



# KOOTENAI COUNTY

## BOARD OF COMMISSIONERS

### Meeting Minutes

#### Community Development

August 10, 2023

10:00 A.M.

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

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

Staff present were Community Development Director David Callahan, Planner III Vlad Finkel, Planning Manager Ben Tarbutton, Civil Deputy Prosecuting Attorney Pat Braden, Administrative Manager Reba Grytness, Deputy Clerk Jennifer Conner, and Planner III Adam Knight.

- A. **CALL TO ORDER-** Chair Duncan called the meeting to order at 10:00 a.m.
- B. **CHANGES TO THE AGENDA-** There were no changes to the agenda.
- C. **CHAIRMAN'S OPENING REMARKS-** This is deliberations for items 1 and 2. Item 3 we will be ending public testimony and entering into deliberations. Chair Duncan agreed to letting one individual speak on item 3 for 3 minutes as she did not see the written comment submitted prior to this meeting. The last item, the discussion of the Comprehensive Pan, will be postponed if there isn't enough time before the next meeting.
- D. **POLL FOR CONFLICTS OF INTEREST-** There were no conflicts of interest.
- E. **DELIBERATIONS-**
  - 1. **MSF22-0005 The Club at Rock Creek Townhomes-** Planner III, Vlad Finkel started with a PowerPoint presentation. This is for a major final plat application request by The Club at Rock Creek. The applicants would like to final plat a 12 lot major subdivision with 6 residential lots that have a duplex on each. There would be zero lot lines. Requirements have been met for fire wall protection and all other building code requirements on final inspection. The new lots would be approximately 1/8<sup>th</sup> acre in size. No further landscaping is required.

Commissioner Brooks asked if there is any guarantee that the trees would not be removed. Mr. Finkel stated that they would not be removed as there is a condition of approval that stated the need for landscaping to meet the requirements of zero lot line structures.

Commissioner Mattare moved that the Board approve MSF22-0005, The Club at Rock Creek Townhomes. Commissioner Brooks seconded the motion.

Commissioner Mattare	Aye
Commissioner Brooks	Aye
Chair Duncan	Aye

2. **MSF23-0003 Diagonal Estates**- Planner III, Vlad Finkel started with a PowerPoint presentation. This is a request for 5 residential lots on 25 acres. They would each have individual wells and septic tanks. There is a new private road constructed off of Diagonal Road that will be privately maintained and meets the highway districts standards. The CC&Rs and road development agreement are currently being finalized. There are no outstanding issues that would prevent this from moving forward with an approval.

Commissioner Mattare asked if we are sure the CC&Rs are being applied to the individual lots. Mr. Finkel stated that they are required to reference each lot within the plat to be part of the road maintenance agreement.

Commissioner Mattare moved that the Board approve MSF23-0003 Diagonal Estates.  
Commissioner Brooks seconded the motion.

Commissioner Mattare	Aye
Commissioner Brooks	Aye
Chair Duncan	Aye

3. **ORA22-0001 Cd'A Reservation Re-Zone Continuation from 7/13/23 Public Hearing**- Public comment by Jennifer Jager Darakjy stated that she is opposed to the zone change even though she doesn't want to subdivide it is against her rights to rezone.

Commissioner Mattare moved that the Board end public testimony and enter into deliberations.  
Commissioner Brooks seconded the motion.

Commissioner Mattare	Aye
Commissioner Brooks	Aye
Chair Duncan	Aye

Commissioner Mattare read a statement regarding the Cd'A Reservation Re-Zone request (see attached). He asked the Board to consider allowing for voluntary rezoning for those property owners on the reservation who wish to opt into it and direct Community Development to develop a new code amendment to restrict subdivisions on the reservation to no less than 10 acre lot sizes temporarily for a minimum of two, preferably three years so that water studies can be completed in the area and the community and Board have a chance to review any new development will not affect existing home owner's wells. He asks that the Board consider this recommendation.

Commissioner Brooks stated that people don't fully understand the Tribal rights on that land. This is a problem. He would like the property owners to be given time to state whether or not they want to be rezoned and then take up the rezoning again subject to the water availability studies.

Commissioner Mattare added that a lot of homeowners in this particular area don't realize that the disclosure requirements by sellers are not the same as other parts of the Country. Water has been adjudicated for years on reservation land and there is no requirement for sellers to disclose that. Buyers are just not aware of these issues. It would be prudent to try and get as much information to make a good decision and make sure the community is a part of that.

Chair Duncan stated that the Board is not going to approve it the way the Planning and Zoning Commission has given it to them. Pat Braden confirmed that there will need to be another public hearing.

Commissioner Mattare moved that there will be another public hearing on October 12, 2023 regarding the opt in zoning on the Tribal Reservation land as well as staff to prepare a draft of a code amendment

limiting lot sizes to no less than 10 acres for a temporary period of three years and that we accept

additional testimony on water issues and what the County could possibly do to protect existing citizen's wells. Commissioner Brooks seconded the motion.

Commissioner Mattare	Aye
Commissioner Brooks	Aye
Chair Duncan	Aye

F. **BUSINESS-**

1. **Comprehensive Plan Discussion-** Community Development Director David Callahan discussed the need for funding to do a Comprehensive Plan update of the data. The estimates for a fully new comp plan could be a half million dollars and a quarter of a million for an update. He would like to take this discussion back to the Planning Commission to see if they want an update or a completely new plan. At the least the data does need to be updated efficiently and economically.

Commissioner Mattare would like to see a snapshot of what people would like to see from their local government today given the rapid change that this community has experienced in the last few years. He is in favor of evaluating the expense of it. Chair Duncan asked if this information has to be updated by Constitution or State Statue. Director Callahan replied that there is no requirement to have the plan updated. Pat Braden stated having the data to support whatever Comprehensive Plan update comes out makes it both legally stronger and stronger in the court of public opinion.

G. **ADJOURNMENT-** Chair Duncan adjourned the meeting at 10:36 a.m.

Jennifer Locke, Clerk

By: Reba Grytness  
Reba Grytness, Deputy Clerk



BOCC: Leslie Duncan, Commissioner - Signed 8/15/2023  
Chairman, Leslie Duncan



# Commissioner Mattare Statement

## DO NO HARM

We often associate that creed with the medical profession

I believe that it should also apply to the BOCC, especially when it comes to water

A while back a farmer in Benewah County was irrigating a hay field

- a. It affected surrounding residents' wells
- b. He stopped irrigating out of concern for his neighbors

Those people were fortunate to have a considerate farmer stop watering his field so his neighbors' wells would not be affected – but that's not the norm.

- We know that new wells can affect existing wells
- We know that water is less available in the southern part of the county than compared to the prairie
- We know that the financial burden for a new well can cost upwards of \$50k to \$100k and even more depending on how many drilling attempts need to be made. For most people this can be a devastating expense.

By allowing unrestricted and irresponsible growth to occur in this community, this is how the BOCC can allow longtime citizens to be harmed...and we can affect this outcome.

The Board of County Commissioners, in my opinion, has a duty to prioritize the welfare of the current county citizens over those who want to move here...and that means limiting the ability of one to subdivide their properties if it affects existing residents ability to have water.

Water is a real issue in this county, like it is in most of the west, and we (as a Board) increase the likelihood of harm to existing citizens if we allow for more density without considering its effects on existing citizens' wells.

The Board has received information that there are plenty of recent wells that produce significant volumes of water. But that information is merely a snapshot at the time the wells were found and tested. It does not take into account all the drilling attempts to find water that failed, which could significantly affect how that data is viewed.

Further, there is no data to show how existing wells are being affected by new wells over time. Waiting to hear from longtime citizens that their wells are running dry due to new growth is (I believe) a grossly negligent policy and should never be contemplated by this Board or any other. I believe this Board should be looking at ways to ensure that developers prove that new wells will not affect existing wells.

Conversely ... I do not believe that we should ram our policies onto homeowners unwillingly. It breeds contempt and an adversarial stance between government and citizens.

Instead, I prefer government to provide good information to citizens, and in this case hope that with that information they can come together and decide as a group what is best for their community and seek the BOCC to memorialize that desire into a new code or zoning change.

At this point it is my understanding that the Tribe is somewhere within 12 to 18 months away from having real data on water in that area. I believe that it is prudent that the community have access to that data so that everyone can have an opportunity to evaluate it and even have it reviewed by third parties if they so choose.

Until we can look at more comprehensive water reports, I am concerned about those property owners who have no ties to the community and are wanting to subdivide their land into major subdivisions purely for profit motives. This is where we can put a temporary pause on such development until we can know for sure as much as we can that these new homes and their accompanying wells will not affect those people who currently live there.

I recommend that this Board consider allowing for a voluntary rezoning for those property owners on the reservation who wish to opt into it and instruct Community Development to develop a new Code Amendment to restrict subdivisions on the Reservation to no less than 10 acre lot sizes for a minimum of two years, preferably three, so that the water studies can be completed in the area and the community and Board have a chance to review and establish a way to ensure that any new development WILL NOT, and I repeat, WILL NOT, affect existing homeowners' wells.

I ask that the Board consider this recommendation as a viable option for this community today.