

12-262: APPEALS FROM FINAL DECISION OF COMMISSION/HEARING EXAMINER:

A. Presentation Of Appeal: Any “affected person”, as defined by Idaho Code title 67, chapter 65, may appeal to the Board any final decision by the Zoning Commission/hearing examiner.

B. Filing Time Limit; Fee: Any affected person may file an appeal of the final decision of the Zoning Commission/hearing examiner with the Planning Director within twenty eight (28) days after the final written decision of the Zoning Commission/hearing examiner has been issued. The appellant shall pay the fee required by this title upon filing the appeal. An appeal shall not be considered to be filed until such fee has been paid. Failure to file the appeal within the time limits shall cause automatic dismissal of the appeal.

C. Notice Of Appeal Contents: The notice of appeal shall be detailed in writing and shall provide the grounds for the appeal. The grounds for appeal shall be that the decision of the commission or hearing examiner was at a minimum one of the following:

- 1. In violation of constitutional or statutory provisions;**
2. In excess of the statutory authority of the commission or hearing examiner;
- 3. Made upon unlawful procedure;**
4. Arbitrary, capricious or an abuse of discretion; or
5. Not supported by substantial evidence on the record as a whole.

D. Procedures For Consideration Of Appeal:

1. Within sixty (60) days of the receipt of the appeal, the Board shall conduct a public hearing. The hearing shall be conducted in the same manner using the same standards, as if the Board had original jurisdiction to hear the application.

2. Upon consideration, the Board may affirm, reverse, or modify the decision of the Zoning Commission/hearing examiner, after compliance with applicable procedural standards.

3. The decision of the Board shall be final, and any further recourse shall be as provided by law.

E. Applicability: The appeal process shall be coordinated with administration of land use ordinances. The procedures for appeal set forth herein shall be applied in a manner which is consistent with the zoning, subdivision and **related land use ordinances of Bonner County**. (Ord. 559, 1-4-2017; amd. Ord. 661, 3-18-2022; Ord. 681, 10-12-2022; Ord. 682, 10-12-2022)

12-263: RECONSIDERATION:

A. Reconsideration: Every applicant or affected person seeking judicial review of the Board's final decision must first file with the Board a motion for reconsideration of the Board's decision, specifying deficiencies in the decision within fourteen (14) days of the

date of the decision, along with the applicable fee. A failure to seek reconsideration is also a failure to exhaust administrative remedies.

B. Initial Decision: The Board may consider the reconsideration motion as scheduled on an open business meeting agenda and determine whether to grant or deny the request. If the Board grants reconsideration in whole or in part, a hearing before the Board will be scheduled to address the specific deficiencies identified by the applicant or affected person and to allow interested persons to have an opportunity to be heard. If the Board denies the request for reconsideration, it shall promptly notify the parties in writing.

C. Public Notice On Hearing: Notice of the public hearing on the reconsideration, identifying the specific deficiencies alleged in the reconsideration request, will be provided as follows, including:

1. Notice To Agencies And Political Subdivisions: At least fifteen (15) days prior to the public hearing, the Director shall send notice to all political subdivisions providing services with the planning jurisdiction, including school districts and the manager or person in charge of the local public airport.

2. Legal Notice: At least fifteen (15) days prior to the public hearing, the Director shall publish a notice of the time and place in the official newspaper or paper of general circulation in the County.

3. Radius Notice: Will be provided in the same manner as originally provided on the application.

D. Decision: Following the hearing on the reconsideration, the Board may affirm, reverse or modify its prior decision and shall provide a written decision to the applicant and the affected person(s) within sixty (60) days of receipt of the request for reconsideration. If the Board fails to timely decide, the original decision of the Board will stand. (Ord. 573, 10-25-2017)

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6521. ACTIONS BY AFFECTED PERSONS.

(1) (a) As used herein, an affected person shall mean one having a bona fide interest in real property which may be adversely affected by:

(i) The approval, denial or failure to act upon an application for a subdivision, variance, special use permit and such other similar applications required or authorized pursuant to this chapter;

History:

[67-6521, added I.C., sec. 67-6521, as added by 1975, ch. 188, sec. 2, p. 515; am. 1993, ch. 216, sec. 113, p. 679; am. 1996, ch. 199, sec. 1, p. 620; am. 2010, ch. 175, sec. 3, p. 361.]

April 19, 2024

CUP 0001-24 Cabin View Winery Appeal

Whereas I, Suzanne Glasoe, am an affected person by the approval of the CUP for the winery for in the fact that the winery is located on a private road ONLY accessible by helicopter or by all visitors to the winery traverse Meadowood Road to and from, a street I have resided on and in my twenty second year of property ownership as a sole owner and directly impacts my daily life.

Whereas evidence was presented in bulk prior to the hearing and additional at the time of the hearing that proved the Bonner County Ordinance for winery, distillery, brewery (12-336) was not met for Resource Table #20 is not met and per the Bonner County Attorney, Bill Willson in the hearing of 4/10, crystal ball method cannot be used and all parts of the ordinance must be met at time of hearing and not a future expectation. There is no agriculture today and “dedicated” land for future use is crystal ball methodology and therefore the ordinance (law) of Bonner County is NOT met at time of CUP application. Additional testimony by myself was given at the hearing to support clear and factual reasons why the CUP could not be granted based on item #20.

(20) ***At least 0.5 acre of primary beverage ingredient used in distilling or brewing shall be grown on site.***

Winery, brewery or distillery shall be clearly subordinate to agricultural operation.

All structures associated with the beverage operation shall be a minimum of 75 feet from property lines. Sales are limited to fermented or distilled beverages produced on site and limited food sales. Sales of bottle openers, glasses or other such promotional items identifying the site are permitted. Hours of operation and maximum occupancy may be limited by the conditional use permit.

Whereas the Hearing Examiner chose to approve the file setting aside the Bonner County Ordinance and ruled in favor of the CUP using only the land use portion of the Bonner County Comprehensive Plan, and land as agricultural, but citing “future land use” and not current land use as dictated by the ordinance at time of filing and hearing, and in years of existence.

Whereas there is a specific condition to be met for the rural character of Bonner County to have agriculture (farming) as the primary function and the winery as a subordinate, there has been agriculture, rather 100% of grapes are shipped in from WA and labeled as a WA wine, and shipped out for profit. No grapes are grown in put in production nor proven they can be grown. This is an industrial commercial operation. The winery has been in production since 2019 with stated intent to grow wine grapes, but has not. Similar opportunities in the area have failed (Naples Blue Lake) and other operations do adhere to the ordinance by meeting ordinance or moving to a city.

Laughing Dog Brewing – 100% shipped in and out, located in city of Ponderay
Pond Oreille Winery – 100% shipped in and out, located in city of Sandpoint ID
Hoo Doo Valley Distillery – grow crops in production but locked gate and no tasting for safety
Mill Town Distillery - grow crops in production but locked gate and no tasting for safety
MickDuffs Brewery-100% shipped in and out, located in city of Sandpoint
Utara Brewery-100% shipped in and out, located in city of Sandpoint
(closed) Small House Winery-100% shipped in and out, located in Ponderay until closed

Whereas the winery has been able to operate under a Home Occupation Permit (12-489) since 2019, an ordinance which is separate and apart from the winery ordinance and not intended to replace by convenience.

Whereas the winery is serving alcoholic beverages to persons visiting the tasting room, where one to one-and-a-half pours are allowable, but Idaho State does not specify the quantity of pours. Persons after ingesting alcohol are traversing Meadowood Road, my road, where I and my neighbors walk leisurely, children play, pet animals are about, and wildlife is present, and not expecting traffic leaving a winery and having consumed alcohol that may slow or impair their driving, and pose a safety risk.

Payment will be driven in before the end date of appeal filing.