



BOUNDARY COUNTY PLANNING AND ZONING

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PLANNING & ZONING COMMISSION MINUTES of June 24, 2021 Public Hearing & Workshop

University of Idaho Extension Office, 6447 Kootenai Street, 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 type="checkbox"/> David Hollabaugh | <input checked="" type="checkbox"/> John Cranor |
| <input type="checkbox"/> Rob Woywod | <input type="checkbox"/> Scott Fuller | <input checked="" type="checkbox"/> Tim Heenan | |
| <input checked="" type="checkbox"/> Adam Isaac | <input checked="" type="checkbox"/> Ron Self | | |

Chairman Davis called the meeting to order at about 5:33 p.m. Roll call: Commission members present are noted with a checked box above. The meeting was made available to the public via telephone conference call.

Consent Agenda:

Co-Chairman Purdom moved, and Commissioner Self seconded the motion, to approve the May 27, 2021 minutes. The Chairman declared the motion approved on a 4-1 vote, with Commissioner Isaac abstaining from the vote. Chairman Davis amended the agenda to move file #21-0132 ahead of file #21-0126.

Public Hearings:

FILE 21-0114, COMP PLAN MAP & ZONING MAP AMENDMENTS, Ken and Lois Weakly are requesting approval to amend the Boundary County comprehensive plan and zoning maps from Agriculture/Forestry to Rural Residential to allow for a future land division consistent with Rural Residential density. Rural Residential establishes a density of one dwelling unit per 5 acres. The 10-acre parcel is identified as RP65N02E353460A, located off 244 Old Addie Road, in Section 35, Township 65 North, Range 2 East, B.M.

Opening and Hearing Summary: The Chairman opened the hearing and read the file legal notice.

Call for Disclosures: The Chairman called for disclosures or conflicts of interest regarding the file. There were no disclosures or conflicts of interest.

Application Summary: The Chairman summarized the application. Acting Zoning Administrator Clare Marley presented the hearing process and Assistant Contract Planner Tessa Vogel presented the staff report.

Applicant Presentation: Applicant Ken Weakly discussed his reasons for the zone change and the desire to allow Lois Weakly to stay in her home and to allow the construction of another home with a shared

well and driveway. Each property would have its own private septic system. The applicant stated the property would be surveyed for the division and road and well agreements would be created. The applicant stated that his proposed home would be approximately 1,600 square feet.

Public Testimony: No public testimony was given.

Commission Questions/Applicant Rebuttal: Chairman Davis asked if the applicant would be able to obtain a well. The applicant said it would be a challenge. Commissioners asked about easement documents, and voiced concerns about possible spot zoning. The Commission asked the applicant to clarify how his proposal makes sense. The applicant explained it was to allow for the building of his own home while allowing Lois Weakly to stay in her current home. Commissioner Isaac gave a brief history of the establishment of the area's zoning.

Close of Hearing & Deliberation: The Chairman closed the public comment portion of the hearing and opened deliberation. The Commission discussed the application. Commissioner Self stated that because other smaller properties exist, he has no problem with the request. Commissioner Isaac voiced concerns over spot zoning and made note that the applicant could apply for an accessory dwelling unit (ADU) or a multi-structure conditional use permit for a second primary dwelling. Chairman Davis voiced concerns over the approval of this file causing a domino effect and Co-Chairman Purdom stated that it would be more appropriate if the whole area wanted to rezone.

Motion to Recommend Approval (comprehensive plan): Commissioner Self moved to recommend approval of File #21-0114 to the Board of County Commissioners with condition of road and well agreements being created. The Chair declared the motion failed due to a lack of a second.

Motion to Recommend Denial (zone map): Commissioner Isaac moved to recommend denial of the request to amend the official zoning map from Agriculture/Forestry to Rural Residential, File 21-0114, to the Board of County Commissioners, finding that the proposal **IS NOT** in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Land Use Ordinance, based upon the findings and conclusions and stating that approval would not be spot zoning and not consistent with previous decisions. Commissioner Cranor seconded the motion. The Chair declared the motion passed with a 4-2 voice vote, with Commissioners Self and Heenan opposed.

Ms. Marley stated that the motion for the comprehensive plan map amendment needs to be completed as well and should have occurred prior to the motion for the zone map change.

Motion to Recommend Denial (comprehensive plan): Commissioner Isaac moved to recommend denial of the request to amend the Boundary County comprehensive plan from Agriculture/Forestry to Rural Residential, File 21-0114, to the Board of County Commissioners, finding that the proposal **IS NOT** in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Land Use Ordinance, based upon the findings and conclusions. Commissioner Cranor seconded the motion. The Chairman declared the motion passed with a 4-2 voice vote, with Commissioners Self and Heenan opposed.

FILE 21-0115 VARIANCE, Viorel & Elena Negoii are requesting a lot size minimum variance to allow an 8.025-acre parcel, where 10 acres are required, for the proposed division of 18.025 acres into two

parcels. The property has a comprehensive plan land use designation and zoning designation of Agriculture/Forestry, with a minimum density of 10 acres. The site is located at 489 Foxglove Road and is identified as Assessor Parcel #RP63N01E166617A, in Section 16, Township 63 North, Range 1 East, B.M.

Opening and Hearing Summary: The Chairman opened the hearing and read the file legal notice.

Call for Disclosures: The Chairman called for disclosures or conflicts of interest regarding the file. There were no disclosures or conflicts of interest.

Application Summary: The Chairman summarized the application. Acting Zoning Administrator Clare Marley presented the hearing process and Assistant Contract Planner Tessa Vogel presented the staff report.

Applicant Presentation: Applicant Mr. Negoj stated that he and Mrs. Negoj want to create a property for their children and need the variance because they are 2 acres short of the requirement for their zone. Mr. Negoj showed the location of property access and the drainfield and mentioned wanting to improve the access point that he has been working on with the Boundary County Road & Bridge Department. Mr. Negoj stated that water is provided by a private well and power comes from Northern Lights, Inc. When asked by Commissioner Heenan about the concern of snow storage, Mr. Negoj stated that snow is moved onto the rocky outcrops off the road.

Public Testimony: No public testimony was given.

Commission Questions/Applicant Rebuttal: Commissioner Isaac asked the applicant if the parcels will be sold after the land division. The applicant responded that it was for family. Chairman Davis asked staff which parcels in the area are under 10 acres, which Ms. Vogel pointed out on the county map.

Close of Hearing & Deliberation: The Chairman closed the public comment portion of the hearing and opened deliberation. The Commission discussed the application. Commissioner Self stated that it was not the applicant's fault that they are 2 acres short. Commissioner Heenan asked for when the zoning in the area was established and the Chair stated it was in 2008. The Chair stated that the applicants are not requesting more than is needed and the variance wouldn't give them a special privilege. Co-Chairman Purdom stated that Idaho Code requires there be an undue hardship and that there is a large portion of the parcel that the topography creates a hardship. Co-Chairman Purdom said that the Commission could argue the hardship, but it matches with the area and is the worthy of approval. The Chairman stated that the applicants are not requesting a rezone, which would alter the character of the local zoning.

Motion to Approve: Commissioner Self moved to approve the request for a lot size minimum variance of 8.025 acres, where 10 acres is required, File 21-0115, finding that the proposal IS in accord with the comprehensive plan and the criteria of Section 12 of the Boundary County Land Use Ordinance, based upon the findings and conclusions and subject to conditions of approval as written and amending condition #2 to include Panhandle Health District and the Boundary County Road & Bridge Department approvals. Commissioner Heenan seconded the motion. The Chair declared the motion approved on a unanimous voice vote.

FILE 21-0132 COMP PLAN MAP & ZONE MAP AMENDMENTS, Michael & Laurie Naumann are requesting approval to amend the Boundary County comprehensive plan and zoning maps from Agriculture/Forestry to Rural Residential to allow for a future land division consistent with Rural Residential density. Rural Residential establishes a density of one dwelling unit per 5 acres. The 40 acre parcel is identified as RP61N01E222411A, located off 296 Ranger Road, in Section 22, Township 61 North, Range 1 East, B.M.

Opening and Hearing Summary: The Chairman opened the hearing and read the file legal notice.

Call for Disclosures: The Chairman called for disclosures or conflicts of interest regarding the file. There were no disclosures or conflicts of interest.

Application Summary: The Chairman summarized the application. Acting Zoning Administrator Clare Marley presented the hearing process and Assistant Contract Planner Tessa Vogel presented the staff report. Ms. Vogel advised that the applicants clarified that the rezone was only for the 6-acre proposed parcel and not the entire 40-acre parcel, as applicant Mr. Naumann advised staff the prior week.

Applicant Presentation: The applicants' representative Attorney Tom Bushnell provided an overview of the proposed land division and 15' wide easement that requires the zone change. Mr. Bushnell stated that the applicants created their own hardship by selling a sub-10-acre parcel prior to variance or rezone approval. Barry Simmons, the individual who bought the 6-acre parcel from the applicants, had his representative Attorney Valerie Thorton speak to the rezone only being for the 6-acre parcel and not the entire 40-acre parcel. Ms. Thorton stated that limiting the rezone to the proposed 6-acre parcel was news to her and Mr. Simmons. Chairman Davis asked Ms. Thorton if they consent to the rezone only being for the proposed 6-acre parcel, which Mr. Simmons consented to. Ms. Marley advised that this is the Naumanns' application.

Public Testimony: Public testimony in favor of the proposal was given by Mr. Simmons, who stated that he bought the 6 acres from the applicants in November 2020, with the existing home, water rights, septic system, and power. Mr. Simmons said that he wanted the public to know that it is not raw land and that he is not agreeable with a 30' wide easement, only the 15' wide easement. Ms. Marley stated that issues of the easement are not being discussed with the file. Testimony neutral to the file was given by Caitlin Kling, the representative for Matt Philbrook, who became neutral to the request once she found out it was for only the proposed 6 acres and not the entire 40-acre parcel. Testimony opposed to the proposal was given by Rick Maggi and Amy Maggi, who stated that Ms. Maggi had wanted 5 acre from her family, but was told by the previous zoning administrator that the zoning only allowed for 10-acre parcels and a zone change was not possible. More testimony was given by James Hodge, Jim Olbekson, Dave Erickson, Rob Brazile, Dirk Stone, and Walt Neu, who all voiced concerns over: the impact on the road and increased density; the rough conditions of Ranger Road and the struggle to maintain; lack of a road agreement; frustration at receiving a notice that said the rezone was for the full 40 acres but are now being told that it is only for the proposed 6-acre parcel.

Applicant Rebuttal: Ms. Thorton stated that she thought the rezone was for the full 40 acres, not just the 6-acre piece. She said that no one opposes the rezone of the 6 acres and there are multiple sub-10-acre parcels and that it sounds like there are written deeds for the ownership of the road. Ms.

Thorton stated that the owners just want to sell the 6 acres and that they (the Naumanns) have sold non-conforming lots in the past without going through the proper channels.

Close of Hearing & Deliberation: The Chairman closed the public comment portion of the hearing and opened deliberation. The Commission discussed the application. Commissioner Cranor said that it seems that issues have been addressed. Commissioner Self said that the easement is an issue and would like the easement eliminated. Commissioner Isaac stated that it wouldn't be spot zoning but has an issue with the Naumanns selling illegal parcels. Co-Chairman Purdom said that it wouldn't be spot zoning and it seems like less of a problem knowing it is only for 6 acres and not 40 acres if the Commission approves the file.

Motion to Recommend Approval (comprehensive plan): Co-Chairman Purdom moved to recommend approval of the request to amend the Boundary County comprehensive plan from Agriculture/Forestry to Rural Residential for a 6-acre portion of the 40-acre parcel, File 21-0132, finding that the proposal **IS** in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Land Use Ordinance, based upon the findings and conclusions. Commissioner Cranor seconded the motion. The Chairman declared the motion passed with a unanimous voice vote.

Motion to Recommend Approval (zone change): Co-Chairman Purdom moved to recommend approval of the request to amend the Boundary County comprehensive plan from Agriculture/Forestry to Rural Residential for a 6-acre portion of the 40-acre parcel, File 21-0132, finding that the proposal **IS** in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Land Use Ordinance, based upon the findings and conclusions. Commissioner Self seconded the motion. The Chairman declared the motion passed with a unanimous voice vote.

FILE 21-0126 COUNTY ZONING MAP AND COMPREHENSIVE MAP UPDATE, Boundary County is initiating an amendment to its official zoning and comprehensive plan maps to illustrate previously approved zone changes and to update parcel information. In addition, the county proposes to provide zoning and comprehensive plan map designations for the following lands that were not illustrated on the official maps because of deannexation or proximity to water bodies:

- i. RP62N01E243612A, owned by Ty Iverson, proposed Prime Agriculture.
- ii. RP62N01E260760A, owned by Russell Day, proposed Residential.
- iii. RP62N02E153160A, owned by Russell Maas, proposed Residential.
- iv. RP63N01E314360A and RP63N01E314960A, owned by Tungsten Holdings, Inc. proposed Prime Agriculture.
- v. RP64N01W241350A, owned by William Reid, proposed Prime Agriculture.
- vi. RP62N02E303150A, owned by LMJPNP, LLC, proposed Prime Agriculture.
- vii. RP62N02E214210A, owned by Kirk Youngers, proposed Agriculture/Forestry.
- viii. RPB00000267900A, RPB00000267800A, RPB00000267600A, RPB00000267201A, owned by Ron and Leanne Sukenik, Naomi Jordan and Mark Gagnier. Previously approved zone of Residential upon deannexation from City of Bonners Ferry, proposed comp plan designation of Residential.

Opening and Hearing Summary: The Chairman opened the hearing and read the file legal notice.

Call for Disclosures: Commissioner Isaac disclosed that his uncle, Russell Maas, owns one of the parcels being zoned (RP62N02E153160A). No other disclosures were made. After discussion, Commissioner Isaac advised that he will not take part in discussions or decisions regarding the Maas property.

Application Summary: The Chairman summarized the application. Acting Zoning Administrator Marley presented the hearing process and the staff report.

Applicant Presentation: Ms. Marley presented the proposal for the update and discussed the reasons for the map update with the P&Z Commission.

Public Testimony: Rick Dinning for Tungsten Holdings said that he would prefer parcels RP63N01E314360A and RP63N01E14960A to be zoned Rural Residential instead of Prime Agriculture because of the residential lots that already exist near them. Commissioner Self asked staff if the Commission could zone parcels differently than proposed and Ms. Marley said they could. Commissioner Isaac asked if water would be pumped from the Kootenai River and Mr. Dinning said that wells would be dug. Ms. Marley stated that if the parcels were to be zoned as proposed, the owners could do a conservation subdivision. Co-Chairman Purdom stated that they could zone the parcels as Rural Residential instead of Prime Agriculture. Ms. Marley read into the record a letter from Ron Sukenik that described his concerns about properties that are part of the map update that are within the vicinity of his lots and are located in the floodplain.

Applicant Rebuttal: No applicant rebuttal was given.

Close of Hearing & Deliberation: The Chairman closed the public comment portion of the hearing and opened deliberation. The Commission discussed the application and zoning the Tungsten Holdings parcels Rural Residential instead of Prime Agriculture.

Motion to Recommend Approval (comprehensive plan): Commissioner Self moved, and Co-Chairman Purdom seconded the motion, to recommend to the Board of County Commissioners approval of the request to update the Boundary County comprehensive plan map to show approved comprehensive plan changes and deannexations and to provide comprehensive plan designations for parcels that were overlooked due to proximity to water, File 21-0126, with the exception to Tungsten Holdings properties, which are to be designated as Rural Residential, finding that the proposal IS in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Land Use Ordinance, based upon the findings and conclusions. The Chairman declared the motion passed with a unanimous voice vote, with Commissioner Isaac abstained from voting on the Maas property.

Motion to Recommend Approval (zone change): Co-Chairman Purdom moved to recommend to the Board of County Commissioners approval of the request to update the Boundary County official zone map to show approved zone changes and deannexations and to provide zoning for parcels that were overlooked due to proximity to water, File 21-0126, with the exception of Tungsten Holdings properties, which are to be zoned Rural Residential, finding that the proposal IS in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Land Use Ordinance, based upon the findings and conclusions. Commissioner Self seconded the motion. The Chairman declared the motion passed with a unanimous voice vote, with Commissioner Isaac abstained from voting on the Maas property.

New Business: Ms. Marley advised the Commission of the July agenda, letting them know that it will be three conditional use permits all for a multi-structure use to allow for a second primary dwelling. She also told the Commission that the BOCC denied the Rotchy rezone file but encouraged a community rezone discussion. The Commission discussed whether they wanted to start a neighborhood workshop discussion in the Naples area, but suggested the applicants could assist in gathering property, services, and transportation information.

Adjournment: Co-Chairman Purdom moved, and Commissioner Heenan seconded the motion, to adjourn the meeting. The Chair declared the motion approved on a unanimous voice vote and closed the meeting at 8:50 p.m.

 7/22/2021

Caleb Davis,
Boundary County Planning and Zoning Commission Chairman

