

BOARD OF COUNTY COMMISSIONERS
MINUTES OF PUBLIC HEARING
July 14, 2022

Commissioners Present: Chairman Chris Fillios, Commissioner Leslie Duncan, Chairman Bill Brooks via Zoom

Commissioner Absent:

Staff Present: Pat Braden, Ben Tarbutton, Amy Hilland, Jennifer Conner, Reba Grytness



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 6:00 P.M.

CONFLICT(S): None

CHANGES: None

CASE NO. ZON21-0002, Kellner Zone Change. The applicant is requesting a zone change from Agricultural to Rural for a parcel of land approximately 50 acres. The parcel number is 49N03W054300 and is described as: TAX#25543 in section 05, Township 49N, Range 03W. B.M, Kootenai County, Idaho. The subject site is located at 6434 S. Gozzer Road, Harrison Idaho.

Staff Presentation: Amy Hilland, Planner II, introduced the case with a PowerPoint presentation. Ms. Hilland explained how this parcel is located on the east side of Lake Coeur d'Alene and the property is contiguous but not a part of the Gozzer Ranch Golf & Lake Club PUD. Future proposals will not be an extension or expansion of the PUD. This is the only parcel on this peninsula that is zoned Agriculture and is surrounded by parcels zoned Rural and Restricted Residential. Agency comments did not have any abnormal requests. At the time of this hearing there was only one public comment and it was in opposition to the zone change. An additional public comment in opposition was also submitted to the Board of County Commissioners at the start of the presentation. A majority of the concerns were related to the future development, and not specific to the zone change itself. Ms. Hilland clarified that only the zone change could be addressed at this time. Future uses, such as a minor subdivision and golf course, require separate applications to be reviewed at time of submittal. Concerns specific to the zone change were potential spot zoning and not meeting required findings. According to the staff analysis the applicant has met all application requirements for the zone change. The zone change is compatible with the surrounding area and is consistent with the Comprehensive Plan. This zone change is not considered spot zoning. The parcel was previously zoned restricted residential but was changed to Agricultural in 1973. Ms. Hilland cited the Hearing Examiners May 5, 2022 recommendation to approve this zone change. The Hearing Examiner concluded the current zoning was inappropriate, the parcel is not conducive to crop production and Rural was more appropriate than that Restricted Residential. Furthermore, the parcel is consistent with the Comprehensive Plan and its policies, compatible with present and expected uses in the vicinity and adequate infrastructure is available

Commissioner Duncan asked the following questions:

“What is the restricted residential dwelling per acre?” Chairman Fillios stated that it was approximately 5 per acre. Ms. Hilland estimated that the resulting density could be upwards of 250 dwellings for the 50-acre lot.

“Can you have a golf course on agricultural?” Ms. Hilland answered “yes, with a conditional use permit process and at least 15 acres, which is the same for a rural designation.”

Applicant Presentation: Sandy Young with Verdis, applicant representative, started with the statement that this property and request has nothing to do with Gozzer Ranch. In the event that a conditional use permit is approved, it will not be an extension of Gozzer, it is simply to serve those three lots that may be subdivided Any concerns from the public would be addressed at the time of the Conditional Use Public Hearing. This is one of the few remaining parcels on the east side of the lake that is zoned agricultural. In her narrative she stated the soils are

not conducive to agricultural uses. The Gozzer family had used it to run cattle in the past but it was not a feed lot, manufacturing or any kind of slaughter house. It is in conformance with the Comp Plan and Country Designation in that residential subdivisions are encouraged to allow for both residential as well as nonresidential uses. Both the Golf Course and Lots were to be supported with the Country Designation. It does promote open space and a minor subdivision here will reduce the need to extend any infrastructure over a long distance. The three home sites will be self-contained as is the original home site. Since 1973 the County has seen over 800 zone request due to improvement and expansion of transportation corridors as well as protection through County Code and other agency requirements. Regarding public agency concerns, Verdis failed to acquire an approach permit from the highway district. This oversight has now been remedied. In the Country Designation, the County recognizes that small convenience stores, fueling stations and assembly and manufacturing plants are example uses in the Country Designation. This request is less impactful than any of those. Ms. Young cited the Staff Report and Hearing Examiner Report stating this request to change from Ag to rural is generally consistent with the Comp Plan. The applicant is requesting a zone change from Ag to Rural, both of which are zones inherently consistent with the Country Plan. This applicant is not asking for Restricted Residential use and does not generally attend (?) on intensive development. There is compelling evidence that this parcel is not suited for Agricultural use, therefore, a zone change is necessary for the full use of this land and is still consistent with the Country Designation. The Hearing Examiners approval is cited and that this request of designation will do much to preserve and protect the character of that adjoining area.

Exhibits: B-1000 – Presentation submitted by Amy Hilland
B-1001 – Public Comment-email received after the deadline. Amy Hilland asked if it can heard. Chairman Fillios agreed to accept.

Public Testimony: Zoom Comment: 1 Opposed. Comment sheets submitted: Applicant-2, In favor-0, Neutral-0. Opposed-2. The names and addresses of the individuals speaking or submitting comments are part of the record. Resident spoke to public concerns related to increased traffic and Highway 97 road conditions and Gozzer Road. Water and sewer availability, and the potential for a major subdivision going in to this area.

Applicant Rebuttal: Sandy Young, if this were to be a part of Gozzer we would have a public hearing for that expansion. The County envisioned that there would be development. Whether its east or west side of the lake, so the Country Designation was established to be sure it was done orderly, large lot development as well as low intensity commercial. If it happens, the golf course is not commercial. The time to discuss this is at the CUP public hearing. All agencies had no objections, the Hearing Examiner noted we met all requirements of the Comp Plan as well as the five things we must justify in the code that would allow for a zone change.

Motion by Commissioner Duncan, seconded by Commissioner Brooks, to close the public hearing at 6:30 p.m. and enter into deliberation for Case number ZON21-0002

Commissioner Brooks	Aye
Commissioner Duncan:	Aye
Chair Fillios:	Aye

Deliberations: Bill Brooks stated concerns about the ongoing deterioration of I-97. “I am not going to approve anything that would add to the traffic on 97. That’s pure and simple. I don’t care what the future plans for the parcel might or might not see, I don’t care what the golf course or anything else would make any difference to me. If it brings more people up and down 97, I’m opposed to it.”

Commissioner Duncan stated “The matter before us is zone change only. There is no development predicted or projected. We can’t examine that for the zone change. The zone change is appropriate. They went for Rural instead of Restricted Residential so they are limited to 10 subdivisions instead of 250. Allowing this to remain agricultural would be a disservice to the property owner. Having fifty acres they should be allowed get more use from it then agricultural allows. Some of the agricultural uses would denigrate or hurt the quality of life around there. Putting

it to more rural uses would be more appropriate. If future uses come up we will handle those one at a time and look at those on their merit, but the merit or the zone change is appropriate in this case.”

Chairman Fillios states “Going from a twenty acre Ag to a 5 acre Rural minimum appears to be compatible with the surrounding area. While theoretically it could go to Restricted Residential, that doesn’t concern me as much. The Comp Plan also seeks to try and preserve the rural character. Water is a potential concern no matter the use whether it is a golf course or residential development, but we can’t go there. The fact of the matter is there is going to be some level of water use, which may be excessive, but that is going to depend on the application. The other thing is Route 97. The State has said they don’t want to put any more money into it, that it’s largely patchwork. ITD previous report stated accidents occurred mostly on a mid-summer sunny day, where obviously you would have most of the traffic. So that is a concern. The other concern is that agencies are very reluctant to say no. In Chairman Fillios’ opinion, the reason for that is Appointed Official employees of the different agencies fear the Legislators because the Legislators consider us bureaucrats. Well bureaucrats or not some of these people are experts in their respected fields. The problem is they go cowardly when it comes to a time when they have to say no. My concern with Route 97 is we should have never allowed wide scale development. It is what it is at this point and I understand the property rights that are inherent to the individual, the opportunity to go to a conforming use with the other five acre parcels in the area but am also concerned about the State’s lack of attention to the route so therefore, I cannot support this proposal.”

Commissioner Duncan added that “ITD does have a project on I-97 in the next twelve months and will provide the details of this project to Chairman Fillios. This is a huge misstate (misstate or mistake?) to deny this zone change. They have crossed all the t’s and dotted all the i’s and leaving it like this is actually a detriment to the property owner and to the area.”

Chairman Fillios added “If you leave it as Agricultural, with the argument is it not appropriate, whatever use the land may be put to if it’s put to agricultural use well obviously you’re going to have fertilizer. Some of that fertilizer is going to seep into the lake and then we get the phosphorus situation. The Governor or Legislator just allocated 20 Million dollars for phosphorus reduction. If it’s another application, residential or a golf course, once again we will get into the fertilizer situation and the phosphorus and the other nutrient load that’s going to result.”

Commissioner Duncan, stated “Once again we cannot consider future use. This is a zone change plain and simple.”

Chairman Fillios, stated “Any zone change that turns a blind eye to potential future use is a mistake and while we are not addressing a specific use and I have not addressed a specific use, I still think this is open to a variety of uses that potentially pose a hazard.”

Motion: In Case No. ZON21-0002, Commissioner Duncan moved to approve the proposed Zone Change. Chairman Fillios seconded it for the vote.

Commissioner Brooks	Nay
Commissioner Duncan:	Aye
Chair Fillios:	Nay

Decision: Denied

Chairman Fillios adjourned the meeting at 7:02 P.M.



Deputy Clerk’s Signature:
July 14, 2022

A handwritten signature in black ink, appearing to read "Rosa [unclear]".