

REVISED JANUARY 14, 2022
BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
DECEMBER 16, 2021

CALL TO ORDER: Chair Bailey 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, via Zoom webinar, and YouTube live streaming.

PLEDGE OF ALLEGIANCE

PRESENT: Commissioners Chair Brian Bailey, Vice Chair Don Davis, Dave Frankenbach, Sheryl Reeve, Suzanne Glasoe, and Jennifer Casey

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton, Assistant Planning Director Jacob Gabell, Planner II Jason Johnson, Planner I Daniel Britt, Planner I Swati Rastogi, and Administrative Assistant III Da Niel Scott

CHANGES IN AGENDA: None

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: August 5, 2021 and December 2, 2021. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARING:

AMMENDMENT AND 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 AM0018-20 & ZC0015-20 – Comprehensive Plan Map Amendment & Zone Change – Daum Construction, LLC is requesting a Comprehensive Plan Map Amendment from Agriculture/Forestry 10-20 to Rural Residential 5-10, and a Zone Change from Agricultural/Forestry-10 to Rural-5. The 160-acre property is currently zoned A/F-10. The project is located off Spirit Lake Cutoff Road in Section 27, Township 55 North, Range 4 West, Boise-Meridian. The Board of County Commission, at the June 24, 2021 public hearing, remanded this file back to the Planning & Zoning Commission to hear de novo.

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 Jason Johnson 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 Jeremy Grimm, Whiskey Rock Planning + Consulting, submitted Exhibit 3 (PowerPoint presentation) and provided comments history of the project, potential property subdivision, property access and services, application standards of review, Idaho code, Bonner County Comprehensive Plan, existing and requested zoning designation, meaning of contiguous, rural character and farming, property soils, job increases within Bonner County, traffic, and community growth.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record: Susan Bowman, David Bowman, Arlin Robb, Wayne Martin, Kristine Noella, Carmen Croitoru, Suzanne Glass, Doug Gunter, Theresa Hiesener, Trisha Bowlin, Wendy Raley, Roger Sparling, Asia Williams, Sandy Sparling, Garrett Thornton, Maya Starbright, Clark Paterson, Doug Paterson, Maureen Paterson (submitted Exhibits 1 and 2), Thomas Lewis, Don Holland, Sheryl Kins, Ray Schlaht, and Rodna Wheeler.

APPLICANT REBUTTAL: Project Representative Jeremy Grimm responded to public comments regarding rural designation, application necessity, density of surrounding property, soils, traffic, property access, and Idaho code farm designations.

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

Comprehensive Land Use Plan Amendment Motion

MOTION TO RECOMMEND DENIAL: Commissioner Davis moved to recommend denial to the Board of County Commissioners this project File AM0018-20, requesting a comprehensive plan amendment from AG/Forest Land to Rural Residential, based upon the following conclusions: it is inconsistent with the existing comprehensive plan; the proposal would conflict with the continuity of the comprehensive plan designation substantially in the area under the present comprehensive plan, conclusion (1) is inconsistent with the land use component of the Bonner County Comprehensive Plan, and conclusion (3) is not in accord with the Rural Residential Land Use Designation based on the history of the area that the exceedingly overwhelming type of land use in the area.

Commissioner Reeve seconded the motion.

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

Comprehensive Plan Amendment Findings of Fact

- The parcels are unplatted and ~160 acres in total size.
- County GIS states that Spirit Lake Cutoff is a secondary arterial is County owned and maintained and is paved with hot mix asphalt.
- The site is mostly flat with a very small area of slopes, <30% grade, located in roughly the northwest portion of the property. (USGS)
- The site does not contain mapped wetlands. (USFWS)
- The parcels are not within a flood zone.
- The site has no mapped water bodies or watercourses.
- The soil types on the site are considered prime farmland or prime farmland if irrigated.
- There is no water or sewer service on the site at this time, an individual well and septic would be required.
- The site is served by Spirit Lake Fire, Avista, Bonner School District #83 and Bonner Co Ambulance District.
- The parcels are surrounded by Ag/Forest Land designated lands and zoning of Agricultural/forestry 10 (A/f-10) and Agricultural/forestry 20 (A/f-20).
- The site is missing almost every criteria for its current land use designation of Agricultural/forestry.

Comprehensive Plan Amendment Conclusions of Law:

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

Conclusion 1

The proposal **is not** in accord with the highlighted element 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 not** in accord with the Rural Residential Land Use Designation.

Zone Change Motion

MOTION TO RECOMMEND DENIAL: Commissioner Frankenbach moved to recommend denial to the Board of County Commissioners this project File ZC0015-20, requesting a zone change from Agricultural/Forestry 10 (A/F-10) to Rural-5 (R-5), based upon the following conclusions: conclusion (1) is not in accordance with the Bonner County Comprehensive Plan because it is not Rural Residential, and conclusion (3) is not in accord with the purpose of the Rural-5 zoning district,

provided at Chapter 3, Title 12, Bonner County Revised Code because it does not meet the criteria of being already developed at or near that density, it meets the requirements for Rural-10 if it was Rural Residential. The decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. Commissioner Frankenbach further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report as amended during this hearing 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. The action that could be taken, if any, to obtain the zone change is to: 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or 2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code.

Commissioner Reeve seconded the motion.

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

Zone Change Findings of Fact

- The parcels are unplatted and ~160 acres in total size.
- County GIS states that Spirit Lake Cutoff is a secondary arterial is County owned and maintained and is paved with hot mix asphalt.
- The site is mostly flat with a very small area of slopes, <30% grade, located in roughly the northwest portion of the property. (USGS)
- The site does not contain mapped wetlands. (USFWS)
- The parcels are not within a flood zone.
- The site has no mapped water bodies or watercourses.
- The soil types on the site are considered prime farmland or prime farmland if irrigated.
- There is no water or sewer service on the site at this time, wells and septic systems would be required.
- The site is served by Spirit Lake Fire, Avista, Bonner School District #83 and Bonner Co Ambulance District.
- The parcels are surrounded by Ag/Forest Land designated lands and zoning of Agricultural/forestry 10 (A/f-10) and Agricultural/forestry 20 (A/f-20).
- The site is missing almost every criteria for its current land use designation of Agricultural/forestry.
- To the immediate northeast of the site in question is an existing subdivided area of 50 parcels.
- 48 of these 50 parcels are less than 10 acres and could only be created under current zoning code in areas zoned as Rural 5 or smaller. 35 of these 50 parcels are 7.5 acres or less (nearer to 5 acres than to 10 acres).

Zone Change Conclusions of Law:

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

Conclusion 1

The proposal is **not** 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 **not** in accord with the purpose of the Rural-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

Background:

A. Site data:

- Use: Vacant, parcels are unplatted
- Size: ~160 acres
- Zone: Agricultural/forestry 10 (A/f-10)
- Land Use: Ag/Forest Land (10-20 AC)
- Legal: 27-55N-4W N2N2

B. Access:

- Spirit Lake Cutoff provides access to the property.
- County GIS states that Spirit Lake Cutoff is a secondary arterial, is paved with hot mix asphalt, and is County owned and maintained.

C. Environmental factors:

- Site is mostly flat with a very small area of slopes, <30% grade, located in roughly the northwest portion of the property. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Parcel is within SFHA Zone X, per FIRM Panel 16017C1125E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
- The site has no mapped water bodies or watercourses.
- Soil types:
 - Pend Oreille-Highfalls complex, 0 to 6 percent slopes; prime farmland
 - Rathdrum-Bonner ashy silt loams, 0 to 8 percent slopes; prime farmland
 - Kootenai gravelly ashy silt loam, 0 to 4 percent slopes; prime farmland if irrigated

D. Services:

- Water: No service at this time, well(s) would be required.

- Sewage: No service at this time, septic system(s) would be required.
- Fire: Spirit Lake Fire
- Power: Avista
- School District: Bonner School #83
- Ambulance District: Bonner Co Ambulance District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant
North	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant government land & residential uses
East	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant government land & residential uses
South	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant land & residential uses
West	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10) & Agricultural/forestry 20 (A/f-20)	Vacant land & residential uses

F. Standards review: Comprehensive Plan & 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.
- **Existing Comprehensive Plan Designation:**
Ag/Forest Land: 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.
- **Proposed 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.

- **12-322 - 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:
 - Prime agricultural soils.
 - Are characterized by agricultural or forestry uses.
 - 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.
- **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:
 - R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - Characterized by slopes that are steeper than thirty percent (30%).
 - Located within critical wildlife habitat as identified by federal, state or local agencies.
 - Contain prime agricultural soils.
 - 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.
 - Within the floodway.
 - Contain limited access to public services.
 - 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 12-720.2 – Applicability.

H. Agency & Public Notice, Comments

These applications were routed to the following agencies for comment on November 16, 2021:

Northern Lights Inc.	Idaho Panhandle National Forest
Bonner County Road & Bridge Department	Panhandle Health District
Bonner School District #83	Spirit Lake Fire District
Idaho Department of Environmental Quality	U.S. Forest Service
Idaho Department of Lands – Sandpoint	Union Pacific Railroad (Spokane)
U.S. Fish & Wildlife	Idaho Department of Water Resources
Idaho Department of Fish & Game	

No agencies have commented on this de novo application.

At the time of the Staff Report was prepared, three public comments were received on this de novo application. A summary of the concerns outlined in these comments are concerns over spot zoning, the presence of nearby agriculture, the presence of prime farmland soils on the site, and concerns about water and septic availability.

Several previous staff reports have been prepared on this proposal. These previous staff reports in the record cover the public and agency comments previously submitted on these two applications.

I. Applicant Narratives:

Applicant Narrative, AM0018-20 Comprehensive Plan Map Amendment:

Explain in detail the reason for the requested amendment to the comprehensive plan: What circumstances warrant an amendment of the comprehensive plan map designation?

Unlike a detailed zoning map, the Comprehensive Plan Future Land Use Map is intended to represent a watercolor or "fuzzy" layout of potential land uses within Bonner County. The Future Land Use Map cannot possibly be applied at the same granular level as a zoning map which is why an extensive narrative helps to describe the particular land characteristics in any given designated area. The subject property has no mapped water bodies or water courses, is mostly flat and is in our opinion misclassified as Ag/Forest due to the fact that 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. As none of these characteristics are present or applicable to the subject parcel and recognizing the goals of the Comprehensive Plan includes goals that encourage the community to grow and supports expansion of housing needs to provide adequate shelter for all regardless of age, income or physical abilities, we feel that a Comprehensive Plan amendment to Rural-5 is most appropriate based on the land characteristics of this property.

Explain how the proposed comprehensive plan amendment will affect elements such as noise, light glare, odor, fumes and vibrations on adjoining property:

As the proposed Rural-5 designation maintains the identical 25' exterior property line setbacks as the current AF-10 designation, there will be no impact to adjoining property. Whether composed of 5- or 10-acre parcels, in either case any new structures will maintain the same 25' setback so there will be no material impact on potential noise, light, glare, odor, fumes or vibrations.

How has the proposal been designed to be compatible with the adjoining land uses?

The area surrounding the subject parcel is currently developed with a number of different sized homesites and hobby farms typical of the rural residential fabric found throughout Bonner County. Sometimes the partition of larger acreage has been the result of family splits and other times such as the case with the adjacent Hoodoo Valley unrecorded plat, through other informal subdivision processes. Our

proposal - which will still be required to proceed and approved though the subdivision approval process - is expected to include large 5-acre lots which are similar in size to many lots in the vicinity (from 2-acres to 9.5-acres in size to the Northeast corner of this property). Per BCRC, the Rural-5 District is compatible with the area because uses allowed in the District are specifically limited by code: 12-323: RURAL DISTRICT: A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. As proposed the requested change would result in low density (5-acre lots) which would allow uses compatible with rural pursuits.

What extensions of water or sewer lines, roads or other public or private services would be necessary if this comprehensive plan amendment were approved?

There is an existing access road that would be improved, upon approval of this comp plan change/ zone change and subsequent subdivision. This road would meet Bonner County Road and Bridge standards and would come off the existing Spirit Lake Cutoff, a publicly maintained roadway. There are no water or sewer connections in this area, so individual septic/drainfields and individual wells would be proposed at this time. This is the typical practice for residences in this area.

Explain why an amendment to the comprehensive plan map is appropriate, detailing changes that have occurred since the comprehensive plan map was adopted or circumstances that warrant a reconsideration of the designation. Include details such as city annexations, area of city impact amendments, population changes, subdivision development, growth factors, expansion of fire district or other service boundaries, transportation or public services improvements or other details that support the proposed map amendment. (Attach additional pages if necessary):

As was previously stated, the Comprehensive Plan Future Land Use Map is an extremely coarse representative vision of future land uses which guides the granular land use through the adoption of zoning. As it would be impractical and cost prohibitive to inventory and detail every acre of land in Bonner County, the Future Land Use Map should be considered a guidance (Watercolor) tool. In order to provide appointed and elected officials greater context on land use decisions, the Comprehensive Plan includes extensive descriptions of each characteristic particular to a land use designation. Relating to the subject parcel, this site is mostly flat, with only a very small area of steep slopes. The access provided by Spirit Lake Cutoff is a well-developed secondary arterial, paved with hot mix asphalt, and is County owned and maintained. The site has no obvious challenges to residential development. The site has no known hazard areas. The site has police, fire, and ambulance services. This site does not appear suited to the comprehensive plan designation of Ag/Forest Land, as it is missing almost every criteria for this designation. The density allowed under this designation serves to reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses (including logging and timber harvest) and residential development will continue to be permitted under this designation if approved. This

site has no features that make it incompatible with the Rural Residential land use designation.

Applicant Narrative, ZC0015-20: Zone Change:

Explain in detail the reason for the zone change:

The site in question is currently zoned as A/F-10. This zone is appropriate in areas designated by the comprehensive plan as Ag/Forest land. As stated in our Comprehensive Plan Map Amendment Application, this site does not appear suited to the comprehensive plan designation of Ag/Forest land, as it is missing almost every criteria for this designation. Because this site is not appropriate to be designated as Ag/Forest land, it follows that this site is not appropriate to remain zoned as A/F-10.

How does the proposal meet the specific criteria of the proposed zoning district? (BCRC 12-321 through 12-329):

The request is aligned with the Rural Residential district because the district is established per BCRC 12-323: RURAL DISTRICT: A. "The rural district is established to allow low density residential uses that are compatible with rural pursuits." As proposed, the requested change would result in low density (5-acre lots) which would allow uses compatible with rural pursuits. To the immediate northeast of the site in question is a subdivided area of 50 parcels. 48 of these 50 parcels are less than 10 acres in size and could only be created under current zoning code in areas zoned as Rural 5 or smaller. 35 of these 50 parcels are 7.5 acres or less. In other words, these 35 parcels are already developed at or near the one dwelling unit per five (5) acre density, consistent with BCRC 12-323B.2. In other words, the site in question is in an area already developed at or near the one dwelling unit per five (5) acre density. We believe this feature alone is enough to clarify that the appropriate zoning for this property should be R-5.

Explain how the proposed zone change will affect elements such as noise, light glare, odor, fumes and vibrations on adjoining property:

The proposed zone change will have no immediate impact on adjacent property. Building setbacks are no different in the Rural-5 zone (25' feet) and therefore no greater comparable noise, light, glare, odor, fumes or vibrations will occur due to approval of the Rural-5 zoning.

How has the proposal been designed to be compatible with the adjoining land uses?

No design has been developed as of yet however it is anticipated that the eventual parcel configuration will mirror the large 5-acre lots to the northeast and uses will be compatible due to the limitations placed on this district designation including but not limited to uses that are compatible with rural pursuits per BCRC 12-323.

COMMISSIONER & STAFF UPDATES:

Planning Director Milton Ollerton discussed analyzing applications based on the Bonner county code and state statute; and provided updates on the sewer district meeting scheduled for January 5, 2022. Commissioners discussed updating the Comprehensive Plan.

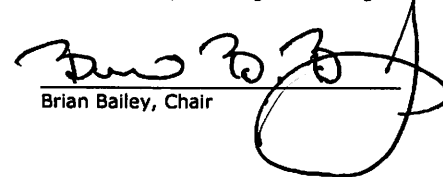
At 8:54 p.m., the Chair declared the hearing adjourned until January 6, 2022.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 20th day of January 2022.

Bonner County Planning and Zoning Commission

 1-20-22
Brian Bailey, Chair