



**REGULAR COUNCIL MEETING and Public Hearings**  
**THURSDAY, DECEMBER 9, 2021 @ 6:00 p.m.**

**MINUTES**

**Present:** Mayor Eskridge and Councilors Brockway, Hoffman and Parkin. Staff Engineer-Hassell, Planners-Marley and Adair, Attorney-Snedden and Clerk-Hutchings.

**Others present:** see attached sign in sheets and Zoom attendance report

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE** – Mayor Eskridge called the meeting to order at 5:59 p.m. Councilor Parkin led pledge of allegiance. Roll call for attendance made.

**II. PUBLIC HEARINGS:**

1) File #SUB20-21 KOVA Enterprises – Marley read legal notice. Mayor asked for conflicts of interest or disclosures. Brockway disclosed conversation with MacDonald (P&Z Commissioner) prior to P&Z hearing. Advised by attorney not required to recuse. Parkin disclosed visit to site about 5 years ago before he was Councilor. Marley made reference to letter submitted ex-parte directly to council member which must be excluded from record and decision making. Received after the submission deadline for written comment and inappropriately via direct messaging to council members. Hoffman disclosed he had read the letter. Marley continued with review of staff presentation. Council questioned staff. Hoffman asked for clarification of 5' easement vs. city right-of-way (ROW). Hassell explained putting more responsibility on the owners for sidewalk, snow removal and drainage issues. Hoffman concerned about wetlands, questions about location of boring locations and older study about arsenic referenced. Hoffman also concerned about traffic and street lights. Brockway clarified whether easement or city ROW, still the 5' just a matter ownership. Hassell affirmed. Brockway asked about stormwater culverts and parking. Hassell addressed concerns about each. Parkin asked about exceptions to conditions, Marley explained was in council packet and attached to some public comments. Asked about last date of survey by Bonner County GIS about water on that property. Marley referred to USGS digital national inventory unsure of last date updated. Parkin asked if request for easement vs. dedication due to hardship for lot sizes. Marley reviewed application noting depth of lots and setbacks and applicant will address those to council. Mayor Eskridge also spoke about easement vs. city ROW. Snedden commented easements are more limited than an ownership or dedication. Easement would allow for enforcement of snow removal, snow storage and maintenance of sidewalks by property owners. Hoffman referenced lift stations Panhandle Health District noted. Marley referred to staff report and clarified sanitary restrictions being lifted prior to development which is done through a will-serve letter from the city's engineers. Applicant's representative, Jeremy Grimm of Whiskey Rock Planning and Consulting reviewed his presentation. Brockway asked about boring depth for study. Grimm confirmed and gave more detail about the phase I and II environmental studies. He specifically pointed to page 16 of his presentation referring the phases I and II environmental studies and explaining basic differences between the phases. Parkin asked if CCRs, Homeowner's Association, design standards will be required. Grimm suggested very likely. Council could make as a condition of approval. Parkin brought up standing water on property and existing cattails on slide page 10. Expressed concerns about pollutants and contaminants in the soil. Grimm referred to the proposed stormwater plan submitted and said applicant has no knowledge of pollutants or contaminants. Parkin asked for status of fence on north side of properties as required by UP within one year of the 2018 quitclaim deed. Grimm stated landowner does intend to have fencing installed, Council could make condition with approval. Parkin stated bores were not deep enough as railroad bed is built up 4' and asked if there will be further studies. Grimm referred to experts who agreed no further exploration is needed. Grimm strongly refutes contamination on site. Hoffman asked why Union Pacific (UP) hasn't commented on proposed north fence height. Grimm explained plan is preliminary. Council can add conditions of approval to be met. Hoffman referred to lot #13 and his concern of landowner potentially building several storage units on that lot and conducting a business from it. Grimm referred to city code for residential zoning districts, at this point intention is to build homes. No further questions from council. Mayor opened hearing to public comments at 7:36 p.m. Marley confirmed there were no comments in favor. Also confirmed there were no comments in neutral position. Opposing comments then offered. Joe Hughes, 617 Railroad Ave. expressed concerns of standing water on site. Stated his home experiences a river of

As approved by Council at meeting held 1/13/2022 (mch)

water under the crawlspace of his home. Asked if report 191 was available to the public, Marley confirmed. Natalie Huls, 617 Railroad Ave. talked about standing water, willows, cattails and grasses. Also referred to previous train derailment, possibility of evacuations. Claims unsafe and irresponsible to develop north side of Railroad Ave. Rowdy MacDonald, 633 Railroad Ave. stated there are contaminants of lead and arsenic clearly noted in the environmental study. Report was phase I study only and paid for by the landowner. Concerned with possibility of contamination of his pond during development excavation. Sue Markham, 605 Railroad Ave. expressed concerns with gas lines and explosions of home with potential derailment. Corbin Anderson, 621 Railroad Ave. has seasonal stream, runoff and water in crawlspace. Concerns about homes within 100 ft. of railroad, train noise, increased road traffic and stormwater. Angela Anderson gave written comment only regarding size of road, increased traffic and effect on her property. Opposing public comments closed at 7:49 p.m. Applicant rebuttal began. Referred to stormwater standard in city code, applicant's plan has been developed accordingly. Regarding wetlands, code standard was met for determining wetlands. Proximity to train tracks, not unusual in the area. As to water flowing through the site with potential contaminants, suggests city consider a full environmental assessment of all of Dover to determine which properties should be adversely possess because of contamination. In 2019 the applicant presented a development plan which council denied citing goal is to have a small scale, development in keeping with what exists in the city. No clarifying question of applicant from council. Public hearing closed by Mayor at 7:58 p.m.

2) File #ZC03-21 Bering Family – Mayor asked for conflicts of interest or disclosures. Mayor disclosed phone call with resident of Canoe Cove, attorney advises no requirement to recuse. Hoffman noted he's visited friends living on Canoe Cove. Attorney stated no reason to recuse. Public hearing opened at 8:31 p.m. Adair read legal notice and reviewed presentation. Marley commented on December 2 public letter with some erroneous references to non-conforming lots. Referenced city code 12-6-3 d.3, Idaho Code 67-6538 and city ordinances 64 vs. 130. Bonner County has no jurisdiction over city Also noted claim of illegal septic system unfounded. Staff presentation concluded. Council questioned staff. Parkin asked if both lots were current sewer customers. Hassell did not have information. No answer provided. Hoffman asked how many homes allowed per lot. Adair referred to staff report to confirm one single family dwelling per lot. Brockway had no questions of staff. Applicant's representative, Jeremy Grimm of Whiskey Rock Planning and Consulting reviewed his presentation. Issue is mostly cleanup of zoning on the lots. Some public comments referred to unfounded allegations. Hoffman has no questions of Grimm. Parkin asked why not included in subdivision at time of development. Asked if both parcels are running off of same septic tank. Grimm had no confirmation but assured sanitary lift would be required before development. Brockway had no questions of Grimm. Mayor opened for public comment at 9:08 p.m. Adair called for comments in favor, none offered. Neutral comments were asked for, none offered. Those in opposition began with John Erickson, 45 Canoe Cove spoke about legal non-conforming, previous trailer on property without permitting. Claimed no permits issued by city or county for septic service. Referenced Bonner County codes. Juli Erickson, 45 Canoe Cove stated no permit for mobile home or septic tank had been issued. Illegal septic was in operation for years. Brockway questioned sewer violations and mobile home issues and how relevant to zone change request. Erickson referred to workforce housing and intent of lot. Stated not a legal non-conforming lots. Andrea Berliner, 75 Canoe Cove brought up sewer concerns and trash found in Chuck's Slough and fact that neighbors use the water for irrigation. Joan Keller 62 Canoe Cove said 17 Canoe Cove is not legal non-conforming. Brockway asked what documentation Keller had to show legal non-conforming dispute. Keller claimed she reviewed easements, did not have documentation with her. Applicant rebuttal began. Commented on processes for future development. Hoffman asked for confirmation of year when parcels established. Grimm stated 1981 – 1982. Brockway lots created in 1981 and 1982 with two separate parcel numbers and tax deeds. Mayor closed public hearing at 9:20 p.m. Parkin not in favor of rezoning just for setbacks. Parcels reap benefits of Canoe Cove HOA especially snow plowing. Also referred to comments by IHD about driveway access. If approved would like stipulation that properties each have own sewer connection. Brockway noted not a component of the zone change issue. Not a part of zoning motion, will be part of building permit requirements.

### **III. NEW BUSINESS**

1) File #SUB20-21 KOVA Enterprises - Council began deliberations. Snedden informed council no additional evidence can be asked now that the public hearing has been closed. Standards of consideration slide from Marley's presentation available for council to review and consider. Parkin spoke about original proposal of storage units, looks like separation of units will encourage building of storage units with bunkhouses. Development will no support workforce, affordable housing. Biggest concern is with contaminants on site. Cited protection of property rights not

only for developer but for residents across the street. Brockway recalled 2019 plan for storage units. Area zoned residential and agrees this plan does meet the current zoning standards and comprehensive plan. Stormwater concerns are addressed by planners and engineers and will be required to meet city standards. Safety nets of ordinances and city code will ensure compliance. Hoffman agrees with Parkin's concerns. Asked if city can require phase II ESA. Brockway referred to studies provided by applicant which are relevant. Feels standards of requirements for environmental concerns was met and reminded of additional information provided after P&Z's first hearing. Mayor in agreement with Brockway's comments about confidence in city staff to address stormwater and other issues. Hoffman has concerns about pollution and runoff on the site. Maybe city should consider asking all development within Dover be required to provide ESA phase II reports. Brockway commented about sidewalks and pathways and would agree to installing concurrent with lot development but consider adding condition that developer complete all within a certain time frame i.e. 4 or 5 years. Asked for council discussion. Parkin pointed out P&Z was not unanimous as 2 commissioners had recused. Not in favor of continuing this hearing at council level. Agrees with Hoffman, developer should have made extra effort to reassure council regarding contaminants. Also not in favor of giving up our city's procedure of dedicating the land vs. easement. Road is 50' wide, IHD and fire department reference working toward 60' width. Ready to make motion. Brockway reminded Hassell fine with easement and did have benefits to city. Also felt IHD found the plan acceptable. Parkin states exception does not meet standards of hardship. Brockway reminded intended for houses, zoned residential. Parkin stated it's a dangerous site. Agrees there are private property issues. Doesn't believe development is in the best interest. Mayor asks council for motion. **Parkin motioned** to deny the preliminary plat of Kova Lots, File #SUB020-21, finding that it is not in accord with the general and specific standards of the City of Dover. He further moved to adopt the findings and standards and reasoned statements concluding the application is not in accord with the criteria of several segments of the Dover Comprehensive Plan, mainly historic preservation of Dover, quality of life and the reasoned statements for subdivision consideration. Parkin amended his motion to conclude the application is not in accord with paragraphs D and F of the reasoned statements. **Motion 2<sup>nd</sup> by Hoffman. Roll call vote:** Brockway-Nay, Hoffman-Aye, Parkin-Aye.

2) File #ZC03-21 Bering Family - Brockway motioned to approve File ZC03-21 for the rezone two 0.5-acre parcels from Agriculture to suburban, finding that it is in accord with the procedures and standards of Idaho Code and the general and specific goals and objectives of the adopted Comprehensive Plan policies: Section #11, Private Property Rights, 2.P.1 and 3.P.2. **Motion 2<sup>nd</sup> by Hoffman. Roll call vote:** Brockway-Aye, Hoffman-Aye, Parkin-Nay. **Parkin motioned** to dispense with the rules, **Hoffman 2<sup>nd</sup>. Roll call vote:** Brockway-Aye, Hoffman-Aye, Parkin-Aye. Clerk read title into record. Parkin motioned to adopt Ordinance #175 amending the Official Zoning Map of the City of Dover to rezone certain lands located at 11 and 17 Canoe Cove and described in file #ZC03-21 from Agriculture to Suburban, **Hoffman 2<sup>nd</sup>. Roll call vote:** Brockway-Aye, Hoffman-Aye, Parkin-Aye. **Parkin motioned** to approve the summary of Ordinance #175 as presented and authorize the publication of this summary in accord with Idaho Code §50-901A, **Hoffman 2<sup>nd</sup>. Roll call vote:** Brockway-Aye, Hoffman-Aye, Parkin-Aye.

[5 minute break taken]

IV. **PUBLIC COMMENT** – no comments

V. **OLD BUSINESS**

1) DURA Response to Participation Agreement – Water Intake Panel Move – Brockway reviewed DURA board's decision explaining legal fees of \$35,000 will not be reimbursed. **Parkin motioned** Council approve the project specific City Participation Agreement with DURA for the water intake panel relocation and upgrade with removal of legal fees and authorize the Mayor to sign and submit to DURA, **2<sup>nd</sup> by Hoffman. All in favor.**

VI. **NEW BUSINESS - Continued**

1) TAP Trails and USPS update – Hassell stated only one comment received about trails which has already been addressed. Review meeting with LHTAC (Local Highways Technical Assistance Council) expected in January 2022. Trails construction may start construction summer of 2022. Comments received surrounding post office project included adding public restrooms and a veteran's memorial. No room for separate building for plumbed restrooms, only shelter around portable toilet.

2) Liquor License Application - DISH @ Dover Bay – **Brockway motioned** council approve the application as submitted and issue license, **2<sup>nd</sup> by Parkin. All in favor.**

3) Proposed Resolution – Destruction of equipment and documents – **Parkin motioned** council approve Resolution #170 for destruction of records as presented, **2<sup>nd</sup> by Hoffman. All in favor.**

**VII. CONSENT AGENDA** - Brockway has spoken to Mayor and Pilkington about some questions and clarification of projects regarding the financials. **Parkin motioned** to accept the consent agenda, **2<sup>nd</sup> by Hoffman. All in favor.**

**VIII. FUTURE AGENDA ITEMS/MEETINGS** - Mayor reviewed dates with correction to New Year's Day closure, should be Friday, 12/31/2021.

**IX. ADJOURNMENT** – **Parkin motioned** to adjourn the meeting. **All in favor.** Meeting adjourned at 10:23 p.m.