

Bonner County Planning Department

"Protecting property rights and enhancing property value"

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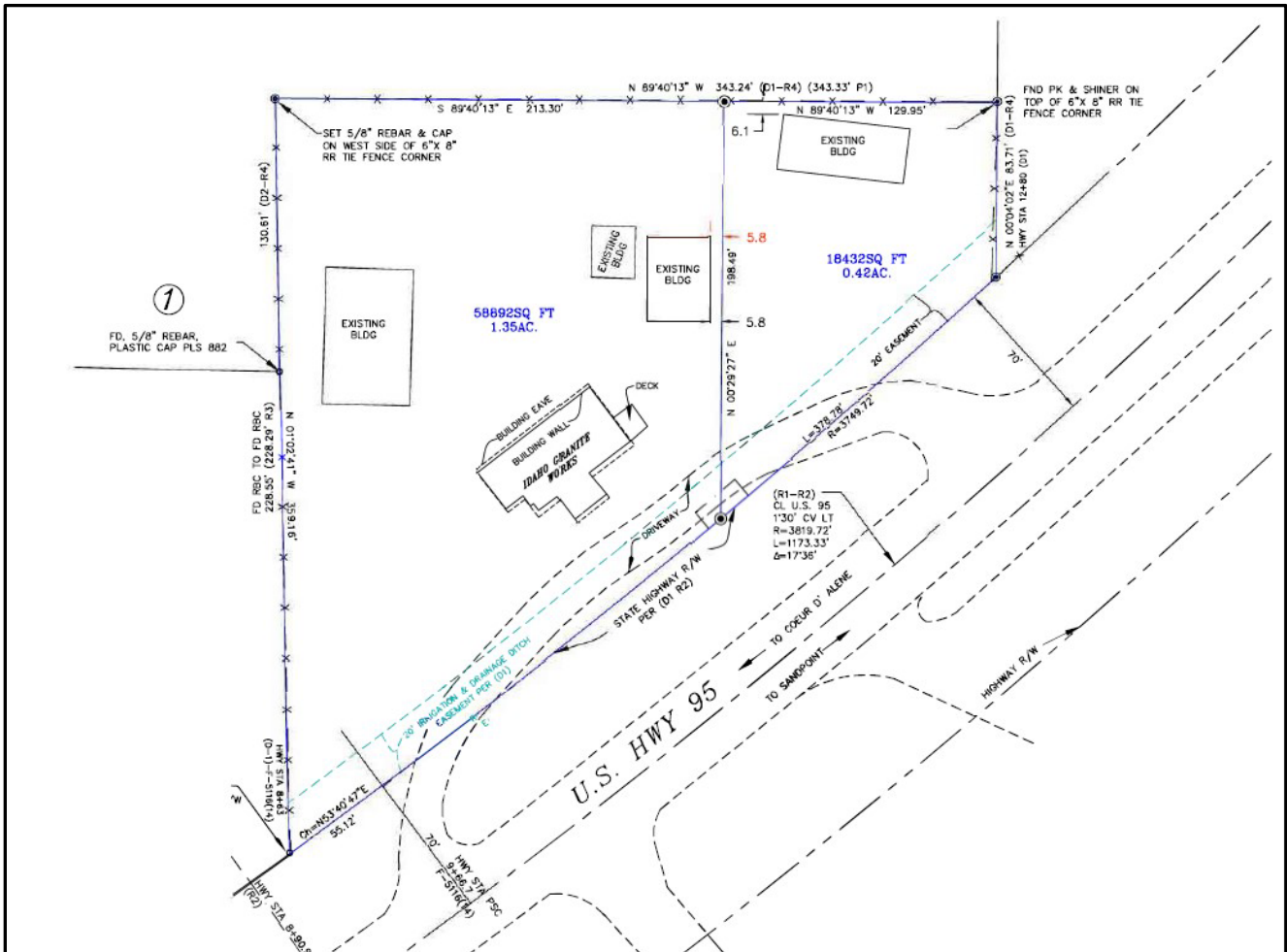
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BOARD OF COUNTY COMMISSIONERS STAFF REPORT FOR APRIL 10, 2024

Project Name:	Caliber Land Company LLC
File Number, Type:	V0024-23, Variance
Request:	The applicant is requesting a minimum lot size of 1.35-acres and 0.42-acres where 2.5-acres is required.
Legal Description:	16-56N-2W PLAT OF SWSE SCHOOL LOT 6 IDAHO GRANITE 1975 ATCO HOMES 24 X 56 MH
Location:	468146 U.S. Hwy 95, Sagle, ID 83860
Parcel Number:	RP0068700000SLA
Parcel Size:	1.78-acres
Applicant:	Caliber Land Company LLC 468146 U.S. Hwy 95 Sagle, ID 83860
Project Representative:	Jeremy Grimm Whiskey Rock Planning + Consulting 614 Creekside Ln Sandpoint, ID 83864
Property owner:	Caliber Land Company LLC 468146 U.S. Hwy 95 Sagle, ID 83860
Application filed:	October 27, 2023
Notice provided:	Mail: November 21, 2023 Published in newspaper: November 21, 2023 Site Posting: November 20, 2023 Mail: January 16, 2024 Published in newspaper: January 16, 2024 Site Posting: January 23, 2024 Mail: March 26, 2024 Published in newspaper: March 26, 2024 Site Posting: March 25, 2024
Enclosure:	Annex A – Comprehensive List of Agencies Routed

Subject Property Site Plan:



Project summary:

The applicant is requesting a minimum lot size variance of 1.35-acres and 0.42-acres where 2.5-acres is required. The platted lot consists of 1.78-acres with a recent approved zone change from Suburban (S) to a zoning designation of Commercial (C). Previously the project site was split zoned with zoning designation of Suburban (S) and Commercial (C). The site is located off U.S. Hwy 95, in a portion of Section 16, Township 56 North, Range 2 West, Boise-Meridian.

Applicable laws:

The following sections of BCRC, Title 12, apply to this project:

BCRC 12-222: Application, Contents

BCRC 12-232: Variances, General Provisions

BCRC 12-234: Variance Standards

BCRC 12-325: Commercial District

BCRC 12-412: Density and Dimensional Standards; Commercial, Commercial, Industrial, Rural Service Center, Recreation and Alpine Village Zones

BCRC 12-7.2, et seq.: Grading/Erosion/Stormwater

BCRC 12-800, et seq.: Definitions

Background:

A. Site data

- Platted in 1912 in Book 1 of Plats, Page 140, Records of Bonner County, Idaho
- Legal, non-conforming lot (below lot size minimum)
- Multiple structures
 - ~1344 sq ft single family dwelling (mobile home)
 - ~4320 sq ft commercial building
 - ~2560 sq ft accessory building
 - ~1040 sq ft accessory building
 - ~480 sq ft accessory building
- Size: 1.78-acres per Record of Survey, Instrument No. 748194
- Zone: Commercial (C)
- Land Use: Transition (<=2.5 AC)

B. Access

- U.S. Hwy 95 is a 160' public right-of-way with a paved 60' travel way.

C. Environmental factors

- The site does not contain mapped slopes in excess of 30% grade per U.S. Geological Survey (USGS).
- The site does not contain mapped wetlands per U.S. Fish & Wildlife Service (USFWS).
- The site does not contain river/stream/lake frontage per the National Hydrography Dataset (NHD).
- The site is within SFHA Zone X per FIRM Panel #16017C0950E, effective 11/18/09.

D. Services

- Water: Individual Well
- Sewage: Lies within the Sagle Valley Water & Sewer District but is currently served by a private individual septic system
- Fire: Selkirk Fire District
- Power: Avista Utilities
- School District: Lake Pend Oreille School #84
- Ambulance District: Bonner County Ambulance District
- Hospital District: Pend Oreille Hospital District
- Law Enforcement: Bonner County Sheriff Department

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Transition	Commercial	Residential/Commercial
North	Transition	Commercial	Non-residential, 3.80-acres
South	Transition	Suburban	Commercial, 0.45-acres
East	Transition	Commercial	Commercial, 1.34-acres
West	Transition	Suburban	Residential, 0.60-acres

F. Standards Review

BCRC 12-234 specifies that “The staff, Zoning Commission, hearing examiner and/or Board shall review the particular facts and circumstances of each proposal submitted. To grant a variance, the hearing examiner or the Governing Body must find adequate evidence showing that:”

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: *The subject parcel is currently legally nonconforming due to a variety of characteristics including uses, and density. The owner has no control over the now recognized size of the parcel. General publicly available information on the Bonner Count GIS parcel map shows the parcel being 2.45 acres in size when in fact the survey results show the parcel to be 1.78 acres, thereby falling under the minimum size required to create two 1-acre lots as originally desired by the owner. The conditions and limitations described ARE a result of actual lot size.*

Staff: BCRC 12-412 states that lots zoned Commercial must have a minimum lot size of 2.5-acres where urban sewer and water services are not available. If urban water is available, the minimum allowable lot size is reduced to 1.0-acre. If urban sewer is available, the minimum allowable lot size is reduced to 20,000 square feet. The subject lot is a triangle-shaped 1.78-acre lot that is zoned Commercial. This lot is a legal, non-conforming lot since it does not have urban services and is below the 2.5-acre minimum lot size per BCRC 12-412. Although the service map for Sagle Valley Water & Sewer extends to the proposed lots, the applicant has stated that there are no urban services present and there is no timeline to extend services to the lot. After submitting the application, the applicant provided a will-serve letter from

Sagle Valley Water and Sewer. Per the applicant, there is a single well on the proposed larger lot. A water availability report from an Idaho-licensed engineer or approval from the Idaho Department of Environmental Quality (IDEQ) was not provided at the time of this staff report, which is a requirement per BCRC 12-623 (3) for a shared well.

The lot consists of 1.78-acres per Record of Survey, Instrument Number 784194, dated March 21, 2008. This document was referenced in the deed that was submitted by the applicant and is available at the Bonner County Recorder's office. The site plan submitted by the applicant was taken from the record of survey. While the Bonner County GIS system does show the lot acreage as 2.45-acres, all users of the GIS system are presented with a disclaimer screen stating that Bonner County is not responsible for any errors or omissions.

The parcels/lots near the subject lot range from 0.45-acres to 7.638-acres and are zoned either Suburban or Commercial. There are a number of sub-2.5 acre, legal, non-conforming lots in both zones near the subject lot that do not have urban services. This is due to the fact that Sagle Valley Water & Sewer has not extended their water service to the applicant's vicinity nor do they provide sewer services.

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

Applicant: *The applicant has taken no action and has not caused circumstances to occur which have changed the legal area of the parcel. The request for this variance is due to an inconsistency between the Bonner Count GIS listed parcel area (2.45 acres) and the actual area of +/-1.78 acres which necessitates the request.*

Staff: The applicant has not taken any action to create any special conditions or circumstances that may exist for this lot. This lot was platted on July 27, 1912 per Book 1 of Plats, Page 140, Instrument Number 022404, Records of Bonner County, Idaho. The applicant purchased this lot on January 21, 2022 per Instrument Number 999423, Records of Bonner County, Idaho. The applicant has not made any changes to the lot since it was purchased.

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: *This is private property and for no commercial use.*

Staff: The creation of 1.35-acre and 0.42-acre lot may be detrimental to the public interest as there is insufficient area for individual services and there are no urban services available. BCRC 12-412 states that lots zoned Commercial must have a minimum lot size of 2.5-acres where urban sewer and water services are not available. The lot is currently 1.78-acres and is already below the lot size minimum. A 1.35-acre and 0.42-acre lot would further increase the non-conformity on this lot, double the allowable density and provide for an increase in the intensity of use on the subject property.

The lot is currently allowed one single family dwelling, one accessory dwelling unit and two RV dwelling units. If this application is approved, the larger lot will be allowed the number of dwelling units specified above, while the smaller lot will be allowed the same number of dwelling units, with the exception of only being allowed one RV dwelling unit. This effectively doubles the density and intensity of use. A search of the Idaho Department of Water Resources records confirmed that there is a registered well producing 50 gallons per minute (GPM) on the proposed larger lot. There was no record of a well on the proposed smaller lot. A search of the Panhandle Health records did not produce any records for a septic system on either lot.

On January 9, 2024, the project representative submitted a will-serve letter from Sagle Valley Water. The letter stated the following:

This email serves as a promise to provide domestic water service to the property located at 468146 Highway 95, Sagle, ID 83860 when a connection becomes available. All costs associated with said connection will be the responsibility of the property owner.

Sagle Valley Water and Sewer District does not provide sewer services.

Additionally, Mr. Grimm, the project representative, made the following statement in his application narrative:

Although the subject parcel does sit within the Sagle Water and Sewer District and will eventually be served by said services, today this is impossible due to the distance to utility lines and capacity of the district.

Property owners within a 300-foot radius of the subject property were notified of this application. No public comments opposing or supporting the variance were received. No comments or recommendations were received from agencies that indicate a negative impact on public safety, health, or welfare.

G. Grading/Erosion/Stormwater

Per BCRC 12-7.2, there is no grading/erosion/stormwater management plan required at this time. This is not an application for development. However, a Grading/Erosion/Stormwater Management plan may be required at the time of application for a Building Location Permit.

H. Agency Review

The following agencies were routed for review and comment on November 14, 2023.

Avista Utilities

No response

Bonner County Floodplain Review

The 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.

GIS Addressing	<i>MC 12/6/2023: No addressing issues.</i>
Idaho Department of Environmental Quality (DEQ)	<i>See comment</i>
Idaho Department of Fish & Game	<i>See comment</i>
Idaho Department of Water Resources - IDWR	<i>No response</i>
Idaho Transportation Department-District I	<i>See comment</i>
Lake Pend Oreille School District, #84 (Admin Office)	<i>No response</i>
Lake Pend Oreille School District, #84 (Transportation)	<i>No response</i>
Panhandle Health District	<i>No response</i>
Road & Bridge BLP Signoff	<i>No response</i>
Sagle Valley Water & Sewer	<i>No response</i>
Selkirk Fire, Rescue & EMS	<i>No response</i>
U.S. Army Corps of Engineers	<i>No response</i>
U.S. Fish & Wildlife Service	<i>No response</i>

The agencies listed in Annex A were routed on March 26, 2024. The following agencies responded:

Idaho Department of Transportation

These two approaches are permitted with permit no. 1-24-211-A. The peak hour traffic is recorded at 5 per peak hour. If this increases, ITD will request a change in use permit.

Kootenai Ponderay Sewer District

No comment.

I. PUBLIC COMMENT

As of the date of the staff report, public comments have been received.

Staff Summary:

Staff concluded this project **is not** consistent with Bonner County Revised Code based upon the following:

Per BCRC 12-412, the minimum lot size for the Commercial zones where no urban services are available is 2.5-acres. Although the lot is within the Sagle Valley Water & Sewer District service area, water service is not provided to the subject lot and the district does not provide sewer service.

The applicant purchased the property as it currently exists. They have not taken any action to create the special conditions or circumstances that apply to the property.

The granting of this variance may be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject lot by increasing the density, increasing the non-conformity and increasing the intensity of use where urban services currently do not currently exist. A will-serve letter from Sagle Valley Water was provided, but it is so ambiguous that its relevancy is questionable.

Staff: The request is not consistent with Bonner County Revised Code

Planner's Initials: RW

Date: April 3, 2024

Note: This is not a decision or a recommendation. The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence

RECOMMENDATION BY THE HEARING EXAMINER:

On December 20, 2023, Hearing Examiner Jacqueline Rucker heard file V0024-23 and on December 29, 2024 recommended that the Zoning Commission conduct a public hearing for this variance, File V0024-23, requesting a minimum lot size variance of 1.35-acres and 0.42-acres where 2.5-acres is required, pursuant to the public hearing noticing requirements and procedures of Chapter 2, Subchapter 2.6 of Title 12, based upon the extent of public comment and other contested factors in the case which warrant a hearing in front of the Zoning Commission.

Zoning Commission decision: DENY

Date: February 15, 2024

VOTE: 4-0

On February 15, 2024, the Zoning Commission denied this file.

On March 21, 2024, the Planning Department received a request to appeal this file, V0024-23. See appeal documents.

Motion by the Governing Body:

BOARD OF COUNTY COMMISSIONERS

MOTION TO REVERSE: I move to reverse the Zoning Commission's February 15th, 2024 decision to deny this project, and approve FILE V0024-23, for a reduced minimum lot size of 1.34-acres and 0.42-acres where 2.5-acres is required, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

Conclusion 1

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.

Conclusion 2

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

Conclusion 3

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.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further move to adopt the findings of fact as set forth in the Staff Report (or as amended during the hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

MOTION TO AFFIRM: I move to affirm the Zoning Commission's February 15th, 2024 decision to deny this project, FILE V0024-23, for a reduced minimum lot size of 1.34-acres and 0.42-acres where 2.5-acres is required, based upon the following conclusions of law:

Conclusion 1

Conditions apply to the property that **do/ 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.

Conclusion 2

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

Conclusion 3

The granting of the variance **is/ is not** in conflict with the public interest in that it **will/ 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.

The decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further move to adopt the findings of fact as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code

Findings of Fact

1. The proposal was reviewed for compliance with BCRC 12-234 Variances, and standards for review of applications, BCRC 12-400, et seq.
2. The lot was platted on July 27, 1912 per Book 1 of Plats, Page 140, Instrument Number 022404, Records of Bonner County, Idaho.
3. The lot consists of 1.78-acres per Record of Survey, Instrument Number 784194, dated March 21, 2008.
4. The site does not contain mapped slopes per United States Geological Survey.
5. The parcel does not contain wetlands per United States Fish and Wildlife Service.
6. The site does not contain a river/stream/frontage on a lake per the National Hydrology Dataset.
7. The 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.
8. The lot is accessed via U.S. Hwy 95. U.S. Hwy 95 is a 160' right-of-way with a paved 60' travel way.
9. The site is Commercial (C) with a land use designation of Transition.
10. The applicant purchased this lot on January 21, 2022 per Instrument Number 999423, Records of Bonner County.
11. The Hearing Examiner heard the file on December 20, 2023 and on December 29, 2023 recommended that the Zoning Commission hear the file.
12. The Zoning Commission heard the file on February 15, 2024 and voted 4-0 to deny this file.
13. The Planning Department received a letter of appeal on March 21, 2024, appealing the Zoning Commission's February 15, 2024 decision to deny this file.

Suggested Conditions of Approval:

Standard permit conditions.

- 1.** Only the lot size minimums as shown on the site plan have been reviewed for variance standards. All other lot design standards and future development must comply with Bonner County Revised Code excepting the modified lot size minimums herein.
- 2.** The granting of this variance shall not supersede any deed restrictions.
- 3.** A land division application must be submitted to the Bonner County Planning Department in order to divide the property.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Some file application material is available online at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.

ANNEX A

RECORD OF MAILING

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File No.: V0024-23

Record of Mailing Approved By:

Hearing Date: April 10, 2024

Robert Winningham, Planner

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **26th** day of **March 2024**.



Jenna Crone, Hearing Coordinator

Assessor - Email	Avista Utilities - Email
Bay Drive Recreation District - Email	Bayview Water & Sewer - Email
Bonner County Airport Manager - Email	BONNER COUNTY DAILY BEE - U.S. Mail
Bonner County EMS - Email	Bonner County Floodplain Review - Email
Bonner County Road & Bridge - Email	Bonner County Sheriff - Email
Bottle Bay Water & Sewer District - Email	City of Clark Fork - Email
City of Dover - Email	City of East Hope - Email
City of Hope - Email	City of Kootenai - Email
City of Oldtown - Email	City of Ponderay - Email
City of Priest River - Email	City of Sandpoint - Email
City of Spirit Lake - Email	Coolin Sewer District - Email
Coolin-Cavanaugh Bay Fire District - Email	Drainage District #7 - Email
East Bonner Library - Email	East Priest Lake Fire District - Email
Ellisport Bay Sewer - Email	Garfield Bay Water & Sewer District - Email
GEM STATE MINER - U.S. Mail	Granite Reeder Water & Sewer District - Email
Idaho Department of Environmental Quality (DEQ) - Email	Idaho Department of Fish & Game - Email
Idaho Department of Lands - CDA - U.S. Mail	Idaho Department of Lands - Coolin - Email
Idaho Department of Lands - Navigable Waters & Mining - Email	Idaho Department of Lands - Sandpoint - Email
Idaho Department of Water Resources - IDWR - Email	Idaho Transportation Department (Aeronautics) - U.S. Mail
Idaho Transportation Department- District I - Email	Independent Highway District - Email
Kalispel Bay Sewer & Water - U.S. Mail	Kootenai-Ponderay Sewer District - Email
KPBX-FM 91 SPOKANE PUBLIC RADIO - U.S. Mail	KSPT-KPND-KIBR RADIO - U.S. Mail
Laclede Water District - Email	Lake Pend Oreille School District, #84 (Admin Office) - Email
Lake Pend Oreille School District, #84 (Transportation) - Email	Lakeland Joint School District, #272 - Email
Little Blacktail Ranch Water Association - U.S. Mail	North of the Narrows Fire District - Email
Northern Lights, Inc. - Email	Northland/Vyve Cable Television - Email
Northside Fire District - Email	Outlet Bay Sewer District - Email
Panhandle Health District - Email	Pend Oreille Hospital District - Email
Priest Lake Public Library District - Email	Priest Lake Translator District - Email
Sagle Valley Water & Sewer - Email	Sam Owen Fire District - Email
Schweitzer Fire District - Email	SELKIRK ASSOCIATION OF REALTORS - U.S. Mail
Selkirk Fire, Rescue & EMS - Email	Selkirk Recreation District -Email
Southside Water & Sewer District - Email	Spirit Lake Fire District - Email
Spokesman-Review - U.S. Mail	State Historical Society - Email
Swan Shores Sewer District - U.S. Mail	Syringa Heights Water Association - Email
Tamarack Village Water & Sewer - U.S. Mail	Timber Lake Fire District - Email
Trestle Creek Sewer District - Email	U.S. Army Corps of Engineers - Email
U.S. Fish & Wildlife Service - Email	U.S. Forest Service - U.S. Mail
West Bonner County Cemetery District - Email	West Bonner County School District, #83 - Email
West Bonner Library - Email	West Bonner Water & Sewer District - Email
West Pend Oreille Fire District - Email	West Priest Lake Fire District - Email