



I D A H O

CITY OF DOVER – BUILDING AND PLANNING DEPARTMENT

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**STAFF REPORT  
DOVER PLANNING & ZONING COMMISSION  
FILE #ZC03-21  
BERING ZONE CHANGE REQUEST**

**PREPARED BY:** Lisa Adair  
Assistant Contract Planner  
Ruen-Yeager & Associates  
219 Pine Street  
Sandpoint, ID 83864

**PROJECT DESCRIPTION:** Request to amend Dover official zoning map from Agriculture to Suburban for two existing parcels totaling 1.058 acres

**PROJECT LOCATION:** The sites are located at 11 and 17 Canoe Cove. The properties are located in Section 28, Township 57 North, Range 2 West, B.M.

**APPLICANT:** Kathleen Bering  
11 Canoe Cove  
Dover, ID 83825

**PROJECT REPRESENTATIVE:** Ryan Shea and Jeremy Grimm  
Whiskey Rock Planning and Consulting  
614 Creekside Lane  
Sandpoint, ID 83864

**DATE APPLICATION RECEIVED:** September 7, 2021

**HEARING DATES:** Planning & Zoning Commission: November 4, 2021  
City Council: Pending

**LEGAL NOTICE PROVIDED:** Newspaper notice for P&Z: October 15, 2021;  
Notice mailed to political subdivisions, media, landowners within 300' of subject tract, school district, and airport manager: October 14, 2021;  
Site posted: October 20, 2021

**STAFF REPORT ATTACHMENTS:** Application and narrative  
(UNDER SEPARATE COVER) Rezone vicinity map  
Portion of Dover Official Zoning Map  
Summary of Comprehensive Plan Goals and Objectives  
Public and Agency comments  
Dover use tables

## PROJECT SUMMARY:

Kathleen Bering is requesting approval for a rezone from Agriculture to Suburban for two adjacent parcels at the corner of Canoe Cove Lane and Ontario Street. The subject parcels are each approximately 0.5 of an acre in size and are located at 11 and 17 Canoe Cove Lane. The 11 Canoe Cove Lane is occupied by an existing single-family dwelling. The 17 Canoe Cove Lane was previously occupied by a manufactured home, which has since been removed. The application cites the smaller side yard setback requirement of the Suburban zoning district as one reason for the zone change request. The Agriculture zoning district currently has a side yard setback distance of 20 feet, while the Suburban zoning district has a side yard setback of 10 feet. The application also notes that the neighboring Canoe Cove subdivision is currently zoned Suburban. Both parcels are unplatted and not a part of the Canoe Cove subdivision.

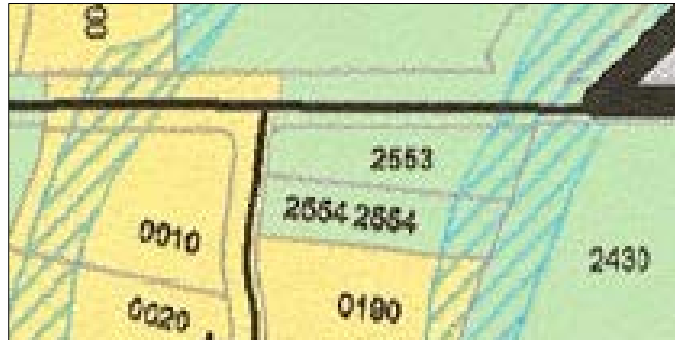
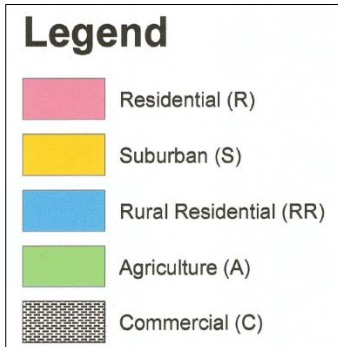


*Subject Properties*

Chapter 5 of Dover City Code (DCC) outlines the city's five zoning districts. The purpose of the existing zone and the proposed zone are as follows:

- The Suburban zone (Section 12-5-1S) allows for similar residential pursuits as the Residential zoning district but with lower levels of density; one acre lot size minimums. The zone allows for residential and duplex households but not apartments and multi-family units. City water and sewer services are encouraged but are not required. Services may be provided by a private or independent water or sewer system. Lands appropriate for the Suburban zoning district should be designated "suburban" or "rural residential" on the future land use map (comprehensive plan map). (Note: The wording of this section of code pre-dates the adoption of the new 2017 Dover Comprehensive Plan.)
- The Agriculture zone (Section 12-5-1D) allows for rural, agricultural and residential pursuits

with the largest minimum lot size of 6 acres. Resource or agricultural based uses are encouraged. Residents are encouraged to connect to city services if available though they may also seek connections to individual systems. Lands appropriate for the Agriculture zoning district are those that have active farms or animal husbandry on the site and are classified "Agriculture" on the future land use map (comprehensive plan map). (Note: The wording of this section of code pre-dates the adoption of the new 2017 Dover Comprehensive Plan.)



Portion of Official Dover Zoning Map

Dover City Code Section 12-6-4

12-6-4: STANDARDS BY ZONE DISTRICT:  
TABLE A

ZONE DISTRICT STANDARDS

Standard By Zone	Residential	Suburban	Rural Residential	Agriculture	Commercial
Minimum lot size	12,000 square feet	1 acre	3 acres	6 acres	12,000 square feet
Setback:					
Front yard	25 feet	25 feet	25 feet	25 feet	10 feet <sup>1,2</sup>
Side yard	10 feet	10 feet	10 feet	20 feet	10 feet
Flanking street	25 feet	25 feet	25 feet	25 feet	25 feet <sup>1</sup>
Rear yard	25 feet	25 feet	25 feet	25 feet	25 feet <sup>1,2</sup>
Bodies of water	40 feet <sup>4</sup>	40 feet <sup>4</sup>	40 feet <sup>4</sup>	40 feet <sup>4</sup>	40 feet <sup>4</sup>
Maximum lot coverage	50 percent	50 percent	50 percent	50 percent	50 percent <sup>3</sup>
Maximum building height	30 feet	30 feet	30 feet	30 feet	30 feet

Notes:

In addition to the dimensions required above, the following shall also be adhered to, where noted.

- Where the building abuts a sidewalk along the full length of the lot or parcel, a 0 foot setback may be administratively approved, pursuant to the procedures set forth at section 12-3-8 of this title.
- Where it can be demonstrated by the applicant or landowner that the building has multiple fronts, the point of access shall be considered the front yard.
- Where the applicant or landowner has demonstrated that adequate measures have been taken to treat stormwater leaving the site, pursuant to this title or the laws of the City, the site may incur a building lot coverage of up to 80 percent.
- Distance shall be measured from the ordinary or artificial watermark, as defined herein, of the body of water. All applicable bodies of water or streams shall be those identified on the United States geological survey (USGS) maps.

(Ord. 146, 9-22-2016)

## NONCONFORMING ANALYSIS:

Both lots are approximately 0.5 acres in size. The lot size minimum is 6 acres in the Agriculture zoning district and 1 acre in the Suburban zoning district. Dover City Code section 12-6-3A acknowledges that there are lots within Dover that were lawful before the current zoning standards were passed but do not meet the current standards. Such legally nonconforming lots are permitted provided the nonconforming is not enlarged or expanded upon (DCC 12-6-3A&B). The proposed zone change will not enlarge or expand upon the existing nonconformity in accord with Dover City Code section 12-6-3B.

## AUTHORITY:

- Dover City Code, Title 12, Chapter 9 provides for the amendment of the zoning map: *“Amendments to zoning regulations, comprehensive plan text, **zoning maps** or land use maps may be initiated by the council, planning and zoning commission, or by any citizen, landowner or taxpayer of the city by filing an application with the administrator. Advertisement and notice costs shall be paid by the applicant, as set forth in the city fee schedule.”* (Section 12-9-2, Dover City Code (DCC)).
- Idaho Code §67-6511 provides the state authority for the adoption and amendment of zoning maps.

## AGENCY COMMENTS:

The city provided notice of the proposed amendment to taxing districts within Dover’s boundaries and to the airport manager, as required by Idaho Code. In addition, the city requested review and comment from affected agencies on September 29, 2021. The agencies contacted and their comments are as follows:

- Dover City Engineer: Dover City Engineer Jay Hassell reviewed the application for roads and stormwater and responded that he had no issues, concerns, or comments.
- Dover City Engineer: Dover City Engineer Brett Converse noted that Dover does not provide water for these parcels and that he did not have any issues, concerns, or comments in regard to sewer.
- Independent Highway District: Chairman Mel Bailey noted that the change could reduce the width of the lot and would allow a house to be placed closer to the property line. He also noted that the change would affect how close a driveway could be to the lot corner and expressed concern about creating a hazard for cars backing out. Planning staff advised the District of the existing status of the two separate parcels.
- Idaho Department of Environmental Quality: Regional Manager Dan McCracken provided general comments regarding air quality, wastewater, drinking water, surface water, and solid/hazardous waste and ground water contamination. The full text of this comment has been provided with this staff report.
- A request for comment was also sent to Avista utilities, Panhandle Health District, Selkirk Fire, Bonner County GIS, the Idaho Department of Transportation, Syringa Heights Water District, and the City of Sandpoint. Comments were not received from these agencies at the time of this report.

## PUBLIC COMMENTS:

One public comment was received at the time of this staff report in opposition to the application. The comment has been provided to the decision makers under separate cover. No additional public comments were submitted at the time of this staff report.



## STANDARDS REVIEW:

### Standards Review Table- Dover City Code and Idaho Code (see applicable codes above)

**Idaho Code §67-6511 and Idaho Code §67-6509** provide procedural requirements for the adoption, amendment, and repeal of zoning districts. Requests for zoning map amendments are to be submitted to the Planning and Zoning Commission for evaluation to *"determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction. An amendment of a zoning ordinance applicable to an owner's lands or approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby."* After consideration of the comp plan and other evidence from the public hearing process, the P&Z may make a recommendation to the governing body to approve or deny the request. The governing body shall *"analyze the proposed change to ensure it is not in conflict with the policies of the adopted comprehensive plan or would result in demonstrable adverse impacts upon the delivery of services, including school districts, within the planning jurisdiction..."*

**Dover City Code (DCC) 12-9-4** requires zoning map amendments be in accordance with the general and specific goals and objectives of the adopted comprehensive plan. Zoning maps are amended by the adoption of an ordinance by city council.

#### Findings, Based upon evidence of record

**Required:** Publish notice of hearing at least 15 days prior to the public hearing in the official newspaper, in accord with IC§67-6509.

**Provided:** Notice was published October 15, 2021 (20 days prior to hearing).

**Required:** Mail notice at least 15 days prior to public hearing to the media, political subdivisions (taxing districts), school district, airport manager, and landowners within 300 feet of the subject land, in accord with IC§67-6509.

**Provided:** Notices were sent October 14, 2021 21 days prior to hearing for all entities.

**Required:** Notice shall also be posted on the premises not less than one (1) week prior to the hearing, per IC§67-6511.

**Provided:** The site was posted October 20, 2021 (15 days prior) in accord with IC§67-6511.

General and specific goals: Any proposed amendment to the official zoning map must be judged to confirm the rezone is not in conflict with the adopted comprehensive plan (IC§67-6511) and in accord with the general and specific goals and objectives of the adopted comprehensive plan (DCC 12-9-4B.)

Goals and policies are listed in each of the 11 sections of the adopted plan. A summary of the Plan's goals and policies has been provided to the governing bodies, along with copies of the adopted Plan. The comp plan policy sections and a summary of the relevant policies are noted, along with corresponding facts, as follows:

1. **Historic/Archaeologic:** Preserve cultural sites; educate residents; celebrate Dover history. The proposed map amendment does not propose to convert historic buildings or properties.
2. **Population:** Adequate plans and service capacity for future populations; seek full-time residents; diverse housing stock; affordable workforce housing; develop services and amenities for visitors and high quality of life for residents.
3. **Community Design, Land Use, Economic Development:** High quality of life; small-town character; small-scale retail, commercial, and public amenities in Historic Dover, Dover

Bay and city complex; no large scale, regionally serving or national brand retail or commercial uses; encourage and enable development of locally serving commercial & retail; discourage or restrict development of large scale retail or commercial uses; ensure new development does not negatively impact safety, health and environmental quality of Dover.

4. **Transportation and Airports:** Speed limits, safety, gateway attraction, bus routes, infrastructure for all uses.

5. **Utilities – Transmission Corridors:** Sufficient, reliable utilities to support growth; improved broadband speed; adequate sewer and water; new development to bear costs of extending services; underground utilities where possible.

6. **Recreation:** Public spaces support; new development to provide recreation amenities; connections to waterways; trail development.

7. **Public Services:** Maintain/enhance fire service levels; security for large events; neighborhood watch; support of sustainable amenities.

8. **Education, Schools and School Transportation:** Work cooperatively with school district; communicate regarding pending zone changes and development.

9. **Natural Resources, Special Uses or Sites – Agriculture:** Minimize effects of development on environment; control stormwater; preserve sensitive areas; preserve working lands; protect rare or endangered flora or fauna.

10. **Hazardous Areas:** Protect residents from high risks of flooding, wildfire, landslides; air quality maintenance; hazardous spills; regulate new development in floodplain.

11. **Private Property Rights:** Ensure policies, restrictions, conditions, fees do not violate property rights or create unnecessary technical limitations on use of property; consider fundamental rights of all parties in decisions when adopting and applying planning policies and zoning standards.

The Comprehensive Plan map designation for both parcels is Large Lot Single-Family 1-2 Acres. According to the Dover Comprehensive Plan, this designation includes subdivided lands within Cedar Ridge, Ravenwood, Panorama Ridge, other smaller subdivisions, and scattered, unplatted lots. These sites are to be served by paved roads and generally have access to municipal utilities. The comprehensive plan does note that some of these areas do not have full services. The parcels are currently served by Dover city sewer, Syringa Heights water, and accessed from Canoe Cove Lane, a paved public road. The site adjoins lands currently zoned Suburban.

Policy 2.P.1 of the Comprehensive Plan: Calls for a variety of housing types and sizes. The application notes that the zone change will allow for redevelopment of these parcels with more options due to the increased footprint allowance.

Policy 2.P.2 of the Comprehensive Plan: Calls for the development of affordable workforce housing. The application notes the current need for housing and that a zone change would allow for additional flexibility when developing the parcels.

Policy 3.P.2 of the Comprehensive Plan: Encourages continued development of Dover neighborhoods.

Policy 5.P.1 of the Comprehensive Plan: Calls for the protection of sewer and water service capacity for future development. The application notes that this proposal provides for more flexibility while developing these parcels and will not create additional stress on the existing system or need for main extensions.

Policy 9.G.2 of the Comprehensive Plan: Calls for the management of stormwater runoff: The application notes that the proposal will not modify the maximum allowable lot coverage. Additionally, any development on these parcels would be reviewed for compliance with the Dover stormwater standards of Title 9 Chapter 4.

Goal 11.G.1 of the Comprehensive Plan: Calls for land use policies, restrictions, conditions and fees to not create unnecessary technical limitation of the use of property. The application notes that the current zoning restricts the buildable area of this parcel by placing Agriculture zoning requirements which are meant for larger parcels on two of the smallest parcels in the area.

### **STAFF ANALYSIS:**

Dover's Suburban zone was established to allow for residential pursuits with lower levels of density with one acre lot size minimums. While both parcels are approximately 0.5 acres, the Agriculture zoning district lot size minimum is 6 acres, making the parcels legally non-conforming. Although the lot size minimum in the Suburban zoning district is 1 acre, a change to Suburban would not be increasing the nonconformity in accordance with Dover City Code section 12-6-3.

The Suburban zoning district calls for water and sewer to be served either by the City of Dover or by another source such as a private or independent water or sewer system. The parcels are currently served by Dover city sewer and Syringa Heights Water Association.

The majority of the permitted and specially permitted uses are the same between the Suburban and Agriculture zoning districts. Staff noted that "Apartment buildings, condominiums, and multi-family" uses are permitted by special use permit in the Suburban zoning district where they are prohibited in the Agriculture zoning district per Dover City Code section 12-5-5 Residential Use Table. An additional standard of the residential use table requires a density of 1 dwelling unit per 3 acres for all multifamily structures in the Suburban zoning district. The existing parcels are approximately 0.5 acres each and are not large enough to permit more than 1 dwelling unit by current standards.

The zone change does not propose to create any additional lots or building sites. The parcels already exist as two separate parcels. Future development of these parcels would be addressed by Dover City Code standards and procedures. This includes review of setbacks, driveway location, stormwater/erosion control standards, and use.

Following the public hearing, the Dover Planning and Zoning Commission may: recommend approval of the rezone; continue the hearing to date certain for specific reasons; or recommend denial of the rezone.

### **DRAFT MOTIONS FOR GOVERNING BODY:**

*MOTION TO RECOMMEND APPROVAL:* I move to recommend approval of this file ZC03-21 to 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, as enumerated in the findings and standards table of the staff report because [INSERT YOUR REASONS FOR WHY THIS IS IN ACCORD WITH THE STANDARDS AND COMP PLAN.]

*MOTION TO CONTINUE:* I move to continue this file ZC03-21 to [date, time, and place] to allow for additional time for [public comment, additional information, revisions etc.].

*MOTION TO RECOMMEND DENIAL:* I move to recommend denial of this file, ZC03-21 to rezone two 0.5 acre parcels from Agriculture to Suburban, finding that it is not in accord with the procedures and standards of Idaho Code, because [SPECIFY WHAT STANDARDS THE AMENDMENT FAILS TO MEET AND WHY].