district.
- Site is adjacent to Southside Water and Sewer District.
- The subject parcels are accessed off of Pierce Lane, a paved, private road, off Birch Haven Drive (county owned and maintained).
- The parcel features Pend Oreille Silt Loam, 5 To 45 Percent Slopes and supports timber production, livestock grazing, wildlife habitat, recreation, hay and pasture, and home site development.
- The parcels generally do not feature slopes in excess of 15%.
- Site partially within Special Flood Hazard Area AE along the waterfront.
- Site partially within a mapped wetland along the water front.
- Adjacent to Urban Growth Areas and Suburban zones and surrounding lands, including parcel in question, are not consistently 5-acre or larger parcels characteristic of the Rural-5 Zone.
- Site is located in a developed community/neighborhood.

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	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 Urban Growth Area Land Use Designation.

Zone Change Findings of Fact

- Property is split by the Rural Residential and Urban Growth Area Comprehensive Plan designations
- Property is split by the Rural-5 and Suburban Zones
- Adjacent properties lie within the Urban Growth Areas and Suburban zone and feature the same soil types.
- The parcels lie within the Selkirk Fire district.
- Site is adjacent to Southside Water and Sewer District.
- The subject parcels are accessed off of Pierce Lane, a paved, private road, off Birch Haven Drive (county owned and maintained).
- The parcel features Pend Oreille Silt Loam, 5 To 45 Percent Slopes and supports timber production, livestock grazing, wildlife habitat, recreation, hay and pasture, and home site development.
- The parcels generally do not feature slopes in excess of 15%.
- Site partially within Special Flood Hazard Area AE along the waterfront.
- Site partially within a mapped wetland along the water front.

- Adjacent to Urban Growth Areas and Suburban zones and surrounding lands, including parcel in question, are not consistently 5-acre or larger parcels characteristic of the Rural-5 Zone.
- Site is located in a developed community/neighborhood.

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 **was** found to be in compliance.

Conclusion 3

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

AMENDMENT & 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.

Files AM0009-19 & ZC0008-19 – Comprehensive Plan Map Amendment & Zone Change – Bonner County is initiating a Comprehensive Land Use Map Amendment from Agricultural/Forest (10-20) to Rural Residential (5-10) and a Zone Change from Agricultural/Forest 20 to Rural 5 in Section 27, Township 54 North, Range 4 West, Boise-Meridian, and a Zone Change from Rural 10 to Rural 5 for Section 35, Township 54 North, Range 4 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/APPLICANT 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 Comprehensive Plan and Bonner County Revised Code.

PUBLIC/AGENCY TESTIMONY: Paul Malinosgis and Dan Baker spoke on the record.

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

Comprehensive Plan Amendment Motion by the governing body:

MOTION TO APPROVE: Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE AM0009-19, requesting a comprehensive plan amendment for the subject property from Agricultural Forest to Rural Residential for Section 27, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho, 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 Linscott further moved to recommend the following findings of fact and conclusions of law as written. 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.

Zone Change Motion by the Governing Body:

MOTION TO APPROVE: Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0008-19, requesting a Zone Change from A/F-20 to R-5 for Section 27, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho and from R-10 to R-5 for Section 35, Township 54 North, Range 4 West, Boise-Meridian, Bonner County, Idaho, 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 Linscott further moved to recommend the following findings of fact and conclusions of law as written. 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 two sections contain approximately 1280 acres.

B. Access: The property is accessed off Clagstone Road at Satchel Drive, Pend Oreille Drive and Dylan Road.

C. Environmental factors: There are no wetlands or other hydrology or floodplain in these two sections. The only slope in this area follows Clagstone Road and cuts the Northeast corner of Section 27.

D. Services: Sewer is provided by onsite septic systems. Water is provided by onsite wells. Inland Power provides electricity to the area.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Section 27	Agricultural Forest	A/F-20	Vacant land and limited residential use. 4 5-acre lots and 6 10-acre lots.
Section 35	Rural Residential	R-5 and R-10	Some vacant land.
North	Agricultural Forest	A/F-20	Idaho State Land and US Government
East	Agricultural Forest	A/F-20	Idaho State Land and US Government
South	Agricultural Forest	A/F-20	Idaho State Land and Kootenai County
West	Agricultural Forest	A/F-20	Idaho State Land

F. Standards review

Amendment Request:

12-215: Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents

The application was considered complete and routed to agency review on November 19, 2018.

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)

From the Land Use Chapter of the Comprehensive Plan. Section 27, Township 54 North, range 4 West is being proposed to change from Agricultural Forestry to Rural Residential. The standards for those land use designations from the comprehensive plan are below:

Agricultural Forest: 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, poor soil conditions, hazard areas and lack of police or fire services.

Rural Residential: The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

Zone Change Request

Section 27 the zone change request is from A/F-20 to R-5 and for Section 35 the zone change request is from R-10 to R-5. The standards of the zones are below:

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.
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. (Ord. 501, 11-18-2008)

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:

1. R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - a. Characterized by slopes that are steeper than thirty percent (30%).
 - b. Located within critical wildlife habitat as identified by federal, state or local agencies.
 - c. Contain prime agricultural soils.
 - d. Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
 - e. Within the floodway.
 - f. Contain limited access to public services.
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)

G. 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.

H. Agency Review: The application was routed to the following agencies for comment on November 19, 2018

All Taxing Districts	Dept. of Water Resources
Bonner County Road and Bridge	Army Corps (Coeur d'Alene)
Northern Lights	Forest Service
Dept. of Fish and Game	Dept. of Lands, Nav. Waters
Dept. of Env. Quality	Bonner County Schools – Transportation
Dept. of Transportation	Dept. of Lands (Sandpoint)
BNSF Railway	

Comments received from the following with "No comment"

City of Clark Fork
 Idaho Department of Lands
 Kootenai-Ponderay Sewer District
 Department of Environmental Quality
 Independent Highway District
 Panhandle Health District

I. Public Notice & Comments

There were no public comments received.

Findings of Fact

1. The proposed area is a section of land – approximately 640 acres.
2. The neighboring sections are State Land.
3. The section is touched on three corners by five and ten-acre lots.
4. There is little to no slope with a small area of slopes in the Northeast corner.
5. The subject property is consistent with the Rural Residential designation.
6. The good soil can accommodate individual septic and water.
7. Access is provided by Clagstone Road, a County maintained road.
8. The property is served by Spirit Lake Fire, Bonner County School District #83 and Inland Power.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:Conclusion 1

The proposed comprehensive plan map amendment **is** in accord with the Bonner County comprehensive plan.

•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

The proposal is in accord with the purpose of the Rural Residential land use designation, provided in the Land Use section of the Bonner County Comprehensive Plan.

Conclusion 3

The proposal is appropriate for the area based on the existing residential uses, soil types, access to public services and maintained county roads.

Zone Change Findings of Fact

1. There are numerous five-acre lots in Section 35.
2. Section 35 is designated as Rural Residential in the comprehensive plan. Section 27 is proposed to be Rural Residential in this proposal.

3. The proposed area is located on the transportation corridor of Clagstone Road, a County maintained roadway.
4. The two sections are touched on corners by R-10 and R-5 zoning with checkerboard state and federal land abutting.
5. The only steep slopes follow Clagstone Road and cut the corner of Section 27.
6. Sewer and water are provided by individual services.
7. The soil types lend to the Rural-5 zone district.

Zone Change 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.

Conclusion 2

This proposal was reviewed for compliance with the zone 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 Commercial zoning district, provided at Chapter 3, Bonner County Revised Code.

Conclusion 4

The proposal **is** appropriate for the area based on the number of five acre lots in the area and the location of public service and access to County maintained roads.

OPEN LINE DISCUSSION:

Discussion regarding sub-area committees, their comp plans and roles, and making changes going forward.

Selle committee will present to their public at Northside, date to be determined. This meeting will be a P&Z conducted meeting. A decision will have to be made as to whether the committee or P&Z will address any necessary changes if any based on public comments. Following the initial meeting a public workshop will be conducted by P&Z. The final steps will be a public hearing held by P&Z with one to follow conducted by the Board of County Commissioners.

Working on another text amendments. Should be forthcoming in approximately a month.

At 8:12 p.m., the Chair declared the hearing adjourned until March 19, 2020.

Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 19th day of March 2020.

Bonner County Planning and Zoning Commission



Don Davis, Chair