



Bonner County Planning Department

"Protecting property rights and enhancing property value"

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ADMINISTRATIVE VARIANCE WRITTEN DECISION

FILE: VA0021-24 **DATE OF REPORT** November 18, 2024
PROJECT: **Denied** **APPLICATION DATE:** October 1, 2024
PARCEL No: RP025820000010A
APPLICANT: Dh Holdings Llc
REPRESENTATIVE: Provolt Land Surveying, Inc. Dan Provolt
SUMMARY OF PROPOSAL: The applicant is requesting a Lot Size Minimum variance to allow a 4.08-acre lot where 5-acres is required. The 9.08-acre property is zoned Rural 5 (R-5). The project site is located off Brisboys Road in Section 10, Township 56 North, Range 02 West, Boise-Meridian.

DOES PROJECT CONFORM TO VARIANCE CRITERIA BCRC 12-2.3?

A. Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

APPLICANT: *Property is directly adjacent and is identical in topography, layout, and proximity to the highway and town. The zoning boundary did not account for this.*

STAFF: The applicant platted this lot through instrument no. 998564, "Bedford Place". The property is currently zoned Rural 5, which requires 5-acre minimums for new lots or parcels. The applicant created this lot with its existing size and shape.

The applicant has stated that the property is adjacent to a Suburban zone, which appears to be correct, as a Suburban Zoning District is directly North of the subject property. This statement appears to be a possible reasoning for a Zone Change application, rather than a variance request for lot size minimum.

B. Special conditions and circumstances do not result from the actions of the applicant.

APPLICANT: *Boundaries of the original lot are affected by existing roads and highway. Zoning*

map layout does not consider conditions listed above.

STAFF: The applicant platted this property through instrument number 998564, which created 4 lots that all meet the minimum lot size of the zoning district, including the subject property. Due to the applicant's creation of the lot, and the nature of the request, these conditions and circumstances do result from the actions of the applicant.

C. The granting of the variance is not in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.

APPLICANT: *Highway and railroad are in close proximity to this and neighboring properties which already creates a noisy environment a slightly smaller lot will not affect these elements.*

STAFF: There were no public or agency comments that would suggest that this property would be in conflict with the public interest or be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity of the subject lot.

AGENCY ROUTING

Agency routing memo sent: October 17, 2024

The following agencies were routed for review and comment:

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|--|---|
| Bonner County Floodplain Review - Email | <i>JRJ, 10.10.2024: Parcel is within SFHA Zone X per FIRM Panel Number 16017C0950E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.</i> |
| Bottle Bay Water & Sewer District - Email | <i>No Comment</i> |
| Gas Transmission Northwest Corp. - U.S. Mail | <i>No Comment.</i> |
| GIS Addressing | <i>MC 10/16/2024: Complete. No addressing concerns</i> |
| Idaho Department of Environmental Quality (DEQ) - Email | <i>No Comment</i> |
| Idaho Department of Fish & Game - Email | <i>No Comment</i> |
| Idaho Transportation Department-District I - Email | <i>No Comment</i> |
| Kootenai-Ponderay Sewer District - Email | <i>No Comment</i> |
| Northern Lights, Inc. - Email | <i>No Comment</i> |

PUBLIC COMMENT

Public comments were received at the time of this staff report.

FINDINGS OF FACT:

1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-238 Administrative Variances, BCRC 12-234 Variances, Standards for Review of Applications, BCRC 12-400, et seq., and BCRC Density and Development Standards if affected by the variance.
2. The property is zoned Rural 5 (R-5)
3. The property is zoned Rural 5, where new parcels or lots are required to be 5-acres or larger.
4. The property is served by an individual well and individual septic system.
5. The property is served by Avista Utilities and Sagle Fire District.
6. The property is located off Brisboy's Road, a Bonner County owned and maintained public right-of-way.
7. This variance request is in conjunction with a Minor Land Division, file MLD0056-24.
8. The applicant created this lot through another Minor Land Division process, on January 04, 2022, through Instrument No. 998564, as a 8.97-acre, but has stated it to be a 9.07-acre lot.

CONCLUSIONS OF LAW:

Based on the foregoing findings, the following conclusions are adopted. The proposed administrative variance **is not** in accord with the purposes of Title 12. This action does not result in a taking of private property. The action that could be taken to obtain the administrative variance is to:

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Appeal the Planning Director's decision to the County Commissioners.

1. This proposal was reviewed for compliance with the criteria and standards set forth at Sections 12-233 and 12-234, Bonner County Revised Code, storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.
2. Conditions apply to the property that **do** apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.
3. Special conditions and circumstances **do** result from the actions of the applicant.
4. The granting of the variance **is not** in conflict with the public interest in that it **will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

CONDITIONS OF APPROVAL:

None

NOTICE OF ADMINISTRATIVE DECISION:

NOTE: This determination may be appealed to the Board of County Commissioners by notifying the Planning Director in writing of the intent to appeal within ten (10) working days from the date of the determination along with the applicable appeal fee of \$380. Upon receipt of an appeal, the Planning Director will schedule a meeting with the Board within ten (10) working days to hear the appeal and will provide written notice to the appellant of the time and place of the meeting. The Planning Director and appellant will be provided an opportunity to present the relevant issues to the Board at that meeting. The Board's decision shall be final and further recourse of the appellant shall be to the Courts as provided by law. If no appeal to the Board is filed, the Planning Director's decision shall be deemed final. (BCRC, §12-261).

Following any final decision concerning a site-specific land use request, the applicant has a right to request a regulatory taking analysis pursuant to Section 67-8003, Idaho Code (*Idaho Code §67-6535(3)*).

Please contact this department if you have any questions.

Sincerely,



Planning Department