

**PLANNING COMMISSION AGENDA**  
**CITY HALL**  
**UPSTAIRS- CONFERENCE ROOM #6**  
**710 E. MULLAN AVENUE**

**MAY 10, 2022**

**THE PLANNING COMMISSION'S VISION OF ITS ROLE IN THE COMMUNITY**

The Planning Commission sees its role as the preparation and implementation of the Comprehensive Plan through which the Commission seeks to promote orderly growth, preserve the quality of Coeur d'Alene, protect the environment, promote economic prosperity and foster the safety of its residents.

**12:00 P.M. CALL TO ORDER:**

**ROLL CALL:** Messina, Fleming, Ingalls, Luttropp, Mandel, McCracken, Ward

**APPROVAL OF MINUTES:** \*\*\*ITEM BELOW IS CONSIDERED TO BE AN ACTION ITEM.

April 12, 2022

**OTHER BUSINESS:** \*\*\*ITEMS BELOW ARE CONSIDERED TO BE ACTION ITEMS.

1. Applicant: Kerr Family Properties, LLC  
Location: 7820 N. Ramsey Road  
Request: A request for an extension to the Planning Commission Meeting on July 12<sup>th</sup> for A-4-21 (a proposed +/- 15-acre annexation from Ag Suburban to R-17).
2. Development Agreement Ordinance - A discussion on the need for and purpose of development agreements, and a review of the draft ordinance allowing development agreements.
3. Development Impact Fees - A discussion on updating the City's development impact fees, the proposed RFQ for professional services to update the Capital Improvement Plan and fees, and the role of the Commission as the Development Impact Fee Advisory Committee.

**ADJOURNMENT/CONTINUATION:**

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_,  
to continue meeting to \_\_\_\_\_, \_\_, at \_\_ p.m.; motion carried unanimously.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_, to adjourn meeting; motion carried unanimously.

**Chapter 17.50**  
**DEVELOPMENT AGREEMENTS**

- 17.50.010: PURPOSE AND AUTHORITY:**
- 17.50.020: DEVELOPMENT AGREEMENTS:**
- 17.50.030: TERMS:**
- 17.50.040: PERFORMANCE:**
- 17.50.050: AMENDMENTS:**
- 17.50.060: RECORDING:**
- 17.50.070: REVIEW AND ENFORCEMENT:**
- 17.50.080: TERMINATION:**
- 17.50.090: FEES:**

**17.50.010: PURPOSE AND AUTHORITY:**

The purpose of this Chapter is to provide for the creation, form, recording, modification, enforcement, and termination of development agreements. This Chapter is adopted pursuant to section 67-6511A, Idaho Code, and is intended to authorize development agreements to the fullest extent of the law.

**17.50.020: DEVELOPMENT AGREEMENTS:**

A. As a condition for approval of an application which requires an amendment to the zoning ordinance and map, including a zone change in conjunction with annexation, a planned unit development, and a conditional zoning request, the developer and/or owner may be required to enter into a development agreement with the City.

B. The Community Planning Director shall determine if a development agreement should be required considering all the circumstances and may determine, in the case of a minor entitlement request (e.g., a zone change without a subdivision, a variance, a special use permit, etc.), that a development agreement will serve no public purpose and should not be required.

C. If a development agreement is required, the Community Planning Director, in consultation with the City Attorney, shall prepare the development agreement. The Planning and Zoning Commission, after complying with the notice and hearing provisions of section 67-6509, Idaho Code, shall make a recommendation to the City Council to approve, approve with modifications, or reject the development agreement. A development agreement shall not be effective until approved by the City Council after notice and a hearing in compliance with section 67-6509, Idaho Code. In making any determination under this Chapter, the best interests of the City, and the purpose and intent of this Chapter, shall be considered.

D. The development agreement shall constitute a binding contract between the developer and/or owner of property and the City, and their successors-in-interest, and shall contain at least those terms and conditions required by this Chapter.

E. The terms and conditions of the development agreement shall be in addition to the

requirements of the applicable zoning district as provided by Titles 16 and 17, Coeur d'Alene Municipal Code, to the extent those requirements are not specifically modified by the development agreement, shall ensure compatibility of the resulting land use with the surrounding area, and shall be consistent with the current Comprehensive Plan.

F. The zoning designation of the property pursuant to the development agreement may revert to the property's prior zoning designation or, if done as part of an annexation, rezoned to the lowest intensity zoning district within the City which is appropriate under all the circumstances (unless a de-annexation is warranted) upon termination of the development agreement due to the developer and/or owner's failure to comply with the terms and conditions of the development agreement.

**17.50.030: TERMS:**

A. A development agreement shall be reasonably specific and its terms shall bear a reasonable relationship to the development/entitlement request.

B. A development agreement shall include at least the following:

1. The legal description of the subject property;
2. A list clearly noting allowed uses and deviations, and any limitation on permitted uses that would otherwise be permitted by the zoning entitlement;
3. A description and timing of the improvements to be constructed;
4. Any conditions imposed during the review and approval process, including conditions from other entitlement approvals, e.g., Annexation Agreement, Planned Unit Development, Special Use Permit, Conditional Zoning, and associated Subdivision requests;
5. A description of the phasing plan, if any;
6. A description of any required temporary improvements and the duration of those improvements;
7. Covenants, if any, made by the developer and/or owner to the City;
8. Covenants, if any, made by the City;
9. The details of dedications beyond those required by the Subdivision and Zoning Codes;
10. The duration of the development agreement, and the provisions, conditions, and procedures for extending or terminating the development agreement; and
11. Payment and timing of applicable fees.

- C. A development agreement may include the following:
1. A conceptual site plan showing the proposed arrangement of any structure(s), free-standing signage, landscaping, and parking area design.
  2. A set of building elevations showing exterior building treatments and designs.
  3. Conditions on the use, design, conservation, roads and other infrastructure, open space, workforce housing, and other aspects of the development which are in the public interest, as well as the timing for completion of the conditions.

**17.50.040: PERFORMANCE:**

- A. The following standards shall apply to all property subject to a development agreement:
1. If a substantial amount of land, which is adjacent to or abutting a property zoned in conjunction with a development agreement, is rezoned to the same zoning designation as the property subject to the development agreement, said development agreement may be terminated by the City after a public hearing complying with the notice and hearing provisions of section 67-6509, Idaho Code, if termination is equitable and in the best interests of the City. A request for termination shall be made first to the Planning and Zoning Commission by the Community Planning Director, which shall forward a recommendation to the City Council.
  2. The existence of a development agreement shall not prevent the City from subsequently applying new rules, regulations, or policies to the property, provided they do not conflict with the development agreement.
  3. Construction shall be halted if a developer and/or owner is found to be out of compliance with the development agreement and further building permits shall not be issued until there is compliance.
- B. The City, without incurring any liability, may engage in actions that otherwise would constitute a breach of a development agreement if the City Council makes a determination, after a public hearing, that the action is necessary to address a substantial risk to public health, safety, or the general welfare. In addition, the City may, without incurring any liability, engage in actions that would constitute a breach of a development agreement if required by federal or state law, or court order.
- C. Except as expressly provided in a development agreement, the development agreement shall not be construed so as to create any right enforceable by a person who is not a party to the development agreement. Purchasers of lots in approved subdivisions shall not be third-party beneficiaries of a development agreement.
- D. Any breach of a development agreement by the City shall not give rise to monetary damages, but the sole remedy shall be an action for specific performance.

E. Performance of the City's duties pursuant to a development agreement are expressly conditioned upon the developer and/or owner's substantial compliance with each and every term, condition, provision, and covenant of the agreement, and with all applicable federal, state and local laws and regulations.

F. A development agreement shall run with the land and bind all successors, heirs, and assignees of the developer and owner.

G. No provision of any development agreement which is contrary to law may be enforced.

**17.50.050: AMENDMENTS:**

A. A development agreement may be amended only in a writing signed by the original parties or their successors-in-interest. An amendment shall first be presented to the Planning and Zoning Commission which, following notice and a public hearing as required by section 67-6509, Idaho Code, shall make a recommendation to the City Council to approve, approve with modifications, or reject the amendment. An amendment shall not be effective until approved by the City Council following notice and a public hearing as required by section 67-6509, Idaho Code.

B. An amendment may be required if the Community Planning Director determines that:

1. The developer and/or owner has proposed a substantial change to the approved land uses, development standards, and/or approved site plan associated with the project; or

2. The developer and/or owner has proposed a substantial change to any approved parking or landscaping; or

3. The developer and/or owner has proposed a substantial change to any approved set of building elevations, or exterior appearance or design; or

4. The developer and/or owner has proposed a substantial change to any approved freestanding commercial or industrial center signage or multi-family complex freestanding signage.

5. The amendment would be reasonable and necessary to satisfy a compelling City interest which could not reasonably have been known or anticipated by the City at the time the development agreement was approved.

C. For purposes of this section, the term "substantial change" shall mean any change which may have a significant impact on the ability of the developer and/or owner to meet the purpose or intent of, or to comply with, the critical terms of the development agreement.

D. A request to amend a development agreement by the developer and/or owner, or their successor-in-interest, shall state the nature of the modification and the reason(s) amendment is necessary and reasonable, and provide plans showing approved and requested changes.

**17.50.060: RECORDING:**

Development agreements and any amendments thereto shall be recorded in the office of the county recorder. Should a development agreement be terminated, the zoning designation upon which the use was based shall revert to its prior zoning designation at the sole discretion of the City or, if done as part of an annexation, rezoned to the lowest intensity zoning district within the City which is appropriate under all the circumstances (unless a de-annexation is warranted), and a document recording such termination and reversion shall be recorded in the office of the county recorder. The developer and/or owner shall pay all recording fees.

**17.50.070: REVIEW AND ENFORCEMENT:**

A. The Community Planning Director shall monitor the developer and/or owner's compliance with the terms and conditions of the development agreement.

B. Upon the request of the Community Planning Director, the developer and/or owner, or their successors-in-interest, shall demonstrate compliance with the terms and/or conditions of the development agreement.

C. If the Community Planning Director determines that the developer and/or owner, or their successors-in-interest, are not in compliance with the terms and conditions of the development agreement, and such lack of compliance is not resolved by the developer and/or owner within a reasonable time set by the City, the Community Planning Director may recommend that the City seek specific performance of the terms of the development agreement, terminate the agreement, or seek any other available remedy at law or equity.

**17.50.080: TERMINATION:**

A. Upon the failure of the developer and/or owner, or their successors-in-interest, to comply with the terms and/or conditions of the development agreement, the City may terminate the development agreement. If the development agreement is terminated, at the sole discretion of the City the zoning designation of the property or any undeveloped portion of the property shall revert to the prior zoning designation or, if zoned with annexation, may be rezoned to the lowest intensity zoning district within the City which is appropriate under all the circumstances (unless a de-annexation is warranted). Prior to termination, the developer and/or owner shall be afforded a reasonable time, as determined by the Community Planning Director, to bring the property into compliance with the development agreement.

B. When termination of a development agreement is contemplated, a public hearing shall be conducted before the Planning and Zoning Commission in accordance with the notice and hearing procedures of § 67-6509, Idaho Code. The Planning and Zoning Commission shall determine if the breach of the development agreement is sufficient to justify reversion of the zoning designation and if the reversion is in the best interests of the City. The Planning and Zoning Commission's determination may be appealed to the City Council utilizing the procedures set out in §§ 17.09.705 to 17.09.715, Coeur d'Alene Municipal Code.

C. The City and the developer and/or owner, or their successors-in-interest, of the property may mutually agree to terminate a development agreement. In such case, at the sole discretion of the City, the zoning designation of the property shall revert to the zoning designation it held prior to the development agreement, in whole or in part.

D. The developer and/or owner of property subject to a development agreement may terminate the development agreement as to any remaining undeveloped land if the City modifies the development agreement without their consent. In the event the developer and/or owner choose to terminate the development agreement under these circumstances, the zoning designation of the property shall revert to the zoning designation it held prior to the development agreement in the sole discretion of the City.

**17.50.090: FEES:**

The City Council shall set the fee for a development agreement by resolution.