

BOUNDARY COUNTY PLANNING AND ZONING

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**PLANNING & ZONING COMMISSION
MINUTES of June 23, 2022 Public Hearing**

Memorial Hall on the Boundary County Fairgrounds at 6571 Recreation Park Road, Suite 1, Bonners Ferry, ID

P&Z Members in attendance:

- | | | | |
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| <input checked="" type="checkbox"/> Caleb Davis, Chair | <input checked="" type="checkbox"/> Wade Purdom, Co-Chair | <input checked="" type="checkbox"/> David Hollabaugh | <input checked="" type="checkbox"/> John Cranor |
| <input checked="" type="checkbox"/> Rob Woywod | <input type="checkbox"/> Scott Fuller | <input type="checkbox"/> Tim Heenan | |
| <input checked="" type="checkbox"/> Adam Isaac | <input checked="" type="checkbox"/> Ron Self | | |

Chair Davis called the meeting to order at 5:30 p.m. Roll call: Commission members present are noted with a checked box above.

Consent Agenda:

Commissioner Self moved, and Commissioner Cranor seconded the motion, to approve the May 26, 2022, minutes. The Chair declared the motion approved on a unanimous voice vote.

Public Hearing:

FILE 22-0111, CONDITIONAL USE PERMIT, STRUGGLE BEAR, LLC is requesting approval for a conditional use permit for a multi-structure residential use to allow for four existing additional primary single-family dwellings on a 10-acre tract in the Agriculture/Forestry and Suburban zones. The parcel is located off Earl Lane Road and is identified as Assessor's Parcel RP64N02E152114A in Section 15, Township 64 North, Range 2 East, B.M.

Opening and Hearing Summary: The Chair opened the hearing and read the description of the project. Contract Planner Tessa Vogel read the hearing process and Acting Zoning Administrator Clare Marley explained the public testimony allowances and exhibit requirements based on the adopted hearing procedures.

Call for Disclosures: The Chair called for disclosures or conflicts of interest regarding the file. No disclosures or conflicts of interest were made.

Application Summary: Contact Planner Ms. Vogel presented the staff report.

Applicant Presentation: Project Representative Brian Domke provided Exhibit A (a copy of his PowerPoint) and stated that he wanted the hearing to focus on the proposal and not the character of the applicant. Mr. Domke then gave a review of the violation history, stated that all of the structures combined are less than 1,800 square feet and the impact on the property and road would be low. Mr. Domke stated that using water from the Moyie River is allowed and the applicant does have a permit to do so. Sewage disposal, waste will be taken off-site. Mr. Domke pointed out that the Suburban zone does allow for a higher density than the Ag/Forestry zone so that needs to be taken into account when looking at the total number of dwellings being proposed. Mr. Domke also stated that while the property owner is an LLC, the use is to be private recreation and the use of the dwellings will not be year-round as they are just cord wood on concrete with no utilities inside. Lastly, Mr. Domke explained the location of the utility easement, how the water is brought onto the site, and how parking has been put in the open field on the property.

Applicant Owen Smith stated that he has not and will not be charging people to use the property, acknowledged the violations and stated that while some finishing building occurred this spring, all building has since then been on hold until proper permitting has been obtained. Mr. Smith stated that he wants to use the property for private recreation.

Public Testimony: No public testimony in favor of or neutral to the proposal was given. All public testimony provide was opposed to the proposal.

Barbara Russell stated that there were discrepancies between the application and commercial uses noted in the applicant's videos, that she would like to know what will happen with the people who donated to the applicant and what will happen if the property is turned into a commercial property.

Gerald Higgs states that the approval or denial should take into account the actions of the applicant and the best interest of the community. The Chair cautioned Mr. Higgs that testimony should address the application.

Linda Tanaka stated that there will be five extra cars going down Moyie River Road and Earl Lane Road and is concerned about fire dangers and how people will be required to cross the water line that runs over Earl Lane Road.

Don Jordan requested information on the number of followers the applicant has and whether or not the applicant has sold memberships to use the property. Mr. Jordan stated that the proposal seems to be more than a family-based use as the property is owned by an LLC and asks if limitations can be put on the size of the dwellings.

Steve Jansa stated that he had obtained his permits prior to building but the applicant seems to be trying to circumvent the zone code.

Mark Beatty stated he has concerns about the water pump noise, that the water line is running across Earl Lane Road, where parking will be, and how Earl Lane Road will be impacted. Mr. Beatty also stated that the Commission needs to take into account what the applicant did not say in his presentation and application and what is considered to be a guest as the proposal seems like a time share.

Greg Duncan stated that he found out about the applicant's proposed use through the applicant's videos and online posts and is concerned about the type of people who will be visiting the property and how the road will be impacted.

Ken Lustig stated that the applicant can't do what he wants or plans because the use doesn't fit the neighborhood and the proposal looks to be a subdivision. Mr. Lustig states that the purpose in the zoning code for multi-structure residential uses was to provide housing for farms and that a recreational use needs more acreage.

Victor Cherven stated that the use sounds like a time share, that of the approximately 20 dwellings in the area maybe half are use full-time, and that the four cabins proposed are not necessary for family and friends to visit. Mr. Cherven also asked if the applicant will be on the property when guests are, what recreational activities will occur on site, and will those activities cause safety concerns.

Elaine Duncan presented Exhibit B, a list of conditional use permits approved by the county for second homes. She noted that the cabins are for camping, not dwellings. She spoke about the applicant's on-line videos and how they differ from the proposal under consideration by the county.

Applicant Rebuttal: Mr. Smith stated that he was originally looking for a commercial property elsewhere, but could not afford it, so he purchased this smaller, private property. Mr. Smith also stated that the cabins are basic open structures where he can gather with the neighbors, money was not solicited for the subject parcel, and there will be no tactical training use on site. He said he has no problem working on Earl Lane Road.

Mr. Domke stated that nothing permanent can be built in the easement, the maintenance of Earl Lane Road does need to be discussed, that placement permits do not seem necessary for the use, and that a recorded road easement agreement would be fine. Mr. Domke questioned whether the county would police every guest of every landowner in the county, which would violate rights of privacy.

Close of Hearing & Deliberation: Commission members asked clarifying questions of the applicant and representative. The Chair closed public testimony at 6:59 p.m. and opened deliberation. The Commission discussed the violation history, construction of dwellings prior to obtaining permits, the nature of the structures, fire district response, past multi-structural residential use permitting for one additional dwelling, and deferring the application to the Boundary County Board of Commissioners per Section 7.9.4. of the Boundary County Zoning & Subdivision Ordinance.

Commissioner Purdom moved and Commissioner Hollabaugh seconded the motion to defer the file to the Boundary County Board of Commissioners. During deliberations Civil Counsel Tevis Hull advised that they need to include a list of reasons to defer the application to the Boundary County Board of Commissioners. Commissioner Purdom withdrew his motion with no objections from the Commission.

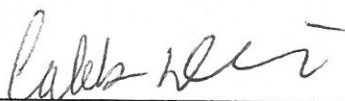
The Chair called for a recess at 7:32 p.m. and resumed the meeting at 7:38 p.m.

Commissioner Self moved, and Commissioner Woywod seconded the motion, to defer the file to the Boundary County Board of Commissioners, stating Section 7.9.4.3.: “when the scope of the application or controversy generated is such that members of the Planning & Zoning Commission are unable to reach a consensus sufficient to render a motion or when it is determined by the Planning & Zoning Commission that decision authority should rest with the Board of County Commissioners,” and adding that the reason is county code lacks proper guidance for a multi-structure residential density. During deliberation, the Commission decided to expand the list of reasoning for deferring the application. Commissioner Self withdrew his motion with no objections from the Commission. The Commission discussed their list of reasonings and wrote out a list for the motion, which the Chair read out loud for the record.

Motion to Defer: Commissioner Purdom moved, and Commissioner Self seconded the motion, to defer the application to the Boundary County Board of Commissioners per Section 7.9.4.3., “when the scope of the application or controversy generated is such that members of the Planning & Zoning Commission are unable to reach a consensus sufficient to render a motion or when it is determined by the Planning & Zoning Commission that decision authority should rest with the Board of County Commissioners,” including the following reasons: 1) the Commission is not sure the application meets the criteria for consideration of Section 7.9.4.2.; 2) “primary residences” in the application are not clear as Section 2.56. is unclear as to what a residence is; 3) the Commission lacks proper guidance from the ordinance to reach a consensus or make a decision about the proper way to handle a multi-structure residential use density; and 4) the ordinance is ambiguous regarding the definition of a dwelling and what constitutes a dwelling. The Chair declared the motion approved on a 6-1 voice vote, with Commissioner Isaac voting no.

New Business: Ms. Marley provided the Commission updates on the Poulton and Hathaway files heard by the Boundary County Board of Commissioners. The Commission asked to be reminded of their recommendations when staff presents file updates. The Commission moved the subdivision workshop to the July 2022 hearing and also requested a discussion on the multi-structure residential use be added to the agenda. The Commission also asked that at their hearings there be a poster of what criteria is being considered for the files.

Adjournment: Commissioner Self moved, and Commissioner Purdom seconded the motion to adjourn the meeting. The Chair declared the motion approved by a unanimous voice vote. The meeting was adjourned at 8:05 p.m.

 8/25/2022

Caleb Davis,
Boundary County Planning & Zoning Commission Chair