

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
NOVEMBER 10, 2016**

CALL TO ORDER: Chair Kelly called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Cary Kelly; Vice Chair Glen Bailey; and Todd Sudick

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planner III Saegen Neiman; Planner II Jason Johnson and, Administrative Assistant II Jeannie Welter

PUBLIC HEARING:

AMENDMENT

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File AM145-16 – Amendment - Title 12 Text Amendment - Chapter 6 – Subdivisions Adding the definition and process of a Minor Land Division and redefining short plat and subdivision – This is an amendment to Title 12 (Land Use Regulations) to amend Chapter 6 Subdivisions to add the definition and process of a Minor Land Division as a division of four (4) or fewer lots and amend the definition of Short Plat to be the dividing of ten (10) or fewer lots and Subdivision as the dividing of eleven (11) or more lots and additional procedural and technical changes. The Planning and Zoning Commission at the regularly scheduled public hearing on October 6, 2016 recommended approval of the amendment to the Board of County Commissioners.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planning Director Milton Ollerton presented a PowerPoint of the project and previously circulated staff report, concluding this amendment request is consistent with the Bonner County Comprehensive Plan and the Bonner County Revised Code. He stated this is the ninth meeting the County has held related to this project.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record in favor of the changes:

Dale Peck
Patricia Sudick

Raphael Barta
Erin Mader

Susan Drumheller
Steve Lockwood

The following individuals spoke on the record natural of the changes:
John Finney Matt Nykiel Ken Haag

The following individuals spoke on the record in opposition of the changes:
Will Herrington Roderick Barclay

APPLICANT REBUTTAL: Director Ollerton responded to public comments stating the presentations for the project have been pretty consistent throughout the process and that any changes have been posted to the Bonner County Planning website.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

MOTION: Commissioner Sudick moved to approve (or Adopt) an Ordinance, number to be assigned, amending Title 12 of the Bonner County Revised Code, Chapter 6, Sections 611, 612, 650, 651, 652, 653, and 654 adding the definition application process for a minor land division and changing the short plat process to a minor subdivision further clarifying family exemptions and removing the limitation to 20 acre parcels, as recommended by the Bonner County Planning Department with the following changes: removal of the Panhandle Health District sanitary restriction on the Minor Land Division; change the Family (Split) Exemption hold over to two years from four years, and removal of notice to property owners except by State Statutes. Commissioner Bailey seconded the motion.

Roll-Call Vote:

Commissioner Bailey	yes
Commissioner Kelly	yes
Commissioner Sudick	yes

VOTED upon and the Chair declared the motion carried, unanimously.

12-611: SUBDIVISION DEFINED, EXEMPTIONS FROM DEFINITION:

- A. 1. "Minor Land Division (MLD) shall mean any division of land into four (4) or fewer lots or parcels.
 2. "Short plat" shall mean any division of land into five (5) to ten (10) lots or parcels.
 3. "Subdivision" shall mean any division of land into eleven (11) or more lots or parcels for the purpose of sale, lease, financing, gift or building construction, whether immediate or future.
- B. The term "subdivision" shall not include:

1. The lease of agricultural lands for agriculture or agricultural purposes.
2. The lease or conveyance of land to a governmental agency, quasi-public or public entity, or private or public utility, for utility placement or right of way purposes.
3. Mineral, oil or gas leases.
4. A lot line adjustment.
5. Land within a recognized cemetery which has been divided into lots or plats for the purpose of burial only.
6. The financing or leasing of any commercial or industrial lot or parcel, or portion thereof, in conjunction with the construction of commercial or industrial buildings on a single lot or parcel.
7. The financing or leasing of existing separate commercial or industrial buildings on a single lot or parcel.
8. The financing or leasing of apartments, offices, stores or similar space with apartment buildings, industrial buildings, commercial buildings or mobile home parks, so long as each unit or space is not separately owned.

12-612: ADDITIONAL REQUIREMENTS

A. Replatting Required:

1. Any division of land that has been platted shall not be divided again without replatting.

B. Recorded Survey Required:

1. Any division of land created pursuant to subsection C of this section must be surveyed and the survey recorded with the county recorder if any one parcel in the division is less than five (5) acres, or a 1/128 aliquot division of a section.

C. Family Division: The following division of land is exempt from platting: A division of unplatted land which is made for the purpose of a single gift or sale to the landowner's spouse, parent, child, sibling, grandparent or grandchild; provided, that the division complies with all of the following:

1. A division of unplatted land made for the purpose of a single gift or sale from the landowner's spouse, parent, child, sibling, grandparent or grandchild;
2. The landowner has not previously been exempt from platting requirements by a gift or sale of another single parcel to the same person;
3. An individual may only receive one parcel by gift or sale created pursuant to this exemption ever within Bonner County. Examples:
 - a. If a husband owns two (2) different parcels in Bonner County and wishes to divide both parcels under the provisions described in this subsection C, he can give his wife only one of the divided

parcels. However, he can give or sell the second parcel created by the other land division to his child, sibling, grandparent or grandchild.

- b. An individual may receive by gift or sale a single parcel from his father through the exemption process, but may not again receive from any other family member another parcel through the exemption process.

4. The parcel created and any remaining parcel meets the minimum zoning district requirements for the district in which the parcel is located;
 5. The parcels created conform with the design criteria set forth in section 12-621, subsections 12-623A through C, sections 12-624, 12-625, and subsections 12-626A and C of this chapter;
 6. A "notice of land division" is recorded in accordance with the provisions set forth at section 12-613 of this chapter for all parcels and remainder parcel created; and
 7. Parcels created pursuant to this subsection that are not retained by the grantee for a period of two (2) years from the date of recording are subject to the platting standards contained within this title. For any remaining parcel which has legal access and is not less than ten (10) acres, the two (2) year holding period shall not apply.
- D. The following is exempt from platting: The financing of any portion of a single lot or parcel; provided, that:
1. The portion separated for financing purposes and any remaining portion meet the minimum zoning district lot size requirements for the district in which the single lot or parcel is located; and
 2. The single lot or parcel remains in one ownership.
- E. The following is exempt from platting: The reservation of a life estate; provided, that the single lot or parcel remains in one ownership. (Ord. 501, 11-18-2008)
- F. The Director may waive minor land division requirements on lots of 20 acres or larger when the land can be described as a 1/32 aliquot description or larger.

SUBCHAPTER 6.5 – MINOR LAND DIVISIONS AND SHORT PLATS, PROCEDURES 12-650: MINOR LAND DIVISION PROCEDURE:

- A. Purpose: To ensure that land divisions comply with the applicable zoning regulations; to establish a ministerial review of all land divisions; and to expedite the process for those small divisions of land that conform to the existing zone regulations in which the division lies.
- B. Procedure: Applications for a minor land division which contain four (4) or fewer contiguous lots under common ownership may be processed as "minor land divisions" as set forth in sections 12-650 and 12-651 in this subchapter; provided, that no zone district change is required, or a planned unit development requested, to accommodate the proposed lot sizes.

C. Permit Required: Lots created by a minor land division, shall only be eligible for one minor land division for a period of not less than two (2) years. Land divisions done prior to the end of the two (2) year period shall be processed as a subdivision or short plat. (Ord. 501, 11-18-2008)

D. Application: The application for a minor land division shall include:

1. Application: Prior to recordation of a deed or MLD plat, each application for a minor land division shall be submitted on a form provided by the Planning Department with appropriate fees approved by the Board of County Commissioners.
2. MLD Plat: The legal descriptions and MLD plat shall be prepared by an Idaho State Registered Land Surveyor and shall include the plat certifications, descriptions, approvals and comments as set forth in BCRC section 12-646 and 12-647 with the following exceptions and inclusions:
 - a. Any new and existing easements or roads showing access to each property, considering alignment with existing or planned roads.
 - b. The parcels created shall conform to the design criteria set forth in section 12-621, 12-622 and 12-626A.
 - c. All lots shall include the sanitary restriction per Idaho Code 50-1326.
 - d. The lot size minimum shall be appropriate for the zone in which the division is located and the use thereof.
 - e. Resulting lots shall not be divided by boundary of any city, county, zoning designation or public right of way.

12-651: ADMINISTRATIVE REVIEW OF MINOR LAND DIVISION

Upon receipt and review of completeness, the Planning and Zoning Department shall:

- A. Review the MLD plat and supplemental information to determine compliance with these ordinances and prepare its report, which shall include comments received from other departments.
- B. Distribute the application to the County Surveyor, the Treasurer, the Road and Bridge Department and Flood Plain Administrator for review and compliance.
- C. Based on the above findings, the Planning Director shall approve, conditionally approve, or deny the application within 30 days, 45 days in an area of city impact (ACI), from the date a completed application was stamped received.

D. Once the Director has made a recommendation, the MLD plat map and the legal descriptions shall be signed as approved and transmitted to the Board of County Commissioners at the next Business meeting for review and possible approval.

12-652: APPLICATION / CONTENTS OF PRELIMINARY PLATS FOR SHORT PLAT PROCEDURE:

- A. Purpose: To define the procedures for which an administrative approval may be granted for the development of five to ten lots; to encourage small-scale development which conforms to the intent and scope of the Bonner County Comprehensive plan by providing a means for land development other than the regular subdivision process; and to expedite the subdivision approval of developments that conform with the Comprehensive Plan and the Subdivision Ordinance. The procedures of a regular subdivision apply to the short plat with the exceptions as outlined in this section.
- B. Application: Applications for short plats which contain five (5) to ten (10) contiguous lots under common ownership may be processed as "short plats" as set forth in sections 12-653 through 12-654 in this subchapter; provided, that no zone district change is required, or a planned unit development requested, to accommodate the proposed lot sizes.
- C. Permit Required: Lots created by a short plat, shall only be eligible for one short plat for a period of not less than two (2) years. Land divisions done prior to the end of the two (2) year period shall be processed as a subdivision. (Ord. 501, 11-18-2008)
- D. The contents of the preliminary short plat shall include all of the items set forth in subchapter 6.2 of this chapter. (Ord. 501, 11-18-2008)

12-653: SHORT PLAT, PROCEDURE FOR APPROVAL OF PRELIMINARY SHORT PLAT:

- A. The applicant shall file an application for a preliminary short plat with the planning department, pursuant to the procedures of section 12-268 of this title.
- B. Upon the determination of the planning director that an application is complete, the planning department shall:
 1. Send copies of the application, by first class mail, to public agencies and entities pursuant to section 12-268 of this title.
 2. Provide notice of the proposed short plat by first class mail to all property owners of record within three hundred feet (300') of the external boundaries of the land being considered. The notice shall, at a minimum, include the applicant's name, a description of the proposed short plat and the general location of the property. The notice shall advise of a thirty (30) day written comment period beginning the day after notice is mailed.

3. Provide notice to the official county newspaper of record. The notice shall provide a summary of the proposal and advise of the thirty (30) day comment period.
 4. When a short plat is in an area of city impact (ACI) the notice requirement shall be forty (40) days.
- C. At the close of the comment and review period and upon a determination by the planning director that the agency review comments have been addressed by the applicant, the planning department shall issue a staff report containing, at a minimum, proposed findings, conclusions and conditions of approval and a recommendation for action. Any response to the staff report by the applicant or interested parties shall be received by the planning department not later than ten (10) days after the issuance of the report.
- D. Following the ten (10) day response period, the planning director shall consider the application for the preliminary short plat, any comments received, the facts on the record and the standards for considering the short plat application and may:
1. Approve the preliminary short plat, as presented;
 2. Approve the preliminary short plat, as modified in any particular;
 3. Continue action on the short plat to a date certain, pending changes to be made in the application, the short plat design or the receipt of additional information;
 4. Deny the application for preliminary short plat;
 5. Recommend the board conduct a public hearing pursuant to the public hearing noticing requirements and procedures set forth in subchapter 2.6 of this title, based upon the extent of public comment or other contested factors in the case which warrant a full hearing before the board. This option may be selected at any time following the initiation of the review and comment period when evidence of the record supports it, to ensure prompt processing of the application for hearing.
- E. The planning director shall render a decision in writing, setting forth the ordinance provisions and standards used, all comments received from the neighbors and agencies, the facts of the application and such conclusions as support the decision. If the planning director denies the preliminary short plat, the planning director shall specify in the decision the actions, if any, which the applicant could take to obtain approval.
- F. As a part of its decision approving an application for a preliminary plat, the planning director may require the completion of improvements (such as roads, utilities or stormwater management controls) prior to final plat

approval. Improvements not completed prior to final plat approval are subject to surety agreements pursuant to section 12-644 of this chapter. In addition to the standards set forth in this chapter, the planning director may stipulate conditions to be placed on the final plat provided evidence of record is sufficient, which may include:

1. Minimizing adverse impacts on adjacent properties.
 2. Designating the exact location and nature of development.
 3. Requiring the provision of on or off site public facilities or services.
 4. Assuring the development is maintained properly.
 5. Provisions for setbacks that are greater than the minimum standards set forth in this title to mitigate effects of the development on wildlife, fisheries, wetlands, adjoining properties, or to reduce hazards due to floodplain, floodways, steep slopes or other physical constraints of the land, provided evidence is deemed sufficient to warrant greater setbacks.
 6. Safeguards to protect adjoining properties.
- G. The preliminary short plat shall be valid for a period not to exceed two (2) calendar years from the date of approval. At any time prior to the expiration date of the preliminary short plat, an applicant may make a written request to the planning director for an extension of the preliminary short plat for a period up to two (2) years, finding that conditions or applicable regulations have not changed so substantially as to warrant reconsideration of the proposed subdivision with respect to the public health, safety, and general welfare. The planning director may recommend such request for extension at any regular business meeting of the Board of Commissioners. The extension request must be approved or denied prior to the expiration date of the preliminary short plat.
- H. Any determination made by the planning director in the administration of this section may be appealed to the board by notifying the planning director in writing of the intent to appeal within ten (10) calendar days from the date of the determination. Upon receipt of the appeal, the planning director shall schedule the application for a public hearing before the board, allowing sufficient time for notice. The board shall conduct a public hearing and consider the application, in accord with the procedures set forth in subchapter 2.6 of this title. (Ord. 501, 11-18-2008)
- 12-654: SHORT PLAT, CONTENTS OF FINAL PLAT, PROCEDURE FOR APPROVAL OF FINAL PLAT:**
- A. The contents of the final plat for short plats processed under the short plat procedure shall be as set forth in section 12-646 of this chapter.

B. The procedure for processing final plats of short plats utilizing the short plat procedure shall be as set forth in section 12-648 of this chapter. (Ord. 501, 11-18-2008)

The Chair declared the hearing adjourned at 2:48 p.m.

Respectfully submitted, this 13th day of March, 2017,



Milton Ollerton, Planning Director