

CITY COUNCIL AGENDA REQUEST FORM

Today's date: 6 / 24 / 19

Date of meeting 7 / 3 / 19

(City Council meetings are held the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday of each month.)

Name of Citizen, Organization, Elected Official, or Department Head making request:

Don Eickhoff

Address: 25362 Monte Verde Drive, Laguna Niguel, CA 92677

Phone number and email address: 959-292-2714 doneline@gmail.com

Authorized by: Amanda Wilson

*name of City official*



*City official's signature*

*(Department Heads, City Council members, and the Mayor are City officials.)*

Subject: Ordinance to amend city zoning map pursuant to Council's decision regarding ZC19-02

Summary of what is being requested: Adoption of ordinance to amend the city zoning map

pursuant to the decision rendered by Council on 6/19/19 approving the zone change request by

Don Eickhoff for Parcel #RPS00000107051A from ITP to RS

**The following information MUST be completed before submitting your request to the City Clerk:**

1. Would there be any financial impact to the city?   **Yes or No**

If yes, in what way? \_\_\_\_\_

2. Name(s) of any individual(s) or group(s) that will be directly affected by this action:

Have they been contacted?  
**Yes or No**

Bonner County Airport

Yes

Property Owners within 300ft of subject parcel

Yes

3. Is there a need for a general public information or public involvement plan? **Yes or No**

If yes, please specify and suggest a method to accomplish the plan:

4. Is an enforcement plan needed? **Yes or No**   Additional funds needed? **Yes or No**

5. Have all the affected departments been informed about this agenda item? **Yes or No**

**This form must be submitted no later than 5 working days prior to the scheduled meeting. All pertinent paperwork to be distributed to City Council must be attached.**

**ITEMS WILL NOT BE AGENDIZED WITHOUT THIS FORM**

**CITY OF SANDPOINT  
AGENDA REPORT**

**DATE:** 6/24/19

**TO:** MAYOR AND CITY COUNCIL

**FROM:** Aaron Qualls, Planning & Community Development Director

**SUBJECT:** Ordinance to amend city zoning map pursuant to Council's decision regarding ZC19-02

**DESCRIPTION/BACKGROUND:**

On February 7, 2019, Staff received an application from Don Eickhoff requesting to rezone his property from Industrial Technology Park (ITP) to Residential Single-Family (RS). A portion of the property is located with the Airport Overlay Zone. Public hearings were held on April 16, 2019, May 15, 2019, and June 19, 2019.

On June 19, 2019, City Council voted to approve rezoning only the eastern half of parcel # RPS00000107051A from Industrial Technology Park (ITP) to Residential Single-Family (RS).

Attached is a proposed ordinance to formally revise the city zoning map pursuant to Sandpoint City Code §9-14-2.

**STAFF RECOMMENDATION:** Adoption of the proposed ordinance.

**ACTION:** Motion to adopt attached ordinance.

**WILL THERE BE ANY FINANCIAL IMPACT? No HAS THIS ITEM BEEN BUDGETED? N/A**

**ATTACHMENTS:**

City Council Meeting Minutes, June 19, 2019  
Proposed Ordinance

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**D. PUBLIC HEARING – ZONE CHANGE PROPOSAL**

**Mayor Rognstad** announced that the purpose of this public hearing will be to take public comment on a request to change the zoning of an approximate 8.52-acre parcel, located at 2205 North Boyer Avenue, which is the northwest corner of Boyer Avenue and Mountain View Drive, legally described as the East Half of Lot 13 in Section 10, Township 57 North, Range 2 West, Less Tax 3 and 107. The change from Industrial Technology Park to Residential Single-Family zoning would allow low density residential development with a minimum of 5,000 square feet per lot. ITP generally allows for a variety of commercial and lower intensity industrial uses. The Planning and Zoning Commission held a public hearing and recommended denial of this proposal. City Council's public hearing on this matter was opened at their May 15, 2019, at which time it was tabled and continued to this evening.

**Councilwoman Ruehle moved** that this item be removed from the table. **Councilman Darling seconded the motion.**

A roll call vote resulted as follows:

Councilman Aispuro	Absent
Councilman Darling	Yes
Councilwoman Williamson	Yes
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aitken	Yes

**The motion passed by a unanimous vote of Council present.**

**Mayor Rognstad** announced that, per Sandpoint City Code 9-9-5, notice has been provided to property owners within 300 feet of the parcel boundaries on which the proposal is being considered. Notice was also posted at the site 7 days in advance of the hearing, and a summary has been provided in the Bonner County Daily Bee, the official newspaper of general circulation, at least 15 days prior to the hearing date.

He then announced that the following will be the Order of the Public Hearing:

- 1) Explanation of the subject of the hearing by City staff.
- 2) Presentation by the applicant or his representative. Council members should address their questions to the applicant at that time.
- 3) Opening of the public hearing, at which time the public may provide testimony. Questions should be asked of the person testifying before leaving the podium. Those wishing to testify are required to complete a sign-up sheet. The order of those providing testimony will be as follows:
  - I. In favor
  - II. Neutral
  - III. Opposed

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- 4) Rebuttal testimony from the applicant or his representative. Final questions may be asked of the applicant at this time. However, if new facts are elicited, the public will be given an opportunity to comment on new facts.
- 5) I will then close the public hearing, and Council will deliberate. No new information may be provided at this time and questions may be directed only to City staff during Council deliberation.

City Planning and Community Development Director Aaron Qualls reported that this property was rezoned in 2011 from Light Industrial ER to Industrial Technology Park (ITP). It is unknown whether it was ever zoned otherwise. Prior to annex into city limits, it was most likely agricultural. The Sandpoint Comprehensive Plan (Comp Plan) land use map was recently amended, designating a portion of this property as industrial and the portion in the southeast corner of the property as Context Area 4 (CA4). The portion of this property envisioned as industrial is consistent with its current zoning, dating back to 2009 and possibly earlier. CA4 patterns generally match those of CA3B but increase density by emphasizing two and three-story mixed-use and attached townhome-style residences. CA4 areas, as described in the Comp Plan, are intended as vibrant secondary centers of commercial, office, and residential development, serving as neighborhood hubs for residents in neighboring CA3 and CA2 districts. Industrial zoning is envisioned in the Comp Plan as areas for job-creating businesses and maintaining the tax base. The updated staff report includes information about cost of services relative to tax base. Overall, industrial and commercial areas within a city essentially help to subsidize many of the services to residential.

The subject property is within the Airport Overlay Zone. Guidelines from the Idaho Transportation Department (ITD) Division of Aeronautics are also included in the staff report. The Guidelines speak to land use compatibility. One of the goals in the Comp Plan is to ensure that land uses around the Airport are compatible. Included in the Guidelines are recommended overlay zones. The Airport Overlay Zone has been adopted in Sandpoint. The other types of overlay zones described in the ITD Guidelines, including the lateral safety zone, have not been adopted; as it stands now, they are simply guidelines. Even though these zones not been adopted, the Guidelines are useful in determining what is and is not compatible land use around the Airport. Zoning decisions are local decisions; they are not made by State or Federal agencies.

Also included in the staff report are airport growth projections, land-use compatibility references from the 2015 Airport Master Plan, and crash statistics. The crash statistics are not specific to the Sandpoint Airport but are statistics from a variety of airports. It should be noted that, within the graphic representing crash statistics, one end of the runway is takeoffs and the other is landings; at the Sandpoint Airport, takeoffs and landings occur at both ends of the runway.

Mr. Qualls responded to **Mayor Rognstad** that Council does have the option of applying conditions to a rezone decision. For instance, Council could allow for rezone of just a portion of the property. Shown as a yellow rectangle on the map displayed was a

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portion, approximately one-third, of the property that lies outside what would be considered the lateral safety zone.

Mr. Qualls responded to **Councilman Darling** that the Sandpoint Planning and Zoning Commission has not reviewed this potential rezone alternative for this particular property.

Mr. Qualls responded to **Councilwoman Ruehle** that it is unusual to rezone just a portion of a parcel, but, per the City Attorney, it is an option.

Marty Taylor, certified land use planner with James A. Sewell & Associates, testified on behalf of the applicant, Don Eickhoff. His comments tonight are in response to the questions posed by Council during the public hearing on this rezone request at Council's May 15 meeting. In response to Councilman Darling's question about prior zoning at this property, the copy of the zoning map Mr. Taylor had in his possession indicated that this property was formerly zoned Residential C, a multi-family zone. In fact, the map actually shows that the property was formerly zoned Light Industrial ER, as staff has reported. Mr. Taylor is not aware whether Mr. Eickhoff was personally notified when zoning changed on this property. He did note that, per Sandpoint City Code, when 200 or more properties are affected by broad zoning changes, the City is not required to notify each and every property owner by mail.

He also responded to Councilwoman Williamson's question about affordable housing, stating that affordable housing is achieved by either subsidy or density.

Neither the Sandpoint Airport Board, via the Bonner County Commissioners, nor the Federal Aviation Administration (FAA) commented on this specific project.

The Airport Overlay Zone regulates the proposed activity, and the purpose of that zone is the prevention of hazards to air navigation, which is done simply by limiting height, as outlined in Sandpoint City Code 9-9-12-1. The activity must also be in accord with the Comp Plan itself and not simply the vision of the Comp Plan's land use map. The existing ITP zoning on this parcel permits a 45-foot height limit. The zone that is requested, Residential Single-Family (RS), permits only a 35-foot height limit. The zone that is requested is more restrictive, as pertains to height and hazards to navigation, than the current zone.

This project is not subject to future studies. He finds it extremely problematic that information is being submitted from, for instance, the ITD Guidelines, which are not applicable. This project is governed by Sandpoint City Code, the Sandpoint Airport Overlay Zone, the Sandpoint Comprehensive Plan, and the Sandpoint Airport Master Plan. Referring to the ITD Guidelines or the Idaho Airport Land Use Guidelines is appropriate when considering a future Comp Plan amendment, a Zoning Code revision, or a Master Plan update. However, using tomorrow's standards to make a decision about today's project is not appropriate. It's today's codes that govern.

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The public hearings for this request have been duly noticed, with ample opportunity for comment. There were no adverse agency comments. There were some public comments, most overwhelmingly in favor of the proposal.

All would agree with Mayor Rognstad's prior comments regarding critical economic engines and the Airport's critical role, but housing starts also contribute significantly to Sandpoint's economy, which is an important economic indicator, and this rezone is a prerequisite toward that indicator.

The property is not currently zoned for heavy industry or heavy manufacturing; it is zoned for a tech park, a lighter type of occupation. This rezone is in accord with the Comp Plan and is not in conflict with the airport hazard overlay standards. His client respectfully requests that the City simply follow due process and approve this zone change.

If Council is considering a split zone, approving the rezone on only a portion of the property, such decision would be based on standards not adopted by the City, and he would question the propriety of such a decision.

**Mayor Rognstad** announced that the hearing will be conducted in compliance with the following rules of procedure: Before persons testify at public hearings, they are to fill out the sign-up sheet available at the front of Council chambers and hand to staff.

If you desire, you may note your objection, support or comment on the form provided. If you wish to comment during the public hearing, please come to the podium and state your name and whether you reside within the City limits. Please limit your comments to no more than 3 minutes. Testimony shall directly address the subject at hand and shall not be personally derogatory toward any individual, organization or business. Members of the Council may ask questions of persons who testify. If they do so, it will be only for the purpose of clarifying information.

Once the public hearing is closed, there will be no further opportunity for public input on the proposal. The Council will then discuss amongst themselves the testimony they have heard and what, if anything, they may propose as a result of the hearing. For those testifying, you should clearly state your name and whether you reside within City limits. You are not required to state your address.

**Mayor Rognstad** opened the public hearing.

There were no comments in favor or from anyone neutral to the proposal.

David Schuck, Sandpoint Airport Manager, spoke in opposition, stating that this parcel is surrounded by industrial, with railroads to the south and the east, the Airport to the west, and an asphalt plant to the south. Airport management believes that the current

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ITP zoning is the correct designation for this parcel. It does fall partially under the Airport Overlay Zone and also the lateral safety zone, as defined by the State Guidelines, which, as previously discussed, have not been adopted, but they are considered best practice standards. None of the guidelines, whether adopted or not, draw a bright line, where there is safety and quiet on one side and hazards and noise on the other; it's simply an area. There are guidelines pertaining to the distance from the runway centerline, but they are guidelines; the best practice is to understand the noise and hazards in those areas and adopt zoning accordingly.

Mr. Taylor provided rebuttal testimony on behalf of the applicant, stating that the concern regarding hazards in the Airport Overlay Zone are related to height. As previously mentioned, the height limit allowed under the proposed zone is shorter than that which is allowed under the zone currently in place on this property. Also, as provided within the application, this project is not within the 65-decibel noise contour, so both the height limit and the noise issues have been addressed. Absent any evidence to the contrary, the project complies with the Sandpoint Airport Overlay Zone, as well as the Comp Plan.

**Mayor Rognstad** closed the public hearing.

Mr. Qualls replied to **Councilwoman Ruehle** that, of the City's currently adopted zones, the one that would most closely match CA3B, shown in blue on the map displayed, is Mixed-Use Residential (MUR). The currently-adopted zone that would most closely match CA4, shown in dark red on the map displayed, in the southeast corner of the subject property, is Commercial B, which allows for a variety of commercial uses and mixed-use development, as well as townhouses. It does not allow for multi-family without a commercial component. He confirmed that it may be similar, somewhat, to portions of the development behind Super 1 Foods at Larch and Boyer.

Mr. Qualls clarified that heavy industrial is not allowed anywhere in city limits. The ITP zone, as with the Industrial General (IG) zone, allow for both light and medium manufacturing and Industrial uses. In the ITP Zone, a Conditional Use Permit (CUP) is required for medium manufacturing.

**Councilwoman Williamson** stated that she wants to respect the Planning and Zoning Commission's recommendation to deny this request, and she understands their concerns with a rezone of this property and how it would align with the Comp Plan land use map, but she is also keenly aware of and concerned about the need for housing in Sandpoint and suggested the possibility of rezoning only that the portion of the property not in the lateral safety zone as RS.

**Councilwoman Williamson** moved that Sandpoint City Council, after consideration of the criteria and relevant standards of Idaho Code and Sandpoint City Code, approve the request by Don Eickhoff for a zone change from Industrial Technology Park (ITP) to

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Residential Single-Family (RS) for one parcel totaling 8.52 acres, which is legally described as: 10-57N-2W E2 LOT 13 LESS TAX 3 & 37.

The reasons for this decision are:

1. Particular consideration has been given to the effects of this proposed zone change upon the delivery of services by any political subdivision providing public services within the planning jurisdiction.
2. Staff has followed the notice procedures applicable to zone changes contained in Idaho Code § 67-6511 and Sandpoint City Code Title 9, Chapter 9.
3. The proposed Residential Single-Family zoning designation is consistent with the existing land use patterns and is in accordance with the goals and policies of the Sandpoint Comprehensive Plan.”

**Councilwoman Ruehle** seconded the motion.

**Councilwoman Williamson** moved to amend her motion to approve, adding a condition that the portion of the parcel lying within the potential lateral safety zone will retain the ITP zoning designation.

**Mayor Rognstad** clarified for **Councilman Darling** that the motion to amend would rezone any portion of the parcel not in the lateral safety zone, shown in purple on the map displayed, which would include a portion larger than that which staff had suggested, which was shown on the map as a rectangular section in yellow.

Mr. Qualls suggested dividing the parcel in half, allowing for rezone to RS on the eastern half of the parcel, which would provide for a much easier and cleaner legal description modification.

Mr. Qualls confirmed to **Councilwoman Ruehle** that the applicant was seeking a zone change to RS, as opposed to MUR.

**Councilwoman Williamson** replied to **Councilman Darling** that she understands and appreciates the Planning and Zoning Commission’s due diligence in their evaluation of the property and its surrounding uses in context of the Comp Plan. Although they recommended denial of this request, Sandpoint is pressed for areas that can be made amenable for residential development. She is taking a holistic view of the situation, recognizing both the potential health and safety issues and the fact that a critical community need could be met with a portion of the property used to build homes and hopes that her amendment strikes a balance. **Councilman Darling** wondered, if the Commission would have had the opportunity to consider this option, whether they would have made this recommendation. Mr. Qualls commented that he did not believe, under City Code, that this matter could be remanded back to the Planning and Zoning Commission at this juncture and cautioned Council to ensure that their decision is defensible.

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**Mayor Rognstad** commented that he is sensitive to the point made by the applicant that the City has not adopted the ITD lateral safety zone. However, it is the duty of City officials to make decisions that help to ensure the health and safety of the public. Therefore, any and all information at our disposal is worthy and should be used and considered in order to safeguard public safety and assist in making an informed decision. With the City planning codes and the Comp Plan lacking guidance on development in the area of the Airport, staff responded to Council's request for additional information that would allow them to make more informed decisions. As a result, we are presented with the ITD Guidelines, which includes the potential lateral safety zone and provides guidance throughout the State of Idaho.

Mr. Qualls confirmed for **Councilman Darling** that, in approximation, with the exception of a small corner, the east half of the parcel lies beyond 1,000 feet from runway centerline and mentioned that, as a reminder, Council's recent decision to approve another rezone on a different parcel near the Airport that will also allow for residential included a small portion that will exist within the potential lateral safety zone.

**Councilwoman Williamson's motion to amend died for lack of a second.**

**Councilwoman Williamson moved to amend** her motion to approve, adding a condition that only the east half of the parcel will be zoned RS, with the west half retaining the ITP zoning designation. **Councilwoman Ruehle seconded the motion.**

A roll call vote on the amendment resulted as follows:

Councilwoman Williamson	Yes
Councilman Aispuro	Absent
Councilwoman Ruehle	Yes
Councilman Eddy	Yes
Councilman Darling	No
Councilman Aitken	Yes

**The motion passed by a vote of Council present, with Councilman Darling dissenting.**

A roll call vote on the main motion to approve resulted as follows:

Councilman Aitken	Yes
Councilman Darling	No
Councilman Eddy	Yes
Councilwoman Ruehle	Yes
Councilman Aispuro	Absent
Councilwoman Williamson	Yes

**The motion passed by a vote of Council present, with Councilman Darling dissenting.**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING THE ZONING CLASSIFICATION OF THE PROPERTY DESCRIBED IN SECTION 1 OF THIS ORDINANCE FROM INDUSTRIAL TECHNOLOGY PARK (ITP) TO RESIDENTIAL SINGLE-FAMILY (RS); PROVIDING FOR AMENDMENT TO THE OFFICIAL ZONING MAP TO REFLECT THIS CHANGE; FINDING THAT THE NEW ZONE IS IN ACCORD WITH THE SANDPOINT COMPREHENSIVE PLAN; PROVIDING THAT ALL PRIOR ZONES APPLICABLE TO LANDS DESCRIBED IN SECTION 1 ARE HEREBY SUPERSEDED; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS: Staff has followed the notice procedures applicable to zone changes contained in Idaho Code § 67-6511 and Sandpoint City Code Title 9, Chapter 9;

WHEREAS: It is desirable and beneficial to amend zones from time to time to reflect current and future best land use;

WHEREAS: Particular consideration has been given to the effects of this proposed zone change upon the delivery of services by any political subdivision providing public services within the planning jurisdiction;

WHEREAS: The zone change is consistent with the Sandpoint Comprehensive Plan; and

WHEREAS: The amended zoning designation is in accordance with the goals and policies of the Sandpoint Comprehensive Plan.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDPOINT, BONNER COUNTY, IDAHO:

SECTION 1

The zoning classification for the below-described property shall be, and the same is, changed from the current designation of Industrial Technology Park (ITP) to Residential Single-Family (RS).

The EAST HALF of the real property described as follows:

Lot Thirteen (13) less 15 acres, Section 10, Township 57 North, Range 2 West, Boise Meridian, Bonner County, Idaho, containing 14 acres, more or less, described as the East 15 Acres of Lot 13 in Section 10, Township 57 North, Range 2 West.

Except North Boyer Avenue right of way.

Less a tract described as follows:

Commencing at the Northeast Corner of said Lot 13, Section 10, Township 57 North, Range 2 West, Boise Meridian; thence South along the West side of Boyer Avenue 250.00 feet; thence West 630.00 feet to a point; thence North 250.00 feet to the North boundary of said Lot 13; thence East 630.00 feet to the point of beginning.

And also less:

**ORDINANCE NO. \_\_\_\_\_**

Part of Lot 13 of a Subdivision of Section 10, Township 57 North, Range 2 West, Boise Meridian, Bonner County, Idaho, according to the plat thereof, recorded in Book 1 of Plats, Page 128, records of Bonner County, Idaho, described as follows: Beginning at the Northeast corner of Lot 13, thence south along the East boundary (the centerline of the Section), 250.00 feet to the True Place of beginning; thence continuing South along the same line, 132.00 feet; thence West, parallel to the North line of Lot 13, 180.00 feet; thence North 20.00 feet; thence West 110.00 feet; thence South 20.00 feet; thence West 370.00 feet; thence North 382.00 feet; thence East 30.00 feet; thence South 250.00 feet; thence East 630.00 feet to the True Point of Beginning. Except North Boyer Avenue right of way.

And also less:

Part of Lot 13 of an Unnamed Subdivision of Section 10, Township 57 North, Range 2 West, Boise Meridian, Bonner County, Idaho, according to the plat thereof recorded in Book 1 of Plats, Page 128, records of Bonner County, Idaho, described as following: Beginning at the Northeast corner of said lot 13; Thence South along the East boundary (the centerline of the Section), 250.00 feet to the TRUE PLACE OF BEGINNING; Thence continuing South along the same line, 132.00 feet; Thence West, parallel to the North line of said Lot 13, 660.00 feet; Thence North 132.00 feet to a point that lies West 660.00 feet from the True Place of Beginning; Thence East 660.00 feet to the True Place of Beginning. Except North Boyer Ave right of way.

SECTION 2

The new zoning classification for the described property is in accord with the Sandpoint Comprehensive Plan.

SECTION 3

The prior zoning designation for the land described in Section 1 of this Ordinance is hereby superseded.

SECTION 4

The Official City of Sandpoint Zoning Map will be revised to reflect this amendment pertaining to the subject property, which lies within close proximity to the Sandpoint Airport.

SECTION 5

This Ordinance shall take effect and be in full force upon its passage, approval, and publication in at least one (1) issue of the Bonner County Daily Bee, a newspaper of general distribution in the City of Sandpoint, Bonner County, Idaho, and hereby declared to be the official newspaper for the publication of this Ordinance.

PASSED BY THE CITY COUNCIL as an ordinance of the City of Sandpoint on this 3<sup>rd</sup> day of July, 2019.

\_\_\_\_\_  
Shelby Rognstad, Mayor

ATTEST

\_\_\_\_\_  
Melissa Ward, City Clerk