

**MINUTES
PUBLIC HEARING**

**KOOTENAI COUNTY
PLANNING AND ZONING COMMISSION**

August 24, 2023

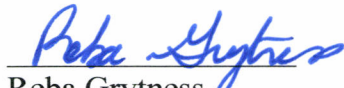
Planning Commissioners Present:

Madeline David
David Dean
Leander James
David Levine
Cheri Zao
John Malloy
Leander James
Paul Glader - Absent

Staff Members Present:

Ben Tarbutton
Pat Braden
Reba Grytness

MINUTES
PREPARED BY:



Reba Grytness
Deputy Clerk

MINUTES
REVIEWED BY:



Madeline David
Chair



The Planning and Zoning Commission is an advisory board to the Board of County Commissioners.

Call to Order:

Chair David called to order the Public Hearing for August 24, 2023 at 6:00 PM

Roll Call of Planning and Zoning Commissioners:

Commissioners David, Dean, James, Levine, Malloy, and Zao were present. Commissioner Glader was absent.

Change to the Agenda:

Chair David asked if anyone had changes to the agenda. No changes to the agenda were requested.

Chairman's Remarks

Chair David stated that the Public Hearing would address Case #ORA23-0002, FAMILY DIVISION EXEMPTION

Chair David recapped the normal Public Hearing process that would be used during the hearing.

- Planning Manager Ben Tarbutton will provide an overview of the proposed changes and answer questions that the Planning Commissioners may have. He will introduce the applicant's representative to provide further information.
- Next, the hearing will be opened for public comments.
- Once all comments have been heard, the commissioners will move to deliberations.

Poll for Conflict of Interest:

Chair David polled the commissioners to see if anyone believed the agenda item would create a conflict of interest for them. Commissioner James stated that if the issue were to be decided affirmatively, it is possible he could benefit by the decision should he decide to utilize the Family Division Exemption.

Chair David asked Planning Manager Tarbutton to begin his presentation. Mr. Tarbutton explained that this proposal is similar to one the Planning Commission and County Commissioners reviewed several years ago and decided not to pursue. He added that any member of the public can request consideration of changes to the Land Use Codes and that is the reason this request is before the Planning Commission again. He confirmed that the application that was submitted was complete. He then turned the presentation to Mr. Rand Wichman, representing the landowner who is sponsoring the proposed ordinance. Mr. Wichman represented his client's desires for the ability to deed property to family members during his lifetime. He reviewed the details of the proposed ordinance and fielded questions from Commissioners. Specific questions included the details of the three and five year "holding" designations. Commissioners expressed concerns that other compelling reasons for division of land do not receive comparable consideration, that such divisions within agricultural zones or on the Tribal Reservation would be difficult to reconcile with zoning requirements, and that sale of a gifted parcel following the holding period does not require the new owner to bring the parcel up to then current development standards.

Chair David opened the public comment session and provided the following guidelines for those members of the public who would be speaking.

- Each member of the public may speak for up to 5 minutes.
- Members of the public should provide their name and address for the official record.
- The public comment period is not a debate or discussion of issues. Commissioners may ask questions of commenters for clarification purposes but will not engage in back-and-forth discussion.

Two people, including the ordinance petitioner, Mr. Vince Hughes, spoke in favor of the proposed ordinance. Mr. Hughes emphasized housing costs as keeping offspring from being able to stay in the local area. One additional person favored the ordinance but did not wish to speak.

At the conclusion of public comment, Commissioner Levine made a motion to close the public hearing for Case #ORA23-0002, FAMILY DIVISION EXEMPTION. Commissioner Dean seconded the motion. All Commissioners voted aye by a roll call vote and the motion was approved.

Immediately following the vote, a member of the public was finally able to make a zoom connection and wished to speak. Commissioner Malloy moved to reopen public comment. Commissioner James seconded the motion. All Commissioners voted aye by a roll call vote and the motion was approved.

The caller spoke in opposition to the proposed ordinance, expressing that she believed it to be a loophole around zoning.

Following this comment, Commissioner Malloy moved to re-close the public comment period. Commissioner Levine seconded the motion. All Commissioners voted aye by a roll call vote and the motion was approved.

Deliberations:

Chair David opened the deliberation period by reviewing the purpose of the code amendment which is to allow exempt division of land to family members. Chair David asked for discussion from the Commissioners.

Commissioners discussed the similarity of the proposed ordinance to that of gifting through a testamentary trust, the concern that the minimum lot size proposed is 5

acres, that the proposal for this exemption does not require the land to be used for the specific reason it was granted, and that the provisions of the ordinance could incentivize development after the 5-year holding period.

Commissioner Malloy moved to recommend acceptance of Case #ORA 23-0002 Family Division of Land as written. The motion died for the lack of a second. Commissioner Levine moved to recommend denial of Case #ORA 23-0002. Commissioner Dean seconded the motion.

The motion was approved by a roll call vote of 5 to 1 to recommend denial of Case #ORA 23-0002, with Commissioner Malloy voting in the negative.

Adjournment:

The Public Hearing was adjourned at 7:23 PM.