

KOOTENAI COUNTY

BOARD OF COMMISSIONERS

Meeting Minutes **Community Development**

January 26, 2023

10:00 A.M.

451 N. Government Way, Administration Building, Meeting Room 1A/B

The Kootenai County Board of Commissioners: Chairman Duncan, Commissioner Brooks and Commissioner Mattare met to discuss the following agenda items. Also present were Community Development Director David Callahan, Planning Manager Ben Tarbutton, Planner III Vlad Finkel, Chief Building Inspector Christina Garland, Legal Counsel Pat Braden, BOCC Communications Coordinator Jonathan Gillham, and Deputy Clerks Reba Grytness and Jennifer Conner.

- A. **CALL TO ORDER-** Chairman Duncan Called to meeting to order at 10:00 a.m.
- B. **CHANGES TO THE AGENDA (Action) - None**
- C. **CHAIRMAN'S OPENING REMARKS-** Chairman Duncan stated the public comment period has passed and for the audience attendees to raise their hands to show support of comments that they agree with instead of speaking out.
- D. **POLL FOR CONFLICTS OF INTEREST (Action) - None**
- E. **DELIBERATIONS (Action)**
 - 1. CUP22-0004 Reconsideration of AT&T WCF- Chairman Duncan stated the options for today's decision was to affirm the original decision, reverse the original decision, which would agree with the reconsideration request, or remand back to the Hearing Examiner or Community Development for further proceedings. Legal Counsel, Pat Braden confirms this is correct under State Law and that a reconsideration decision made by the Board of County Commissioners can be made on the basis of alleged failure to identify the nature of compliance or non-compliance with express approval standards, or for the alleged failure to explain compliance or non-compliance with relevant decision criteria. Either of those are grounds for invalidation of an approved permit, site specific authorization, or denial of the same on appeal.

Commissioner Mattare stated that after sitting down and listening to the information, he feels the BOCC made a mistake in its initial decision. As to the question of cell service availability, the applicants did not sufficiently prove that they were filling in gaps in cell service to a specified constituency. The provided maps were computer generated projections without supporting data. There was no way to understand the variables that are on the map that were imputed into the computer software. They did not provide real life data testing the strength of the radio frequency that they claimed did not have service. The burden falls on the applicant to prove that there are gaps between services. The other question pertains to the impact on the community and unintended consequences. The appellant claimed there was a current fire risk. The question is whether or not there is an enhanced fire risk, and if there is, would that impact the surrounding homes from being able to get fire insurance or have economic harm from an increase. These

questions were never examined. Propensity for lightning strikes to cause fires is very high in this part of the Country and it was not looked at to see how much more likely it would happen if a tower was constructed and how it would affect the surrounding community. There is a water scarcity and an existing fire danger. Commissioner Mattare did not think the setbacks were a significant issue. He recommended that the BOCC reverse its original decision.

Commissioner Brooks referred to research he did through the University of Illinois. Mr. Brooks stated he was told by the University there were no studies that would show increased lightning strikes in cell tower areas. There are no reputable studies regarding health risks from cell towers. If it can be shown that cell service was injurious to individuals, then it would be appropriate to remove all cell towers in Kootenai County. At both hearings the comments were anecdotal and he does not make decisions based on anecdotes. Commissioner Brooks would vote to affirm the original decision made to permit the cell tower.

Chairman Duncan stated that she was going to stand by her previous vote to deny the application due to lack of provided information to show gap in coverage.

Legal Counsel Pat Braden then asked for clarification as to whether, with the reversal of the initial decision, would the subsequent decision be a denial or would it be a remand?

Chairman Duncan stated it would be a denial.

Commissioner Mattare moved that the decision for CUP22-0004 be made a denial. Commissioner Brooks seconded the motion.

Commissioner Brooks	Nay
Commissioner Mattare	Aye
Chairman Duncan	Aye

Decision: **Deny original decision on reconsideration.**

F. BUSINESS-

1. Consideration of Reinstating Bedrock Commercial Sub Division MSP19-0003

Director David Callahan stated this subdivision has been expired for over a year. There have been no changed conditions since it was approved. The code does not give him the authority to reinstate it. Are the Commissioners comfortable with him going forward with reinstating it instead of starting all over? Chairman Duncan was fine with letting it go through and avoiding the applicant from having to go through more hoops. Commissioner Brooks asked if there was any indication that they wanted to move forward with this and if there is, to let them go forward. Planner III Vlad Finkel confirmed that there is interest in moving forward with the final plat application. They have not been able to move forward because of agency requirements that have not been resolved regarding access and improvement to a public road. Mr. Finkel is asking that it be reinstated for an additional two years. This is under the Post Falls Highway District and is located off of Beck Road and Bedrock Road, in Post Falls. The reinstatement has to be done prior to the road improvements issues being resolved. Pat Braden reminded that Board that the agencies will be contacted during the final subdivision process for compliance with the conditions of approval. All of that will be taken care of before the plat can be recorded. Commissioner Mattare asked if there would be impact fees related to this reinstatement. Mr. Finkel explained that impact fees go on the building permits not the plat itself.

Commissioner Mattare moved that the Bedrock Commercial Subdivision, MSP19-0003, be reinstated with a two year expiration timeframe. Commissioner Brooks seconded the motion.

Commissioner Brooks	Aye
Commissioner Mattare	Aye
Chairman Duncan	Aye

Decision: **Approved**

2. Wording clarification of purpose for Bulletin 77

Director Callahan informed the Commissioners that there are many bulletins for the purpose of outlining for staff procedural ways to deal with things that are not abundantly clear in the code. Bulletin 77 was written five years ago. Chief Building Official Chris Garland explained that the intent of this bulletin was to help aging family members be taken care of by having a single family dwelling instead of two. She feels that applicants have gotten away from using this provision for a family member that is aging and needs help, and that they are being turned into rentals. They are supposed to use a primary entryway and go through the primary dwelling to reach the secondary living quarters without the use of a secondary entrance. Chairman Duncan feels that separate entrances are very important and does not think she would be in favor of shutting off exits and entrances. She would like to revisit this discussion. Another major concern that the Chief Building Official has is that most of the plans provided have two levels/stories which brings up the question of what the permit holder's intent is? It wouldn't be good for an elderly person so are they going to use it as a rental?

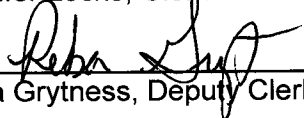
Legal Counsel Pat Braden stated that if the residence was being used outside of the signed statement and was being used as a rental, it would be a code violation. He has concerns as to whether or not Panhandle Health is okay with this policy because they normally base septic capacity needs on bedroom count. Garland said her intent was not to remove any of the secondary exits but that they needed to have a primary shared entrance for the house. You can have as many secondary exits as you need. Chairman Duncan remarked that the Regional Collation on Housing is working on a project to pair non-related families together.


Commissioner Brooks feels this is a complicated issue with changes from COVID and the cost of housing. Mr. Brooks believes this needs to be further discussed with a possible town hall meeting for people to be able to express themselves.

Commissioner Mattare would like to revisit this issue to try and find a way to help people who want to help aging relatives and also review the need for rentals.

F. **ADJOURNMENT**- Chairman Duncan called the meeting to a close at 10:30 a.m.

Jennifer Locke, Clerk

By: 
Reba Grytness, Deputy Clerk


BOCC: Leslie Duncan, Commissioner - Signed 2/7/2023
Chairman, Leslie Duncan