



## BOUNDARY COUNTY PLANNING AND ZONING

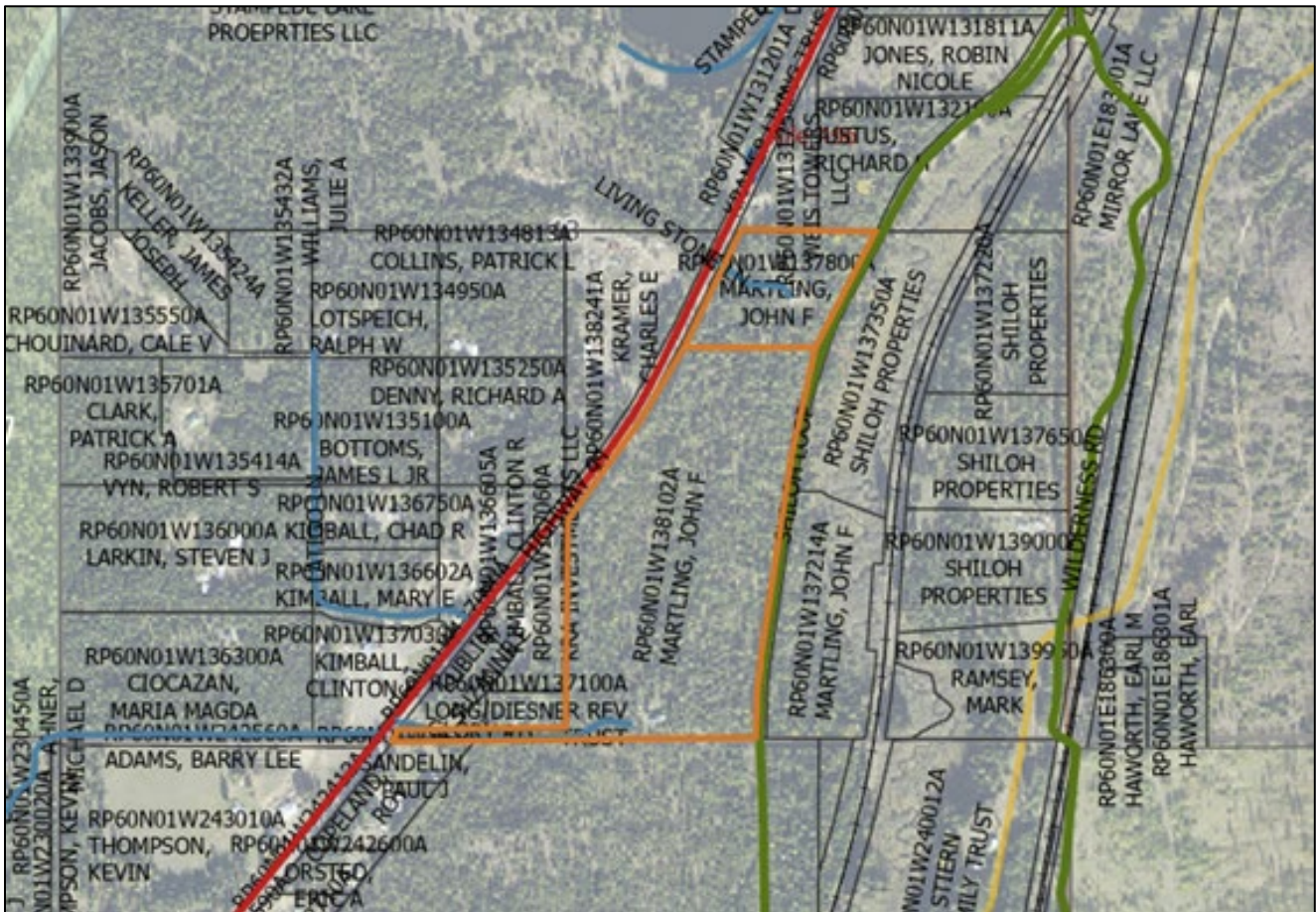
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**STAFF REPORT  
BOUNDARY COUNTY PLANNING & ZONING COMMISSION  
FILE #24-0119; MARTLING  
COMPREHENSIVE PLAN & ZONE MAP AMENDMENT REQUEST  
Agriculture/Forestry to Rural Community/Commercial**

Prepared By:	<b>Tessa Vogel, Contract Associate Planner Ruen-Yeager &amp; Associates, Inc</b>	
Project Description:	The applicants are requesting approval to amend the Boundary County comprehensive plan and zoning maps from Agriculture/Forestry to Rural Community/Commercial on two parcels totaling 56.16 acres	
Project Location:	Livingstone Lane & Glory Road	
Parcel Numbers:	RP60N01W137800A; RP60N01W138102A	
Legal Description:	N 605' OF SE4 E OF HWY 95 & 2 & W OF CO RD; S 50' OF SE4SW4 E OF HWY, SE4 E OF HWY 95 & 2 W OF CO RD #3 LESS 605'  Both in SEC 13 T60N R1W	
Applicants: Representatives:	John & Pamela Martling Bushnell Law	
Date Application Completed:	07/25/2024	
Hearing Dates:	Planning & Zoning Commission Board of County Commissioners	09/26/2024 PENDING
Legal Notice Provided:	Newspaper: Site Posting: Mailed to owners w/in 300', media, taxing districts:	09/05/2024 09/18/2024  09/03/2024 09/06/2024
P&Z Recommendation:	PENDING	
Staff Report Attachments	Legal notice, application, narrative, zone change information sheet, zone map, comprehensive plan map, June 21, 2022 determination letter, May 23, 2024 violation notice letter, June 24, 2024 appeal letter	

**PROJECT SUMMARY**

John & Pamela Martling are requesting a comprehensive plan map amendment and zone change from Agriculture/Forestry to Rural Community/Commercial on a 10-acre parcel and a 46.16-acre parcel. The Agriculture/Forestry has a 10-acre lot size minimum. Uses include: ag/forestry pursuits; single-family dwellings; commercial greenhouses; and produce stands outright; duplexes, multi-family, multi-structure residential; high-occupancy uses; and land intensive uses with a conditional permit. Rural Community/Commercial has a 2.5-acre minimum lot size where water and sewer service are not available and 1 acre where either community water or sewer is available. Uses include: single-family homes; duplexes; light class and moderate class uses outright; a variety of commercial, light industrial and industrial uses; and mobile home parks with a conditional use permit. The application states the purpose of the zone is to be able to expand the number of mobile homes on the properties. The subject properties are located off Living Stone Lane and Glory Road and are identified as Assessor’s Parcels RP60N01W137800A and RP60N01W138102A, in Section 13, Township 60 North, Range 1 West, B.M. The sites are served by individual septic systems, the Cabinet Mountains Water District and the South Boundary Fire District.



**AERIAL MAP**

**RELEVANT CODE SECTIONS & DEFINITIONS**

**SECTION 2: DEFINITIONS**

**2.17.1. Dwelling:** A single unit or structure providing a complete, independent living facility for human habitation, including permanent provisions for living, sleeping, eating, cooking, and sanitation. A recreational vehicle (RV), as defined by Idaho Code, is excluded from the dwelling definition.

**2.55. Recreational:** A use, structure or group of structures on a single parcel or lot intended primarily for seasonal or transient recreation as follows:

**2.55.2. Recreational Hospitality:** Commercial uses established specifically to afford the general public access, accommodations and/or services by which the public may enjoy recreational opportunities on private land. Hospitality uses may include, but are not limited to RV parks, motels, hotels or lodges, bed and breakfast establishments and inns.

**2.56. Residential Structures:**

**2.56.1. Single-Family Residence:** Also known as a single-family primary residential structure. A one-unit dwelling on a lot or parcel.

**2.56.4. Multi-Structure (Multiple) Residences:** More than one primary residential dwelling on a single lot or parcel, but not including an accessory dwelling unit authorized by this code.

**2.56.5. Accessory Dwelling Unit:** Not more than one attached or detached single-family dwelling unit not larger than 1,100 square feet of living area (exterior dimensions) and located on the same lot/parcel as an existing primary residence or where a primary residence is to be built. Also, the living quarters of a business owner or caretaker on a commercial or industrial parcel or lot.

**SECTION 7: CONDITIONAL USE PERMITS** *(Relative to requirements for future application)* If the zone change were to be approved, the Rural Community/Commercial zone requires a conditional use permit for a mobile home park per Section 15.13.5.7.

**7.2. Applicability:** Where a specific or general use is allowed for consideration as a conditional use with a zone district, a conditional use permit shall be approved and issued prior to the onset of development or establishment of that use. A conditional use application will encompass all development proposed on a single parcel or lot, and upon issuance, the application, as modified by standards, terms or conditions imposed by the conditional use permit, will become the controlling plan for that parcel or lot, and will not be changed or expanded without application for a new development permit.

**SECTION 10: STANDARDS FOR SPECIFIC USES** *(Relative to requirements for future application)*

**10.6. Mobile Home Parks:** Mobile home parks are the use of a single parcel or lot for the placement of multiple temporary or long-term mobile residential or recreational structures, to include mobile homes, recreational vehicles and manufactured homes.

**10.6.1.** Each stall or space will be designed so that a minimum of twenty (20) feet separates each unit, based on the largest size structure the space can accommodate.

**10.6.2.** Spaces and accessory structures will be arranged in such a manner as to meet minimum setback requirements established within the zone district.

**10.6.3.** Roads, rights of ways and approaches within a mobile home park will be constructed to the standards applicable in an urban subdivision, and a minimum of two interconnected points of ingress and egress to a maintained public road will be provided.

**10.6.4.** Connections will be provided at each space for public services, to include at minimum water, sewage disposal and electricity.

**10.6.5.** Development permit application site plans for the establishment of a mobile home park will include the following:

**10.6.5.1.** Detailed drawings depicting the location and dimensions of each space; parking areas, access ways, walkways and utility corridors; common areas and facilities; open space and other detail sufficient to provide a clear picture of the proposed use, as well as landscaping, fencing or other methods to enhance the proposed park and/or to mitigate potential adverse impacts on adjoining properties.

**10.6.5.2.** A fire mitigation plan, approved by the authorized representative of the fire district, department or association serving the proposed mobile home park.

**10.6.5.3.** Covenants, conditions and restrictions applicable to tenants occupying the park.

**10.6.5.4.** No development permit application shall be required for the placement of mobile, manufactured or recreational vehicles in an approved mobile home park.

### **HISTORY, PERMITS & VIOLATIONS**

- In 2022, John Martling (applicant) met with Planning Staff multiple times to discuss the placement of additional dwellings on the 10-acre parcel that already had four, single-family dwellings under the Recreational Hospitality Use. The applicant noted that he would like four additional manufactured dwelling (5) units and he claimed the County code makes no mention of mobile home parks. Staff pointed out the county land use code does address mobile home parks are found at Section 10.6. of the County Code.
- - File #09-017 issued 05/01/2009 for the placement of two (2) mobile homes – permit was for a Rental/Investment Residence.
  - File #05-26 issued 04/08/2005 for a mobile home.
  - File #05-27 issued 04/08/2005 for a mobile home.
  - The existing four (4) mobile homes were permitted, but while the property was 56 acres, not as the 10-acre current parcel.
- February 09, 2022: A residential placement permit, file #22-0065, was submitted for a fifth single-family dwelling (manufactured home).
- April 18, 2022: Planning Staff asked the applicant to provide a short description explaining how the property is to be used in compliance with the Recreational Hospitality Use definition to show that the 5th single-family dwelling, and those existing, comply with the use.
- April 20, 2022: The applicant stated he wanted a mobile home park, not an RV park and that is what he applied for.
- April 20, 2022: Planning Staff requested information regarding the use of the property from the applicant to determine if it would actually be a mobile home park or RV park. The applicant confirmed he wanted to do a mobile home park and submit a CUP that would allow him to add four (4) additional dwellings to the existing four (4) dwellings on site. Planning Staff advised him that mobile home parks are not permitted in the Agriculture/Forestry zone. Planning Staff and the applicant also discussed the multi-structure residential use, and the applicant stated he wanted to apply for that use.
- April 28, 2022: The applicant submitted a conditional use permit (CUP), file #22-0120, for a multi-structure residential use for four (4) additional single-family dwellings where four (4) single-family dwellings currently exist, for a total of eight (8) single-family dwellings on a 10-acre parcel.
  - Planning Staff reviewed the applications with civil counsel to determine whether the applicant needed to seek a mobile home park conditional use permit since the multi-structure residential use permit would essentially be an expansion of a mobile home park in a zone where mobile home parks are prohibited.
- June 21, 2022: Planning staff sent a letter of determination regarding files #24-0065 and #24-0120 stating these files cannot be processed because the mobile/manufactured home park use expansion is not in accord with the permitted uses and standards of the Agriculture/Forestry zone.
- June 24, 2022: The applicant submitted an appeal letter for the determination of the Planning & Zoning Department to the Board of County Commissioners who decided to not hear the appeal. No appeal fee was submitted, and no appeal hearing occurred.
- May 18, 2024: A complaint was submitted to the Planning & Zoning Department regarding a fifth mobile home having been placed on site without the required permits and hooked into the Cabinet Mountain Water District's system without approval. Violation ZV0005-24 was opened on the property.
- May 23, 2024: A *notice of possible violation letter* was sent to the applicant noting the issue of the fifth mobile home being placed without proper permits.



- June 02, 2024: The applicant notified Planning Staff he had appealed the violation to the Board of County Commissioners.
- June 03, 2024: Planning Staff requested the appeal documents for the violation from the Board of County Commissioners, who provided the original 2022 appeal letter. No new information was provided. The Board of County Commissioners declined to hear the appeal and noted to the applicant that he would need to work with Planning Staff.
- June 17-20, 2024: The applicant submitted a comprehensive plan map and zone map amendment application, file #24-0119, which was routed to agencies for pre-review.
- June 27-29, 2024: The applicant confirmed that the August 29, 2024, Planning & Zoning Commission hearing would work with his schedule. Planning Staff was then notified by the applicant that Bushnell Law would be representing the applicant.
- July 01, 2024: Notice that the hearing would be moved to the September 26, 2024 hearing was sent to the applicant due to the revised documents noted by Bushnell Law had not been received.
- July 25, 2024: Bushnell Law submitted the revised documents which were then routed to agencies for pre-review.

#### Agriculture/Forestry Zone Specifications

- Unregulated Uses – unrestricted class uses; light class uses; moderate class uses when located more than 500 feet from any existing residence; agriculture and silviculture and structures accessory to those uses.
- Uses Requiring County Permits – one (1) single-family primary residential structure on a buildable parcel or lot; accessory dwelling unit; new primary structure for light class or moderate class uses; off-site commercial greenhouse and produce stands; driveway access to a county road.
- Conditional Uses – moderate class use when located less than 500 feet from any existing residence; high occupancy and land-intensive uses; duplex, multi-family or multi-structure residential; animal boarding facilities, riding or equestrian training facilities, veterinary clinics; feed lots; industrial uses.
- Prohibited Uses – CAFO operations exceeding Idaho Code §67-6529; off-premise signs; commercial junkyards; septage farms.

#### Rural Community/Commercial Zone Specifications

- Unregulated Uses – unrestricted class uses; light class uses; moderate class uses.
- Uses Requiring County Permits – one (1) single-family primary or duplex residential structure and accessory residential structures on a buildable parcel or lot; accessory dwelling unit; primary structures for light and moderate class uses; driveway access to a county road.
- Conditional Uses – multi-family or multi-structure residential; light industrial uses with primary structures exceeding 5,000 square feet; commercial uses with primary structures exceeding 5,000 square feet; industrial uses; off-premise signs; land-intensive and high-occupancy class uses; **mobile home parks**.
- Prohibited Uses – CAFO operations exceeding Idaho Code §67-6529; commercial junkyards; gravel pits, quarries and mines; commercial kennels and animal boarding facilities; septage farms; feed lots.

The application for the rezone is accompanied by a request to amend the comprehensive plan land use map from Agriculture/Forestry to Rural Community/Commercial. Idaho Code and local law require a rezone be in accord with the adopted comprehensive plan, which includes the county's adopted policies and future land use map.

The Boundary County Comprehensive Plan (the Plan), at Section 13.5.8., the Agriculture/Forestry designation is described as, "Those rural lands which compose the remainder of private land in the county not designated for higher development density often due to limited availability of water, roads and fire protection. These lands

constitute the largest private ownership zone district and have historically been used for many purposes, especially agriculture and silviculture. Land use specifications should reflect this diversity of uses, permitting a range of light uses in these large parcels where they will not impact neighbors. Moderate uses may also be located where the distance from neighbors limits impacts. More intensive uses may also fit well within this zone, but should be considered as conditional uses subject to public hearing to determine if impacts may be mitigated. A residential development density of not less than 10 acres should be imposed.”

At Section 13.5.4. of the Plan, the Rural Community/Commercial designation is described as, “Those areas of the county located primarily in municipal areas of impact and within unincorporated communities which combine both low-impact commercial enterprises and residential use to create a “small town” ambiance suited to the needs in each particular community. In addition to areas within the Bonners Ferry and Moyie Springs areas of impact, such designation would include the communities of Porthill, Eastport, Naples and, to a lesser extent, the Three Mile area. The purpose of this designation is to enhance the small town contributions to local economies and to promote the rural qualities they afford. Compatible commercial uses would impact neighbors with low or intermittent noise levels. Traffic impacts should be expected in this zone. More intensive enterprises may be considered as conditional uses provided applicants can mitigate concerns such as noise, dust, and odor. Commercial development standards should include provisions to preserve aesthetic appeal and to contribute to the rural qualities esteemed in this area. Minimum lot size should be dependent on the level of available public services; in those areas where municipal water and sewer service are available, minimum lot size could be reduced to as low as ¼-acre; where either public water or sewer, but not both, are available, a minimum lot size of not less than one acre should be imposed; where neither public water or sewer is available, a minimum parcel size of two and one half acres should be imposed to accommodate private well and septic system.

Idaho Code §67-6511 requires the governing bodies confirm the rezone is consistent with the community’s adopted Plan: *(c) The governing board shall analyze proposed changes to zoning ordinances to ensure that they are not in conflict with the adopted plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction, the governing board may require the request to be submitted to the planning or planning and zoning commission or, in absence of a commission, the governing board may consider an amendment to the comprehensive plan pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be considered for amendment pursuant to paragraph (b) of this subsection.*

Due to the request for the rezone not being consistent with the adopted Comprehensive Plan Map, the county must also consider an amendment to its comprehensive plan. These files are being considered concurrently, as permitted by Idaho Code.

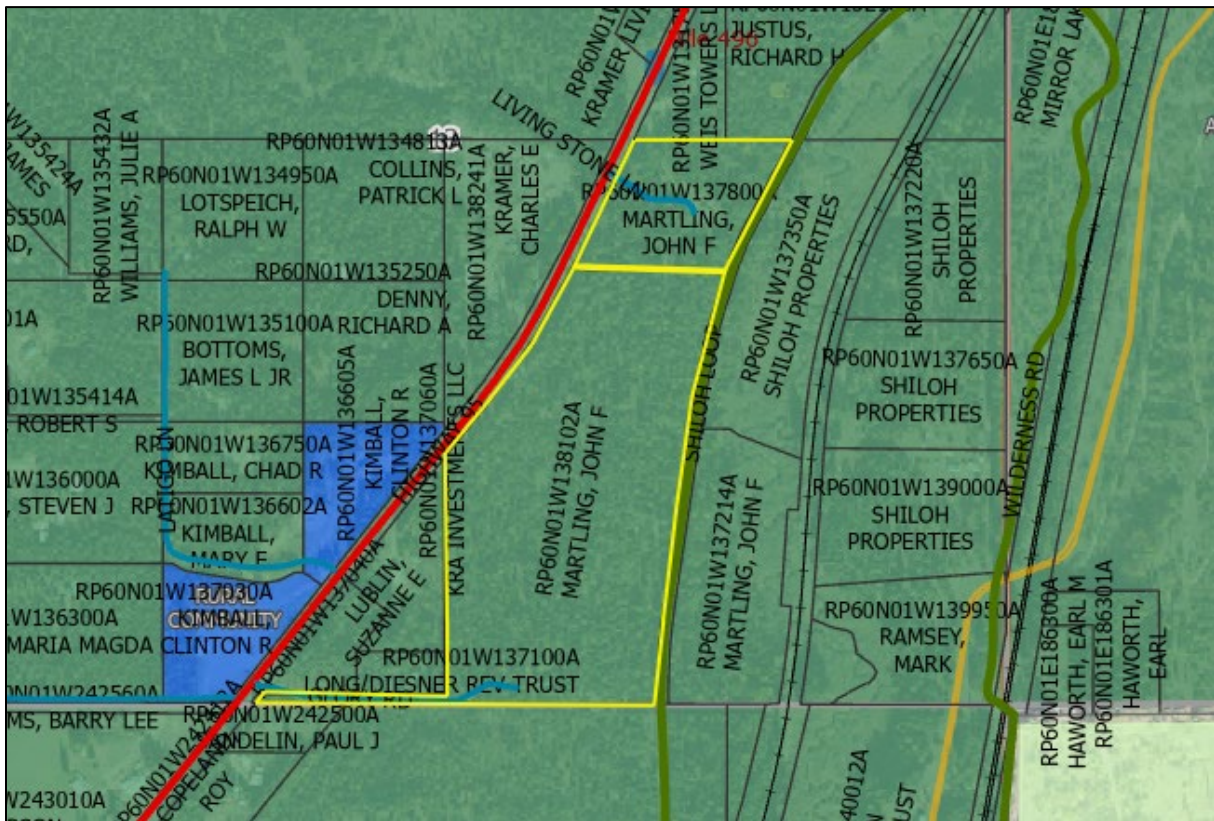
#### **AUTHORITY**

- Idaho Code §67-6511 (Local Land Use Planning Act) provides authority for adoption and amendment of zoning maps.
- Boundary County Land Use Ordinance, Section 18.1.2., provides authority for all Boundary County property owners to apply for a zone change, “in which no specific use is identified but wherein such zone amendment would better serve those property owners affected.”
- Boundary County Land Use Ordinance, Section 15.9., Agriculture/Forestry zoning criteria
- Boundary County Land Use Ordinance, Section 15.13., Rural Community/Commercial zoning criteria
- Boundary County Comprehensive Plan



**COMPREHENSIVE PLAN**

Orange = Agriculture/Forestry; Green = Prime Forestry



**ZONE MAP**

Dark Green = Agriculture/Forestry; Blue = Rural Community/Commercial; Light Green = Prime Forestry

<b>PROJECT SETTING</b>	
<b>Access</b>	Living Stone Lane & Gypsy Lane (private) from HWY 95 (public)
<b>Current &amp; proposed uses</b>	Residential; Mobile Home Park
<b>Hazardous Areas</b>	Special Flood Hazard Area Zone X, Panel 1602070720B, no floodplain/floodway
<b>Zoning overlays or special areas</b>	None
<b>Zoning &amp; Comp Plan designations of site</b>	Agriculture/Forestry
<b>Surrounding Comprehensive Plan &amp; Zoning designations</b>	Agriculture/Forestry; Prime Forestry; Rural Community/Commercial
<b>Surrounding uses</b>	Residential; Vacant; Timberland; Commercial; Industrial

**AGENCY/STAFF COMMENTS:**

The following agencies were routed for comment on June 20, 2024, July 25, 2024, and September 03, 2024: Boundary County Addressing (R&B), Ambulance, Assessor Commissioners, Road & Bridge, Boundary School #101, Cabinet Mountains Water District, Idaho Department of Environmental Quality, Idaho Department of Transportation, Panhandle Health District, and the South Boundary Fire District.

**Boundary Co. Addressing:** *No addressing concerns.*

**Boundary Co. Assessor:** *A mobile home park appears to be a conditional use in both the existing zone and the proposed zone. Yet, changing the zone would allow for 40 times the allowable residential density. It should be considered how many parcels/landowners would then follow this path, and what the results would be.*

**Planning Staff Note:** The Agriculture/Forestry zone does not permit mobile home parks, only the Rural Community/Commercial zone permits them.

**Boundary Co. R&B:** *ITD access, no issues with R&B.*

**Cabinet Mountains Water District:** *The current water hook up will supply water for a max of two additional trailers. However, the landowner has been given 45 days to disconnect from the fifth trailer he is currently hooked up to because it is a violation of CMWD’s policy. The landowner’s current 2-inch water meter has enough capacity to supply a total of 6 trailers.*

**Planning Staff Note:** The CMWD noted the 45-day disconnection requirement on June 20, 2024.

**Idaho Dept. of Transportation:** *The project proponents were granted an access encroachment permit (1-22-004) in 2022 on US-95, mile point 495.86 for a 20’ approach at an existing location and updated for a private road for multi-family mobile homes on parcel RP60N01W137800A. This permit is only approved for the uses currently in place. Any future commercial, industrial or residential developments, or divisions of land will require a new permit and could trigger the need for a traffic impact study for improvements to the highway; i.e., turn lanes. Any future changes in use of the access approved in this permit requires a review by ITD and the existing permit is subject to become VOID.*

*RP60N01W138102A is a 46-acre parcel accessing US-95 by a 20’ residential approach at Glory Road, a private road. The proposed comprehensive plan amendment and zoning change from Agriculture/Forestry to Rural Community/Commercial has the opportunity to increase the number of trips generated at the parcel. ITD is requesting additional information on the proposed number of additional residences or commercial development on this parcel. Any change in use from single-family residential to multi-family or commercial uses requires the applicant to apply for a new approach encroachment permit due to a change in use.*

**Planning Staff Note:** ITD’s comments were sent to the applicants on September 10, 2024, for the additional information requested by ITD to be provided by the applicants. The applicants stated they spoke with ITD, stating, *I spoke to Rob at ITD and we are good to go with the old permit. It was for up to 8 mobile homes and I am only asking for 6 total.*

**Panhandle Health District:** *PHD has multiple permits with final inspections/approvals for subsurface sewage disposal systems for parcel RP60N01W137800A. Permits are:*

- 05-11-47455 (3-bedroom dwelling) 250gpd



- 06-11-98335 (4-bedroom dwelling) 300gpd
- 09-11-118853 (2-bedroom dwelling) 200gpd
- 09-11-118854 (2-bedroom dwelling) 200gpd
- 22-11-152004 (2-bedroom dwelling) 200gpd
- 23-11-05686 (2-bedroom dwelling) 200gpd

Any dwelling construction that creates new or increases wastewater flows must have an approved location for the wastewater to go. Any development with combined flows at or above 2,500 gallons per day must meet all large soil absorption system criteria.

**PUBLIC COMMENTS**

Landowners within 300’ of the site were mailed notices on September 03, 2024, and September 06, 2024, and notice was published in the Bonners Ferry Herald on September 05, 2024.

Two (2) public comments were submitted with the application from tenants of the existing mobile homes, are included in the record and summarized below. No other public comments were submitted to the record at the time of the completion of this staff report.

**Karen Mc Carty:** (in favor) Ms. Mc Carty states she has been a tenant of the applicants for nine (9) years where the location of her home has assisted with her health issues. Ms. Mc Carty notes the applicants added other home sites for more rentals to pay for the increase in property taxes instead of raising rent and asks that the applicants be permitted to add the additional home sites.

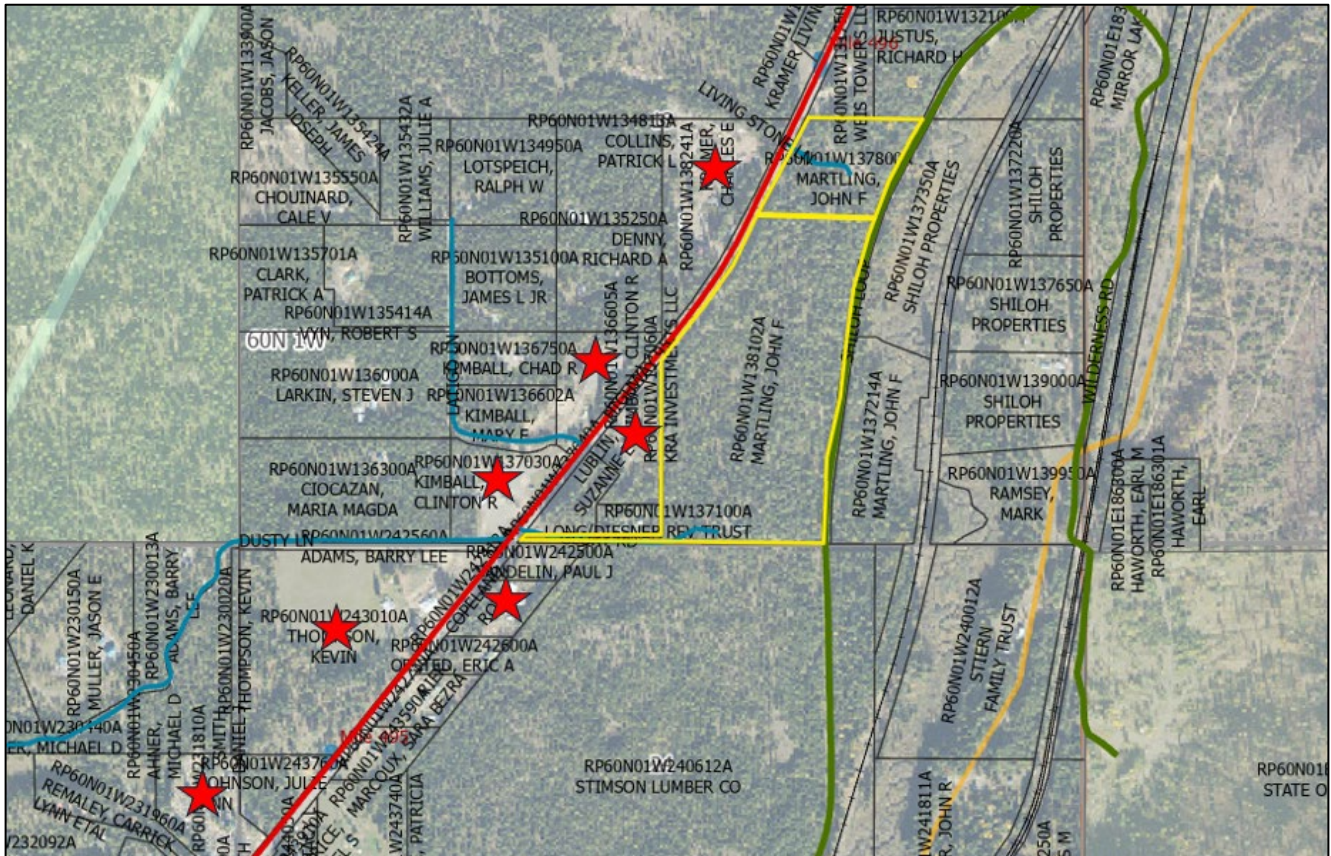
**Mark Dana:** (in favor) Mr. Dana and his wife are tenants of the applicants due to the affordable housing which he notes is lacking in the County and that the applicant is attempting to relieve. Mr. Dana notes the permitting requirements are archaic and bureaucratic hurdles and that he plans to relay this information to local media platforms.

<b><u>APPLICANT’S NARRATIVE</u></b>	
<b>Explain the reasons for the requested zone change.</b>	
	<i>John &amp; Pamela Martling are seeking to rezone two of their parcels to better reflect their current use. For the past 20 years Boundary County parcel RP60N01W137800A has been providing affordable housing in the form of four mobile homes. The tenants in the four mobile homes have lived there for many years, please see Exhibit 1 for letters from current residents. John &amp; Pamela are seeking to rezone both parcels to reflect its current use. John &amp; Pamela Martling live on parcel RP60N01W138102A and are requesting it be rezoned as well to avoid “spot zoning” as it is contiguous with the two Rural Community/Commercial parcels being RP60N01W137030A and RP60N01W136605A.</i>
<b>How does the proposed zone change relate to the adopted comprehensive plan policies?</b>	
	<i>Section 13.5.4. of the Comprehensive Plan quoted. Naples has been recognized by the comp plan as an area for Rural Community/Commercial zoning. It is also part of Boundary County’s comprehensive plan to PROVIDE affordable housing. The median income in Boundary County in 2023 was \$28,484.00. As of June 2024, the median list price of a home in Boundary County, Idaho was \$499.00. The result is that one would have to make 3-4 times the Boundary County median income to afford to purchase a median priced home. John &amp; Pamela Martling’s zone change request will support the comprehensive plan in both of these respects.</i>
<b>How will the proposed amendment affect public services such as sewer, water, and roads? Will extensions be required for water, sewer, or roads? Explain the proposed road and utility systems.</b>	
	<i>All utilities and access to HWY 95 are in place and fully permitted by respective agencies; Panhandle Health District, Idaho Department of Building Safety, ITD, and Cabinet Mountains Water [District].</i>
<b>Explain how the proposed zone change is compatible with the surrounding area.</b>	
	<i>Many of the surrounding parcels are used for commercial purpose. Some examples are RP60N01W138241A (Kramer Construction), RP60N01W243010A (Bee Safe Security), RP60N01W137030A (Turner Plumbing), RP60N01W136605A (Clint Kimball Company), RP60N01W231810A (Arrow Auto Salvage), RP60N01W242412A (Roy Copeland Heavy Equipment Repair), and RP60N01W137060A (Kra Investments, LLC). To the west and</i>

contiguous to the 40-acre parcel in this request is Rural Community/Commercial zoning. RP60N01W136605A (Clint Kimball Company) and RP60N01W137030A (Turner Plumbing). The property is currently zoned Ag/Forest and as such has ten (10) acre minimum for lot sizes. The south property line of the subject parcel is the southern border of Section 13, Township 60 North, Range 01 West. There are many lots in the immediate vicinity that are less than the ten (10) acre minimum. In fact, about one half (1/2) of the surrounding properties are under the ten (10) acre minimum required lot size. See list of 23, sub-10-acre parcels in the application.

**Planning Staff Notes on Applicant’s Narrative:**

- The Martling properties are separated by U.S. Highway 95 from the existing Rural/Community Commercial zoning to the west (RP60N01W136605A and RP60N01W137030A).



**AERIAL SHOWING PROPERTIES WITH COMMERCIAL USES ON SITE (RED STARS)**

<b>STANDARDS ANALYSIS OF APPLICABLE CODES AND COMPREHENSIVE PLAN</b>	
<b>Idaho Code, §67-6511 &amp; 67-6509</b>	<p>(a) Requests submitted to the planning and zoning commission shall be evaluated to determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction.</p> <p>(b) After considering the comprehensive plan and other evidence gathered through the public hearing process, the zoning or planning and zoning commission may recommend and the governing board may adopt or reject an ordinance amendment pursuant to the notice and hearing procedures provided in section 67-6509.</p> <p>(c) The governing board shall analyze proposed changes to zoning ordinances to ensure that they are not in conflict with the policies of the adopted comprehensive plan. If the request is found by the governing board to be in conflict with the adopted plan, or would result in demonstrable adverse impacts upon the delivery of services by any political</p>

	subdivision providing public services, including school districts, within the planning jurisdiction, the governing board may require the request to be submitted to the planning or planning and zoning commission or, in absence of a commission, the governing board may consider an amendment to the comprehensive plan pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be considered for amendment pursuant to paragraph (b) of this subsection.
<b>Boundary County Land Use Ordinance, Section 18</b>	Upon receipt of the Planning and Zoning Commission recommendation, the Board shall conduct a public hearing on the matter. Based on the findings and recommendation of the P&Z Commission, along with the application record, testimony, and staff analysis, the Board shall consider provisions of its ordinance and the comprehensive plan so as to develop reasoned findings to support a decision. The Board is not bound by the P&Z Commission but may adopt or incorporate their conclusions.

**ANALYSIS OF COMPREHENSIVE PLAN DESIGNATIONS & STANDARDS**

**Current:** The Plan, at Section 13.5.8., the Agriculture/Forestry designation is described as, “Those rural lands which compose the remainder of private land in the county not designated for higher development density often due to limited availability of water, roads and fire protection. These lands constitute the largest private ownership zone district and have historically been used for many purposes, especially agriculture and silviculture. Land use specifications should reflect this diversity of uses, permitting a range of light uses in these large parcels where they will not impact neighbors.”

**Proposed:** The Plan, at Section 13.5.4. of the Plan, the Rural Community/Commercial designation is described as, “Those areas of the county located primarily in municipal areas of impact and within unincorporated communities which combine both low-impact commercial enterprises and residential use to create a “small town” ambiance suited to the needs in each particular community. In addition to areas within the Bonners Ferry and Moyie Springs areas of impact, such designation would include the communities of Porthill, Eastport, Naples and, to a lesser extent, the Three Mile area. The purpose of this designation is to enhance the small town contributions to local economies and to promote the rural qualities they afford. Compatible commercial uses would impact neighbors with low or intermittent noise levels.

**Staff:** The sites are within the vicinity of Rural Community/Commercial-zoned parcels across Highway 95 west of the subject parcels but do not directly border those parcels. The subject parcels are completely surrounded by Ag/Forestry-zoned properties. The 10-acre parcel is used in a residential manner having four (4) residential mobile home dwellings on site that are rented out long-term. The 46.16-acre parcel is also used in a residential manner, having the single-family dwelling of the applicants. There are multiple commercial uses in the vicinity as noted by the applicants in their narrative statement, however, none of these uses include a mobile home park or similar use as proposed by the applicant. The subject sites are served by the Cabinet Mountains Water District, individual septic systems, and the South Boundary Fire District and are not located in or near any area of city impact.

Section 18.1.5.1. states, “It shall be the responsibility of the applicant, using forms provided by the administrator, to provide sufficient information, detail and data so as to demonstrate to the recommending and deciding bodies that the proposed zoning is compatible with the land to which it is proposed to attach, and that uses allowed thereon will not impose undue adverse effects on established uses in the area or undue burden on the provision of public services, including public schools.

Section 18.1.5.3.1 states the Planning and Zoning Commission may recommend to the Board of Commissioners: 1) approval of the applications; 2) table to allow time for review and approval of findings and conclusion; 3) disapproval when it is determined the proposal does not meet the criteria established by the comprehensive plan. Where a specific use is proposed and a lesser development application is



available and appropriate that would allow the establishment of that use, the Commission may discuss possible terms and conditions and direct the applicant and “administrator” to complete such an application to be forwarded to the Commissioners; 4) forward written considerations to the Commission when the Planning and Zoning Commission is split and unable to reach a consensus, with final action to be tabled to the next regular meeting to allow review and approval of written considerations with a motion and majority vote authorizing the chair to sign.

**ANALYSIS OF COMPREHENSIVE PLAN IMPLEMENTATION**

**Property Rights: Boundary County recognizes the primacy of the rights of property ownership as established by the United States Constitution, the Idaho State Constitution and the laws of Idaho, and recognizes that every property owner has both the right to the use of property as well as the expectation that adjacent land uses will not unduly abrogate that inherent right.**

**Staff:** Section 18.1. of the Boundary County Land Use Code provides the right to all Boundary County property owners to apply for a zone map amendment and due to the request for the rezone not being consistent with the adopted Comprehensive Plan Map, the county must also consider an amendment to its comprehensive plan. The proposal has the potential to increase the density of development through land divisions from a potential five, 10-acre+ parcels at the Ag/Forestry zone density minimum to potentially 56, 1-acre+ parcels at the Rural Community/Commercial zone minimum density where community water is available. If no community water from the Cabinet Mountains Water District, there is a potential for 22, 2 ½-acre+ parcels. The potential increase in density has the potential to impact neighboring parcels.

**Natural Resources: State and federal agencies provide extensive regulation sufficient to protect Boundary County’s natural resources. Developments impacting these resources are subject to requirements of state and federal agencies. Boundary County land use regulations should not duplicate these requirements or enforce them on behalf of other agencies. Nor should Boundary County attempt to represent or interpret the changing regulatory landscape on behalf of developers.**

**Staff:** The site has no mapped wetlands per the National Wetland Inventory map and is located in Zone X of the Special Flood Hazard Area designations, which does not include any floodplains or floodways. The proposal does not show a potential impact to any natural resources and the Idaho Department of Environmental Quality did not provide any comments on the file at the time of the completion of this staff report.

**Transportation (State Highways): Boundary County recognizes that highways maintained by the Idaho Transportation Department (ITD) comprise the primary arteries for the county ground transportation system and are essential to the transport of people and goods into, out of and within Boundary County. Boundary County land use policy is to maintain and improve the safety and efficiency of state highways within Boundary County through cooperation with ITD.**

**Staff:** Existing access is via Highway 95 for both parcels. The ITD was routed for review of the file (14.4.1.2.) and provided comments noting that any increase in development for the approved encroachment permit, #1-22-004, for the 10-acre parcel will result in a new encroachment permit and improvements being required. For the 46.16-acre parcel, any change from the single-family use to multi-family or commercial will also result in the requirement of a new encroachment permit and improvements. See ITD’s comments in full in this report.

**Public Services, Facilities and Utilities: Boundary County recognizes that public services, facilities and utilities are essential to public health and safety, but that the level of services desired varies among individual property owners and residents. Public services, facilities and utilities should be considered in rendering land use decisions specific to the use proposed so as to ascertain their suitability to accommodate the proposed use. Where utilities and services are limited or not provided, that disclosure is made so as to protect potential purchasers of property.**

**Staff:**  
**Sewage Services:** These sites are currently served by an individual septic system. Panhandle Health District has provided a list of permits on file for the subject sites.  
**Water Services:** The sites and established development are currently served by the Cabinet Mountains Water District who has stated that a max of two (2) additional hook ups are available for the 10-acre parcel.  
**Fire Services:** This site is located within the South Boundary Fire District, who was routed for review and comment on the proposal. No comments were provided.



	<b>Solid Waste Services:</b> The Boundary County Landfill is the main location for solid waste disposal. The proposal does not show a potential to negatively impact the Landfill.
	<b>School Facilities &amp; Transportation:</b> Boundary County appreciates the role the county’s public school system plays in the economic infrastructure, and will continue to provide School District #101 information and data on land use proposals, particularly subdivisions, and trends that the district may accommodate and plan for future facility and transportation needs, without burdening future development with added cost or regulation.
	<b>Staff:</b> Boundary School #101 was routed for review and comment on the file but provided no comments. The proposal does not show a potential to impact the school district in a negative manner. There is potential for an impact if the sites are subdivided at the Rural Community/Commercial minimum density of 1-acre to 2 /12 acres.
	<b>Hazardous Areas:</b> The Boundary County All-Hazard Mitigation Plan first developed in 2005 and to be updated regularly, offers the clearest assessment of naturally-occurring hazards in Boundary County, and forms the primary plan for responding to most natural disasters within Boundary County. The Boundary County All-Hazard Plan is a prime reference for Planning & Zoning considerations; one of the principle roles of county government is to protect the lives and property of its citizens, and county land use policy should establish development standards and restrictions to protect against potential hazards, particularly threats from wildfire, flood and ground failure.
	<b>Staff:</b> There are no known hazardous areas on site.
	<b>Special Areas or Sites:</b> Boundary County recognizes those sites and areas identified by the Idaho National Historical Society as being of historical significance. Boundary County has a collection of architecturally and historically significant structures, including barns, agricultural structures, cabins, schools and community halls which contribute to the heritage and rural characteristics treasured by county residents. Boundary County land use policy should promote the preservation of these structures through its support of the Boundary County Historical Society, but not through coercive means.
	<b>Staff:</b> There are no known special areas or sites located on the subject site.
	<b>Recreation:</b> Boundary County recognizes the importance of recreation to citizens and visitors and encourages the highest level of access to public areas in which recreational activities have traditionally been enjoyed. Boundary County should continue to be responsive to the citizens of the community to ensure a variety of recreational opportunities appealing to people of all ages.
	<b>Staff:</b> The proposal does not show the potential to impact recreational areas in Boundary County.
	<b>Population:</b> Boundary County land use regulations should be designed to accommodate a growing population while protecting the rural character and quality of life values most responsible for the attractiveness of our community. Boundary County should continue to monitor the latest and best available demographic data.
	<b>Staff:</b> The proposal does not show the potential to increase the County’s population unless the sites are subdivided at the Rural Community/Commercial minimum density of 1-acre to 2 /12 acres.
	<b>Community Design:</b> Boundary County encourages that development be designed to conform to the objectives established by this comprehensive plan, but sees no need to specifically establish regulation governing landscaping, tree plantings, or standards for community design, development and beautification, trusting instead that those who propose development will have their own vision of how their projects should look, and that their vision will be developed in the interest of being a good neighbor and in compliance with established law.
	<b>Staff:</b> The application states that the zone change is to allow for the expansion of the existing mobile home park on site. Mobile home parks are a permitted use in Rural Community/Commercial zone but prohibited in the Ag/Forestry zone. The proposed use would in accord with the community design of the Rural Community/Commercial zone but prohibited in the current Ag/Forestry zone.
	<b>Housing:</b> Boundary County recognizes the need for safe and affordable housing, and also recognizes that people have the right to build or buy the home that best serves their individual needs, desires and circumstances.
	<b>Staff:</b> The application notes the rezone is necessary to allow for the expansion of the existing mobile home park to add two (2) additional mobile homes to the 10-acre parcel where four (4) already exist. The application also notes these homes are considered affordable housing options in the area.
	<b>Economic Development:</b> The desire of this plan is to enhance the economic condition of Boundary County by influencing the development of policies that encourage enterprise, agricultural and forestry job development, industrial growth and commercial development in a way that will maintain the county’s rural qualities by ensuring compatibility within land use classifications. Small and home-based businesses found throughout the

county form the foundation of economic growth and development in Boundary County, and land use policies can continue to encourage their establishment and retention by minimizing regulation.

**Staff:** The application states that expansion of the mobile home park use is proposed to allow for two (2) additional mobile homes. The proposal would expand the mobile home park, a commercial and residential combination use.

**Land Use:** The purpose of this comprehensive plan and accompanying comprehensive plan land use map has been to gauge the will of the citizens of Boundary County so that land use and subdivision ordinances and a land use zoning map can be developed in accord with the goals established herein, bringing into balance the diverse views expressed.

**Staff:** The proposal was reviewed against the zoning regulations for the Ag/Forestry and Rural Community/Commercial zones along with Section 18.1. of the Boundary County Land Use Code in addition to the Boundary County Comprehensive Plan.

**PLANNING & ZONING COMMISSION RECOMMENDATION – BOTH MAPS**

<b>MOTION TO RECOMMEND APPROVAL</b>	I move to recommend approval of the request to amend the Boundary County comprehensive plan land use designation map and the zoning map from Ag/Forestry to Rural Community/Commercial, File #24-0119, finding that the proposal <b>IS</b> in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Zoning and Subdivision Ordinance, based upon the findings and conclusions as written [ <i>or amended – list amendments</i> ]. This action does not result in a taking of private property.
<b>MOTION TO TABLE</b>	I move to table or continue the hearing to [ <i>insert date, time and place</i> ] to allow further consideration of the proposed amendment or to allow review and approval of written findings and decision.
<b>MOTION TO RECOMMEND DENIAL</b>	I move to recommend denial of the request to amend the Boundary County comprehensive plan land use designation map and the zoning map from Ag/Forestry to Rural Community/Commercial, File #24-0119, finding that the proposal <b>IS NOT</b> in accord with the comprehensive plan and the criteria of Section 18 of the Boundary County Zoning and Subdivision Ordinance, based upon the findings and conclusions as written [ <i>or amended - state which findings/conclusions do not meet the standards</i> ]. This action does not result in a taking of private property.

**Draft findings and conclusions for discussion/adoption:**

1. The applicants are requesting approval to amend the Boundary County comprehensive plan and zoning maps from Ag/Forestry to Rural Community/Commercial on a 10-acre parcel and a 46.16-acre parcel.
2. The sites are located at 239 Glory Road (46.16-acre parcel) and 52, 75, 79, 83 & 90 Living Stone Lane (10-acre parcel)
3. The site is not located within any special flood hazard area.
4. The sites have no mapped wetlands on site.
5. The sites are not located within the Airport Overlay Area
6. The sites are not located in any city’s area of city impact.
7. The sites are served by an individual septic system, Cabinet Mountains Water District, and the South Boundary Fire District.
8. The current use of the 10-acre parcel is commercial and residential with an existing mobile home park with four (4) permitted mobile homes and one unpermitted mobile home.
9. The current use of the 46.16-acre parcel is residential with one, single-family dwelling on site.
10. Per Boundary County records, the four (4) mobile homes were permitted in 2005 and 2009 – files #05-26, #05-27, and #09-017 (for two (2) mobile homes in one permit) – when the 10-acre parcel and 46.16-acre parcel were combined.
11. The existing single-family dwelling on the 46.16-acre parcel was permitted under file #05-25 (issued 04/08/2005) when the parcel was 56.16 acres in size.

12. The four (4) mobile homes were permitted as follows:
  - a. File #09-017 issued 05/01/2009 for the placement of two (2) mobile homes
  - b. File #05-26 issued 04/08/2005 for a mobile home.
  - c. File #05-27 issued 04/08/2005 for a mobile home.
13. A conditional use permit, file #22-0120, was applied for and not completed due to being for a mobile home park in a zone where that use is prohibited.
14. A residential placement permit, file #22-0065, was applied for regarding a fifth mobile home and not issued due to the mobile home being an expansion of the existing mobile home park in a zone where that use is prohibited.
15. The Plan, at Section 13.5.8., the Agriculture/Forestry designation is described as, “Those rural lands which compose the remainder of private land in the county not designated for higher development density often due to limited availability of water, roads and fire protection.
16. The Ag/Forestry zone allows for a density minimum of 10 acres.
17. The Plan, at Section 13.5.4. of the Plan, the Rural Community/Commercial designation is described as, “Those areas of the county located primarily in municipal areas of impact and within unincorporated communities which combine both low-impact commercial enterprises and residential use to create a “small town” ambiance suited to the needs in each particular community.”
18. The Rural Community/Commercial zone allows for a density minimum of ¼-acre where community water and sewer services are available, 1-acre where community water or sewer services are available, or 2 ½ acres where neither community water nor sewer services are available.
19. Property Rights goals are provided at Section 14.2. of the Plan.
  - a. *Adoption of laws and regulations allowing “widest use” of land with assurance surrounding land uses are not unduly infringed upon.*
  - b. *Enactment of laws or land use decisions shall not constitute taking of private property.*
  - c. *Coordinate with state and federal actions.*
  - d. *All to be treated honestly and politely.*
20. Community design goals are provided at Section 14.11. of the Plan.
  - a. *Encourage best use of land.*
  - b. *Consideration of adequate transportation when lands are subdivided.*
  - c. *Design practices to retain natural vegetation.*
  - d. *Consider concerns of adjacent landowners.*
21. Land Use goals are provided at Section 14.14. of the Plan.
  - a. *Establish zone districts recognizing values of agricultural and timber lands, resources, centering areas for commercial and residential where infrastructure exists.*
  - b. *Develop compatible uses within districts.*
  - c. *Process to abate nuisances and unlawful uses.*