



KOOTENAI COUNTY

BOARD OF COMMISSIONERS

Meeting Minutes

Community Development

August 17, 2023

9:00 A.M.

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

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

Staff present were Community Development Director David Callahan, Planner III Vlad Finkel, Civil Deputy Prosecuting Attorney Pat Braden and Deputy Clerk Jennifer Conner.

- A. **CALL TO ORDER** - Chair Duncan called the meeting to order at 9:00 a.m.
- B. **CHANGES TO THE AGENDA** - There were no changes to the agenda.
- C. **CHAIRMAN'S OPENING REMARKS** - There were no opening remarks.
- D. **POLL FOR CONFLICTS OF INTEREST** - There were no conflicts of interest.
- E. **DELIBERATIONS**
 - 1. CUP22-0017 Crossroad Storage: Vlad Finkel, Planner III states this request on behalf of Hughes Trust to establish a mini storage and rental warehouse facility. The subject property is located on the Prairie, southwest of Prairie Avenue on Meyer Road. The 20 acre parcel was recently created through a large lot exemption from a total acreage of 104 acres. The subject property is zoned Agriculture with a Comp Plan designation of Transitional. Located within the City of Post Falls Exclusive Tier which has certain standards and guidelines. The primary requirement is all development have public sewer and water connections, which would require the parcels to be annexed into the City to be able to meet those requirements. The initial request consisted of 15 storage buildings 5,100-21,600 sq ft in size, on-site office and caretakers facility, outdoor storage, domestic water supply, and effluent discharge treatment by septic and drainfield. The initial comments from the City stated the proposal was in conflict with the ACI agreement. The City had rejected the request for annexation. The City also had concerns with the future connection with Killdeer Avenue. The applicant revised their site plan to meet the City of Post Falls requirements. The only outstanding issue was the effluent discharge. The day before the public hearing with the Hearing Examiner we received the comments from Post Falls stating the applicant must enter into the Consent to Annexation Agreement. Staff originally recommended denial, only because we did not have the new information before the staff report was written, however, due to the new information staff has changed their mind and recommend approval. The Hearing Examiner recommended approval based on the City requiring the Consent for Annexation Agreement be done before development.

Commission Mattare moved that CUP22-0017 Crossroads Storage be approved. Chair Duncan seconded the motion.

Chair Duncan	Aye
Commissioner Mattare	Aye
Commissioner Brooks	Absent

Approved.

2. ORA23-0001 LUDC Title 8 Amendment re; Code Enforcement: Pat Braden, Civil Deputy Prosecuting Attorney states the changes will be to section 8.8.601 regarding the notice of violation in which no stop work order issued to be mailed via first class mail, and stop work order and associated initial notice of violation be mailed via certified mail. The second change is 8.8.603b which would allow the director to impose a civil penalty only for a recorded violation. Also in 8.8.603d stating no abatement of property or foreclosure on a lien securing any civil penalty imposed pursuant to this section shall occur unless the property has been found to be a public or moral nuisance by a court of competent jurisdiction.

Commission Mattare moved that ORA23-0001 deliberations be rescheduled to September 14th at 10:00 am. Chair Duncan seconded the motion.

Chair Duncan	Aye
Commissioner Mattare	Aye
Commissioner Brooks	Absent

Rescheduled

3. MSP22-0004 Lakestone Estates: Commissioner Mattare read his statement (attached). Chair Duncan read her statement (attached). Both commissioners recommend the applicant work with the highway district to see if there are any other options regarding the road.

Commission Mattare moved that MSP22-0004 Lakestone Estates be approved with the One-Way Road as Lakes Highway District is requiring as a condition of approval. Chair Duncan seconded the motion.

Chair Duncan	Aye
Commissioner Mattare	Aye
Commissioner Brooks	Absent

Approved

F. **BUSINESS** - There were no business items.

G. **ADJOURNMENT**- Chair Duncan adjourned the meeting at 9:24 a.m.



Jennifer Locke, Clerk

By: 
Jennifer Conner, Deputy Clerk

BOCC: Leslie Duncan, Commissioner - Signed 8/29/2023
Chairman, Leslie Duncan





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BRUCE E. MATTARE

Lake Stone Estate Decision

This subdivision is an unusual situation. Normally surrounding communities are against new development. But this time the community is welcoming of its prospective new neighbors. The main issue against this new subdivision is not with more density, but rather a road through it for emergency vehicles.

Because of this community feedback, the BOCC attempted to address the issue by kicking it back to the Highway District to approve a gate for emergency access. In hindsight it was not a feasible option given the judiciary precedent against such gates on roads.

Consequently, the Highway District opted for a compromise to make the road ONE WAY and return the subdivision back to the BOCC. The community did not agree and, as such, the community sought for the BOCC to remain steadfast in requiring a gate.

Unfortunately, the problem now is that people don't like the rules that apply here. The developer followed all of the rules, even when it caused significant delays. Further, the rules established that there were plans for a throughway from the neighborhood to that proposed sub-division and, after decades, it was becoming a reality.

While I agree that there should be a throughway for both emergency vehicles and a second way for residents to egress, especially when you look at the significant fire hazards associated with this area, I believe it does not have to be a convenient way for people to drive through that part of the neighborhood.

There are options that could perhaps be explored with the Highway District, like reducing the width of the road and adding multiple speed bumps, that could discourage additional traffic on that new road. To understand how such a throughway can affect a neighborhood, one only look at Walnut Street between Highway 95 and Government Way. The number of signs for people to drive slowly, and the speed enforcement there, gives just about anyone an idea of how challenging these situations can be for residents.

But the reality is that the BOCC cannot arbitrarily change or go against the established rules because the community doesn't like them. That, I believe, would ultimately create a precedent that could be detrimental to the community but also lead to costly litigation the county would have a high likelihood of losing. Instead, the community needs to focus on changing the rules.

Fortunately, the state has provided a mechanism for that to occur, and as elected officials it is our duty to listen to the community and ensure that the current rules are a reflection of the sentiment of the community. This is something I'm looking forward to working on in the coming months.

Additionally and according to feedback from the community, there is a remedy to address elected officials who are not willing to listen. Replace the tone deaf ones in the next election.

The BOCC heard the community and attempted to address its concern about the road within the confines of the rules, but we cannot arbitrarily change them. Consequently, I support approving this subdivision and respectfully request that the developer work with the Highway District for approval on other ideas that could discourage additional traffic from the existing neighborhood through the new subdivision.

Bruce Mattare

Highway districts have authority in matters under their jurisdiction. The districts are separate taxing entities within the county with elected commissioners. For the BOCC to overrule their requirements would be to shut down the project completely. It's like ignoring the fire department requests in subdivision applications. The highway districts are subject matter experts and their commissioners can be recalled or voted out at the next election. The Lakes Highway District has not given the BOCC the choice to require a gate.

The matter before me is: has this subdivision met the requirements to be approved. The matter is not the demands of the neighborhood. When a subdivision or other land use is allowed by right in the zone, it should be approved. For a minute, consider Conditional Use Permits. The CUP request is not allowed by right but by conditions. In the CUP case, the neighbors' comments are weighted strongly yet differently than in a use by right application. So does the applicant's subdivision request align with Idaho and US constitutions, yes. Does it limit government overreach, yes. Does it comply with state statute, yes. And does it honor the right of the property owner to exercise his right to life, liberty and property, yes.

One should be particularly careful when applying rights to individuals verses the greater good or the masses. We live in a Constitutional Republic, not a Democracy. If the issue is allowed by law, then it should be granted based on the all of the circumstances in that law, in this case the Land Use and Development Code. A Democracy, or mob rule, is where the majority is given deference over the rule of law.

Public safety will be enhanced according to the first responding agencies with the one-way street due to the access granted to first responders in the event of fire or other dire emergencies.

I hear and recognize the fear that people have of losing their lifestyles if this one-way road is approved. In the almost 5 years I have been making land use decisions, I cannot recall one approval where the fear expressed in the meetings has come true. If residents want to challenge this decision, I recommend waiting until a year after all of the lots have been occupied to see really what the effect will be. So far all that has been presented is fear based and no scientific evidence that this development will increase traffic. Another option could be circulating a petition asking residents living on Fir south of Lakestone Estates to refrain from using the one-way through the development.

Leslie Duncan