

BOARD OF COUNTY COMMISSIONERS
MINUTES OF PUBLIC HEARING
April 1, 2021
Skyler and Hilary Shannon

Commissioners Present: Chair Chris Fillios, Commissioner Leslie Duncan and Commissioner Bill Brooks

Commissioners via Conference: None

Commissioner Absent: None

Staff Present: David Callahan, Pat Braden, Vlad Finkel, Mary Shaw and Kathryn Ford



The purpose of the meeting was for the Board to conduct a public hearing as advertised in the *Coeur d'Alene Press*. Chair Fillios called the hearing to order at 9:00 am. The members were polled for conflicts of interest. No conflicts were expressed.

CONFLICT(S): None

CHANGES: None

Case No. ZON20-0010, a request by Skyler and Hilary Shannon to vacate a portion of an 80-foot wide unimproved private road easement within the plat of Shamrock Ranch II. The subject easement is located across Lots 12 and 17 in Shamrock Ranch II, as depicted on the plat of Shamrock Ranch II, recorded as Book G, Page 260 on June 14, 1995. The easement does not contain a road, as the terminus of Shoshone Avenue is located east of the subject portion of the easement. The purpose of the request is to vacate an unused easement, thereby expanding the buildable area of Lot 17, owned by the Applicant. Access to the surrounding parcels would not be affected, as each parcel is developed with structures that gain access from existing private roads. The Parcel Numbers on which the easement is located are 0-7227-002-012-0 and 0-7227-002-017-0, described as: SHAMROCK RANCH II, LT 12 BLK 2 and SHAMROCK RANCH II, LT 17 BLK 2 in Section 13, Township 53 North, Range 04 West, Boise Meridian, Kootenai County, Idaho. The Assessor's Identification Numbers (AINs) are 200332 and 189057. The subject easement is described as an 80-foot wide private road easement extending across the north side of SHAMROCK RANCH II, LT 17 BLK 2 and the southwest corner of SHAMROCK RANCH II, LT 12 BLK 2, as depicted on the Plat of Shamrock Ranch II in Section 13, Township 53 North, Range 04 West, Boise Meridian, Kootenai County, Idaho. The Hearing Examiner held a public hearing on February 4, 2021 and recommended denial. (*Vlad Finkel-Planner*)

Staff Presentation: Vlad Finkel, Planner, addressed the Board referencing a presentation stating the Applicant is requesting a Zone Change from Rural to Agricultural Suburban of an 18.22 acre parcel of land. The road accessing this parcel is not constructed to City or County standards. Agencies with jurisdiction provided their comments and recommendations. The public comments received were mixed for support and opposition. He stated the Hearing Examiner recommended denial based on the Comprehensive Plan – Border designation not being in compliance. If the Board decides to reverse the Hearing Examiner's recommendation they are obligated to hold a 2nd public hearing to re-affirm their decision.

Applicant Presentation: Connie Krueger, Applicant Representative, testified before the Board referencing a presentation. She added the site would not require extreme engineering since it predominately consists of land areas with less than 15% slopes. The area has changed and is suitable for the zoning that is being requested. Ms. Krueger stated the Hearing Examiner recommendation of denial was a surprise since this application is for a re-zone and other standards only apply with any future subdivision applications. She provided a summary for the request for the Board to consider approval.

Exhibits: B 1000 – Presentation submitted by Vlad Finkel.
B 1001 – Presentation submitted by Connie Krueger.

Public Testimony: Comment Sheets submitted: 8 + 2 Zoom = 10, Applicant– 3; In Favor-0, Neutral–0, Opposed–5 + 2 Zoom. The names and addresses of the individuals speaking or submitting comments are part of the record.

- Neighbors in the area stated they were not notified of the zone change request
- Development plans seem like a capital venture with not all the facts being presented
- Environmental impact on neighboring properties if the sites were to be developed
- Road cannot sustain the construction or additional neighboring traffic
- Water is an issue in the area
- Fire and emergency egress concerns with one way in and one way out
- Neighbors are living in the county for less density
- Neighboring residents are trucking in water
- Concerns for traffic, water, road infrastructure and environmental impact

Applicant Rebuttal: Hilary Shannon, Applicant, testified as a Native American she is a steward of the land. They purchased the land behind to have for family and no neighbors. She added they want to subdivide in the future to have property for their family members. Skyler Shannon, Applicant, added they are not building a high density development on their property. They also have a very productive well and have been asked by neighbors to pipe water to their area. Mr. Shannon stated they are trying to work through the county process with no capital backers for development but for future family home sites.

Motion by Commissioner Duncan seconded by Commissioner Brooks, to close the public hearing and enter into deliberations for **Case No. ZON20-0010 Skyler and Hilary Shannon** at 10:13 a.m.

Commissioner Brooks Aye
Commissioner Duncan: Aye
Chair Fillios: Aye

Decision: Approved

Deliberations: A majority of the Board agrees with the Hearing Examiner’s Findings of Fact, Conclusions of Law and Analysis. The proposed zone change and potential density increase cannot be adequately supported by the existing public infrastructure in the area. Specifically, while the City of Coeur d’Alene official did not raise any concerns with the proposed request, the current conditions of E. Fernan Hill Road and N. Frosty Pine Trail are inadequate to support the additional density of 8 residential lots. Board discussion had concerns regarding the Agricultural Suburban zoning classification not being consistent with the Comprehensive Plan “*Border*” designation area. Commissioner Duncan stated she would like to consider approval and have a second Board public hearing for that decision. This application is for a zone change only and any subdivision applications that may come before the Board can be considered at the time of application.

Motion by Commissioner Brooks seconded by Chairman Fillios, to uphold the Hearing Examiner’s Recommendation and deny the request for **Case No. ZON20-0002 Skyler and Hilary Shannon**.

Commissioner Brooks Aye
Commissioner Duncan: Nay
Chair Fillios: Aye

Decision: Denied

Deputy Clerk’s Signature: _____
April 1, 2021

DELIBERATIONS
MINUTES OF MEETING
April 1, 2021

Case Number: CUP19-0004

Case Name: Upper Columbia Corporation of Seventh Day Adventist

Commissioners Present: Chair Chris Fillios, Commissioner Leslie Duncan and Commissioner Bill Brooks

Commissioners via Conference: None

Commissioners Absent: None

CONFLICT(S): Each Commissioner stated they had been contacted at various times regarding this case since the public hearing. With each contact they stated they could not discuss details of the application while the case was active and did not engage in email correspondence. For the record, these attempted contacts would not affect their ability to make a decision.

CHANGES: None

STAFF PRESENT: David Callahan, Pat Braden, Mary Shaw, Vlad Finkel, Kathryn Ford

Case No. CUP19-0004, Upper Columbia Corporation of Seventh Day Adventist, for a Conditional Use Permit to establish a Private School and Place of Worship located on approximately 10 acres in the Agricultural zone. The proposal will be constructed over two phases, with the first phase being the school facility. The school facility will initially include grades K-8th, but will be expected to include Pre-K and possibly a future High School (grades 9th – 12th). The Applicant has estimated that the school will begin with 20 students and over the next five years they are anticipating the student body to increase to 100 students. The Applicant currently owns and conducts church services west of this site at an existing church facility located at 12940 N. Government Way. According to the narrative, upon completion of the first phase, the church congregation would temporarily hold their services in the gymnasium of the new school building. In the meantime, the existing facility is intended to be sold. The second phase would be the construction of the Place of Worship building, where the congregation would conduct their services on a permanent basis. The Applicant has estimated that the church congregation will start with 200 people and over the next five years they are anticipating the congregation to increase to 300 people. In addition to the School and Place of Worship uses, the Applicant is also proposing to use the facility for community educational and health related classes, with occasional free health clinics. Access to the site will be via new approaches from N. Rimrock Road and E. Lancaster Road, both being public roads in the jurisdiction of Lakes Highway District. Water will be provided by North Kootenai Water District. Wastewater treatment is proposed to be served by Hayden Lake Sewer District. The parcel number is 51N03W-05-6300 and described as: Tax # 25591 [SW-SW] in Section 05, Township 51 North, Range 03 West, B. M., Kootenai County, ID. The Hearing Examiner held a public hearing on September 17, 2020 and recommended denial. The Board held deliberations on October 8, 2020 and remanded the case back to the Hearing Examiner for RLUIPA consideration. The Hearing Examiner held a second public hearing on January 21, 2021 and recommended denial. The Board held a public hearing on March 11, 2021. The public hearing was closed and deliberations was scheduled for March 18, 2021. The Board attorney could not attend deliberations due to a family emergency. On March 18, 2021 the Board approved a motion to continue the deliberations to a date certain of April 1, 2021. (*Vlad Finkel-Planner*)

The Board of County Commissioners began deliberations regarding the public hearing testimony presented to them on March 11, 2021. Chair Fillios began by stating basically he was considering the pros and cons to be considered for 1) RULPIA guidelines and 2) Conditional Use Permit (CUP) Land Use Ordinance. In regards to

RULIPA the concern is the County would be imposing a substantial burden on freedom of worship on the church. Chair Fillios stated he believes they are not since the church currently has a facility that is in use on the same size parcel which does not prevent the right to assemble. He added the Applicant's testimony did not state why the current site cannot be used for expansion. The Comprehensive Plan is a guiding document to be taken very seriously and has to be met. Chair Fillios expressed the 42,000 sq. ft. proposed facility was not compatible with the area along with the issues with traffic which does conflict with parts of the Comprehensive Plan. He would vote to deny this application. Commissioner Duncan stated she reviewed this application under the CUP guidelines. She believes the conditions were not met since the proposal is not compatible with existing homes, neighborhoods and the natural area. She weighs the compatibility heavily and would uphold the Hearing Examiners Recommendation of denial. Commissioner Brooks added he also believes the use should be compatible. A vast majority of neighbors have pointed out different reasons that are not compatible with the area. He stated the Board does not want to disregard anyone's right to practice their religion and that is not part of his consideration. He would also uphold the Hearing Examiner Recommendation of denial.

Motion by Commissioner Duncan, seconded by Commissioner Brooks, to uphold Hearing Examiner's Recommendation of denial for **Case No. CUP19-0004, Upper Columbia Corporation of Seventh Day Adventist.**

Chair Fillios: Aye
Commissioner Duncan: Aye
Commissioner Brooks: Aye

Decision: Denied

Deputy Clerk's Signature: _____
April 1, 2021

DELIBERATIONS
BOARD OF COUNTY COMMISSIONERS SIGNING

Minutes Date: April 1, 2021

Case Name: Garnet Ranch 1st Addition (Phase II)

Case Number: MSF21-0001

Commissioners Present: Chair Chris Fillios and Commissioner Leslie Duncan

Commissioners via Conference: Commissioner Bill Brooks

Commissioners Absent: None

CONFLICT(S): None

CHANGES: None

STAFF PRESENT: David Callahan, Pat Braden, Mary Shaw, Vlad Finkel, Kathryn Ford

Case No. MSF21-0001, a request by Crystal Creek, LLC for final subdivision approval of **Garnet Ranch 1st Addition (Phase II)** consisting of 14 residential lots on 70.86 acres, of a preliminarily approved 25 lot residential subdivision in Case No. MSP19-0001 on approximately 166 acres in the Agricultural Suburban zone. On May 28, 2020, the Board of County Commissioners of Kootenai County approved final subdivision approval of Garnet Ranch (Phase 1) in Case No. MSF20-0005, consisting of 12 residential lots with Lot 7, Block 1 reserved for the current request (Phase II). The subject site is located west of N. McGuire Road and south of Burlington Northern Santa Fe (BNSF) railroad right-of-way. Domestic water for this plat is supplied by individual wells for Lots 3 through 7, Block 3 and Lots 5 through 7, Block 4. Furthermore, domestic water for this plat is supplied by East Greenacres Irrigation District for Lots 1 and 2, Block 3 and Lots 1 through 4, Block 4 as long as the dwellings are located inside the district boundary. Effluent discharge will be treated via individual septic and drainfields on all lots. The proposed lots in this phase will gain access from the extension of Hayden Avenue right-of-way. The subject Parcel Number is: 0L4700010070. The Serial /AIN Number is 343061. The legal description was revised on February 10, 2021 pursuant to Quitclaim Deed and Agreement Regarding Boundary Line Adjustment Instrument No. 2811370000. The Board held deliberations on March 25, 2021 and approved the final subdivision. *(Vlad Finkel-Planner)*

Vlad Finkel, Planner, stated the order was prepared as approved by the Board and ready for signature.

Motion by Commissioner Duncan, seconded by Commissioner Brooks, to execute signing the Order of Decision for **Case No. MSF21-0001 Garnet Ranch 1st Addition (Phase II)**.

Chair Fillios: Aye

Commissioner Duncan: Aye

Commissioner Brooks: Aye

Decision: Approved

Deputy Clerk's Signature: _____
April 1, 2021

DELIBERATIONS
BOARD OF COUNTY COMMISSIONERS SIGNING

Minutes Date: April 1, 2021

Case Name: Jeffery and Ginger Carter

Case Number: VAR20-0014

Commissioners Present: Chair Chris Fillios and Commissioner Leslie Duncan

Commissioners via Conference: Commissioner Bill Brooks

Commissioners Absent: None

CONFLICT(S): None

CHANGES: None

STAFF PRESENT: David Callahan, Pat Braden, Mary Shaw, Vlad Finkel, Kathryn Ford

Case No. VAR20-0014, Jeffery and Ginger Carter for a variance to the minimum lot size requirement of 4.500 net (5.000 gross) acres in the Rural zone. The subject parcel of land is 4.25 net acres in size created via a deed in 1992 by a previous property owner not in compliance with the aforementioned parcel size requirements. The purpose of this variance is to legitimize the status of the property and request building permits. Access to the property is from S. Wolf Lodge Creek Road, a public road maintained by the East Side Highway District. The parcel number is 50N02W-32-1900. The parcel is described as: SE-NE LYING N & W OF WOLF LODGE CREEK RD. in Section 32, Township 50 North, Range 02 West, B.M., Kootenai County, Idaho. The property is located at 5345 S. Wolf Lodge Creek Road. The Hearing Examiner held a public hearing on March 4, 2021 and recommended approval. The Board held deliberations on March 25, 2021 and approved the request.
(Vlad Finkel-Planner)

Vlad Finkel, Planner, stated the order was prepare as approved by the Board and ready for signature.

Motion by Commissioner Duncan, seconded by Commissioner Brooks, to execute the signing of the Order of Decision for **Case No. VAR20-0014 Jeffery and Ginger Carter**.

Chair Fillios: Aye

Commissioner Duncan: Aye

Commissioner Brooks: Aye

Decision: Approved

Deputy Clerk's Signature: _____
April 1, 2021