



# KOOTENAI COUNTY

## BOARD OF COMMISSIONERS

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### MINUTES

### COMMUNITY DEVELOPMENT PUBLIC HEARING

**MAY 11, 2023 6:00 P.M.**

The Kootenai County Board of Commissioners: Chairman Leslie Duncan, Commissioner Bruce Mattare and Commissioner Bill Brooks met to discuss the following agenda items.

Also present were Community Development Civil Deputy Prosecuting Attorney Pat Braden, Planning Manager Ben Tarbutton, Planner III Vlad Finkel, Planner II Amy Hilland and Deputy Clerk Jennifer Conner.

**CALL TO ORDER** – Chairman Duncan called the meeting to order at 6:00 p.m.

**OPENING REMARKS** – Expect civility

**CHANGES TO THE AGENDA** (Action) – None

**POLL FOR CONFLICTS OF INTEREST** (Action) – None

**PUBLIC HEARING** – (Action)

**1. CUP22-0010 Old Highway 95 Storage Reconsideration**

Pat Braden, Civil Deputy Prosecuting Attorney for Kootenai County states a requests for reconsideration was made for the Board to look at the final decision that was previously made, submitted in writing within 14 days of the signed order of decision. A request for reconsideration is limited to the grounds set forth in section 67-6535 of Idaho Code. New evidence can be submitted, and the burden of proof falls upon the appellant to show the Board's decision was erroneous. The substandard for a reconsideration contained in subsection 2a of Idaho code 67-6535 states that "failure to identify the nature of compliance or noncompliance with express approval standards, or failure to explain compliance or noncompliance with relevant decision criteria" shall be grounds for invalidation of a prior approval.

Amy Hilland, Planner II states CUP22-0010 was approved. The applicant was Jason Matheson. The appellant for the request of reconsideration is Bridget Coate. The parcel associated with the project is located south of Athol on Old Highway 95. This area is located in the Rural zone where a mini storage facility is permitted in the rural zone with approval of a conditional use permit. There is commercial property to the southeast of this parcel. The Land Use designation is Transitional and located within the area of city impact of Athol. Access is from Old Highway 95. The proposal is for sixteen storage buildings with

468 units, open storage for RVs and boats. Un-manned with no office or restroom facilities. Customers reserve units online, and the hours of operation for phone reservations will be Monday through Saturday 9am-5pm, but site can be accessed 24/7. Fencing, cameras, lighting and gate for security. The applicant proposed a 20 foot vegetative buffer, but a 5 foot buffer adjacent to the railroad which was made a condition of approval. An overpass is being constructed on the north end by the highway district connecting Parks road to Old Hwy 95. During deliberations held on March 3<sup>rd</sup>, concerns regarding fire mitigation measures, specifically fire walls and pond. Director Callahan stated fire walls are permitted, and the pond would be overseen by the fire districts. Also, the 20 foot buffer required with a condition of approval, which exceeds the 15 foot buffer requirements. The Board voted unanimously to approve the request. The request for reconsideration stated concerns regarding traffic on Old Hwy 95, light pollution, security, wildlife, and improper Public Notice-not grounds for reconsideration. Public comments for the reconsideration had 8 in support of the appellant, 2 opposing the appellant. Concerns were consistent with previous.

#### **APPELLANT:**

Bridget Coate: The property in question is rural and not zoned for commercial use. No prior knowledge of this project, did not receive anything in the mail, and did not see a sign, though we live across the highway. Commercial zoning increases neighborhood crime. Storage facilities bring theft and vandalism, as well as litter, drugs, noise, traffic and light pollution. Man found living in a storage unit in Post Falls. Documented that they bring vagrancy. They want to see the stars at night without the light interfering with the view. There are over 65 storage facilities from Post Falls to Sagle, with 3 new ones being built in their area. This development will have an impact on wildlife, deterring them. Do not want any wildlife to be pushed out. The city of Athol has load limits 6 months of the year to protect the roads.

#### **PUBLIC COMMENT:**

In Favor of Reconsideration:

*IN PERSON:*

Douglas Campney: We never got any notification of the public hearing, and no sign was ever posted. The lot has been completely cleared. No water or electricity, no fire suppression, and wildfires are common. The aquifer at risk of contamination. Old 95 very old and not well maintained. This area is zoned residential, how did this get through the cracks? Spoke with Brooke with KC who stated an Impact Study would have to be done on Old highway 95, and improvements found or deemed necessary would have to be addressed, but she suggested someone could be paid off. A facility with 600 units for a city with less than 700 will draw people in from all over.

Chair Duncan asks if he drives Old Highway 95 from Chilco to Highway 53?

Mr. Campney states every day

Chair Duncan states there are storage units on the corner of Ohio Match Road and Old Highway 95 on the west side. Are you familiar with those?

Mr. Campney states yes. Also while speaking with KC, they indicated the applicant was not given a permit to build a residence because there is no water, and also denied a permit for a camping and RV Park.

Rick Coate: Storage units are a necessity of life, but putting this type of commercial business in a residential area invites vagrancy, litter, crime. Would you want this next to your house? Should be in a commercial area. Why can't they put a house on 13 acres?

**ON ZOOM:**

Rick Baughman: Own property on 2 sides. All the trees have been removed and the structure is gone. It is all bare. Checked the property lines and there is not a 20 foot buffer, at most it is 10 feet. The allowance of this facility is stealing my security, privacy, risk of future offense, and risking the aquifer. Strongly opposed to this facility. We are the community in which you are supposed to be protecting.

**COUNTY RESPONSE:**

Pat Braden, Civil Deputy Prosecuting Attorney states the case law says if you are able to come and testify at a meaningful time in a meaningful manner during the proceedings, you have been allowed your due process, and the notice argument is waived. The Change.org petition shows the property was posted. The APO list shows who was given notice within a 300 foot radius. Cannot speak to any problems with the mail. Karl Granrath's analysis of compatibility is on point, showing it is compatible, especially given the highway districts plan for the overpass. The Board, with the approval asked for the vegetative buffer to be increased from 15 feet to 20 feet, and the applicant agreed with this. Construction would not have started yet due to this request for reconsideration. Idaho Fish and Game emailed with Ms. Hilland stated the wildlife will be diminished due to the overpass. The fire flow requirement are set by the fire district. The original decision was properly made.

Amy Hilland, Planner II states an owner is allowed to log their property. Before construction, a building permit and site disturbance permit by a design professional are required. The site disturbance would address any stormwater, erosion, runoff, sediment control as well as any treatment of pollutions. The fire district is going to require a fire water pond with a volume of 60k gallons as well as a fire pump with a minimum rate of flow of 15 gallons per minute. Old Highway 95 is within Lakes Highway District jurisdiction. The UPRR Bridge Realignment Project (Overpass) will connect Parks Road to Old Highway 95. Final property boundaries the district will need to acquire will be based on the final design of the bridge project which is currently incomplete. A trip generation and distribution analysis will be required during the building permit application. Any outdoor lighting is required to be downward directed. There are existing deterrents for wildlife. Adjacent to Old Hwy 95, railroad to east and west, an airstrip to the northeast, heavy commercial use to east and Silverwood to the southeast. The overpass will likely be the main deterrent of wildlife. The site was properly noticed. A CUP requires a 500 foot radius for mailing. Returned mail does get scanned in as well.

**PUBLIC COMMENT:**

In Support of the County:

Jason Matheson: Hired a surveyor to measure the property lines to ensure the buffers will be met, and if the removal impedes on the buffer, trees will be replanted. We voluntarily asked for the buffer to be 20 feet because we care about what the neighbors feel. The engineers from Lakes highway stated traffic will be redirected to Old Hwy 95, and it is this overpass project that will be what increases the traffic. Rural zoning accommodates for this permit.

Bruce Mattare states people are tired of the growth. Recognizes this parcel is not suitable for a home being where it is. Important to keep good relations with the neighbors. How can you mitigate the litter and crime?

Jason Matheson states even though the property will be un-manned does not mean it will not be managed. Someone will be on-site daily. The facility will be monitored by cameras as well as the daily visits.

Bruce Mattare states he encourages talking with the neighbors to make sure their concerns are heard.

**REBUTTAL:**

Bridget Coate: We were not aware of the overpass. Not sure why Parks Road is going to be connected. They believe there will be a lot of litter since they are on a dead end road. Once all these buildings get put in, there will be no more wildlife. Do not want it or need it.

Motion by Commissioner Mattare to end public testimony, and enter deliberations.  
Seconded by Commissioner Brooks.

Commissioner Brooks	Aye
Commissioner Mattare	Aye
Chair Duncan	Aye

**DELIBERATIONS -**

Commissioner Brooks states he is in favor of the project.

Commissioner Mattare states he noticed at the first public hearing no one spoke up against it. Clearly something happened, but the County did the proper notice. This is not the type of property that a house could be built on. The overpass changes everything. There needs to be a better way for people to get notice in the County, like signing up for an alert system. There is no reason based on the information given that could compel me to change my original decision. Hope the applicant makes an effort to work with the neighbors.

Chair Duncan states there were several things rebutted sufficiently as far as the wildlife. The overpass will change the neighborhood. All the conditions have to be met. Understand where the neighbors are coming from. With the conditions, it should not change the nature of the neighborhood. The elements of the reconsideration were not met with the preponderance of the evidence. There is more that has to be done with building permits, site disturbance permits, and Community Development does check to make sure the conditions are being met. Keeping original vote to approve the project, and deny the reconsideration.

Motion by Commissioner Mattare to approve the project CUP22-0010 and deny the reconsideration. Seconded by Commissioner Brooks.

Commissioner Brooks	Aye
Commissioner Mattare	Aye
Chair Duncan	Aye

*RECONSIDERATION DENIED, ORIGINAL APPROVAL STANDS*

**2. ZON22-0004 KERR PROPERTIES:**

Vlad Finkel, Planner III presents with a PowerPoint presentation. Request by Kerr Family Properties, LLC for a rezone from Agriculture to Rural on 80 acres of land. Located at intersection of Highway 53 and N. Mountain View Road. Parcel is flat and heavily vegetated, but it is believed there has been an effort by the current owner to create an

access/logging road to the property, but no further activity. Comprehensive Plan is Suburban. When assessing a rezone, compatibility is taken into consideration. The existing pattern of the community and similar use in nature. This parcel is 80 acres, surrounded by parcels zoned Agriculture and Rural from 5-20 acres in size. To develop the property would be to rezone, because you are not allowed to subdivide in the Agriculture zone, and then submit for a subdivision, which was done with case # MSP22-0007. The applicant wishes to subdivide into 16 parcels of 5 acres. During agency comment period, an approach would need approval from ITD as the access would be from Highway 53. None of the agencies had any issues with the zone change as far as compatibility. During the first public comment period, 2 opposition received. During second, received 5 opposition and 1 neutral with concerns regarding increased traffic and existing road conditions which do not relate to the zone change. Based on the Comprehensive Plan, staff believes this is a text book case, and this request is on par with the designation. The Hearing Examiner recommended approval.

**APPLICANT:**

Jeramie Terzulli with Olson Engineering states the future land use map and being so close to the city of Rathdrum it is the progression to go from Agriculture to Rural to subdivide into 5 acre parcels. In regards to the neighborhood context within a radius of ½ mile to identify the parcel sizes which show 6 parcels less than 5 acres, 158 parcels of 5 acres gross, 23 parcels 10 acres, and 4 greater than 10 acres. There is one intersection that required a level of service grade that is when 70% service capacity is reached.

**PUBLIC COMMENT:**

None

Chair Duncan asked how the other parcels got carved up if they are all Agriculture zoned.

Ben Tarbutton responded stating it is likely this pattern occurred before 1995 when it was possible for divisions of land without a subdivision process, and any parcel less than 5 acres would have been created before 1973.

Motion by Commissioner Mattare to end public testimony, and enter deliberations.  
Seconded by Commissioner Brooks.

Commissioner Brooks	Aye
Commissioner Mattare	Aye
Chair Duncan	Aye

**DELIBERATIONS –**

Commissioner Mattare states we are engaged by the process of death by 1000 cuts. The Board is supposed to be the stewards of the County services, and we are stretching County services far beyond capacity. The services need to catch up to growth. Against growth, but okay with the idea that density cannot change with a zone change. Would like a CZDA to ensure the parcel size cannot be less than 5 acres.

Chair Duncan states the zoning will not allow for less than 5 acres, and an ordinance was passed allowing for only 1 septic per 5 acres. If the land is incorporated into a city, it is then out of our jurisdiction.

Commissioner Mattare states if it is going to be 5 acres, it is going to be 5 acres.

Commissioner Brooks states he is all for slowing down growth and going back to a simpler time,

but in this case we have done all we can. In the future if it is incorporated into a city we lose the power.

Chair Duncan states she is in favor of the project because it matches the surrounding area, but only approving the zone change, not the subdivision which will have its own hoops to jump through, and much harsher scrutiny.

Motion by Commissioner Brooks to approve ZON22-0004. Seconded by Commissioner Mattare.

Commissioner Brooks	Aye
Commissioner Mattare	Aye
Chair Duncan	Aye

*APPROVED*

**ADJOURNMENT** – Chair Duncan adjourned the meeting at 7:19 p.m.



Leslie Duncan, Commissioner - Signed 5/24/2023



Jennifer Conner, Deputy Clerk

