

**BONNER COUNTY PLANNING
DEPARTMENT
ZONING COMMISSION
STAFF REPORT FOR APRIL 3, 2025**



Project Name: Idaho Land LLC RV Park

File: CUP0030-21 Conditional Use Permit RV Park

Request: The applicant is requesting to install 20-unit RV Park

Legal Description: 24-54N-5W SENE Lying S & E of R/W

Location: Clagstone Road and Al's Welding Road, Blanchard

Parcel Number: RP54N05W242300A

Parcel Size: 4.17 acres

Applicant: Idaho Land LLC,
PO Box 591
Hayden, ID 83835

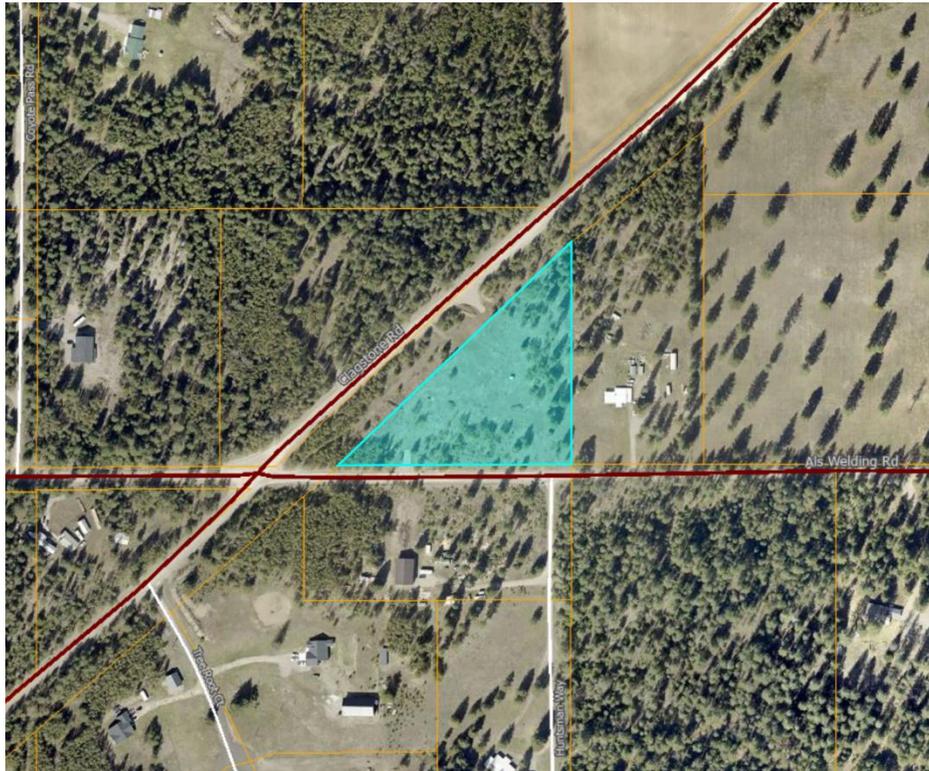
Project Representative: Stephen Doty, Idaho Land LLC
18599 N Elk Run Lane,
Rathdrum, ID 83858

Property Owner: Idaho Land LLC
18599 N Elk Run Lane,
Rathdrum, ID 83858

Application filed: February 2, 2022; revised on December 18, 2024

Notice Provided: Mail: March 4, 2025
Site Posting: March 13, 2025
Published in newspaper: March 4, 2025

Appendices: Appendix A – Public Notice and Agency Record of Mailing
Appendix B – Agency Comments
Appendix C – Previous Decision Letters



Project summary:

The applicant is requesting a conditional use permit for a 20-unit RV park. The site is located on the corner of Al's Welding Road and Clagstone Road in Blanchard. The site is approximately 4.17 acres in size and is currently vacant. It is mostly flat with timber on the east and south side of the property. The parcel is currently zoned Rural-5.

Following the court's decision to vacate the BOCC's approval, the applicant has modified the application and removed all references to affordable housing or long-term residential use in the application. The revised application is now under administrative review by the county, with the Zoning Commission serving as the appropriate hearing body.

The revised application aligns with the RV Park definition as a commercial use by removing references to residential occupancy.

Chronology of events:

- June 2, 2022 - Zoning Commission Approval Decision, vote of 5-0
- September 1, 2022 - BOCC Appeal Approval Decision, vote of 3-0
- September 29, 2022 - RV Park Building Location Permit Application
- February 14, 2023 - RV Park Building Location Permit Issued
- August 17, 2023 - District Court Decision, vacated the BOCC approval
- November 6, 2023 - BOCC Approval Decision, vote of 2-0
- November 15, 2024 - District Court Decision, vacated the BOCC approval
- December 18, 2024 - Revised Application Submitted
- April 3, 2025 - Zoning Commission Hearing

Applicable laws:

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

BCRC 12-220, et seq, conditional use permit, application and standards

BCRC 12-331, Interpretation of Use Table

BCRC 12-333, Commercial Use Table

BCRC 12-335, Public Use Table

BCRC 12-4.2, General Standards

BCRC 12-4.3, Parking Standards

BCRC 12-4.4, Sign Standards

BCRC 12-4.5, Design Standards

BCRC 12-4.6, Landscape and Screening Standards

BCRC 12-496, Recreational Vehicles

BCRC 12-497, RV Parks/ Campgrounds

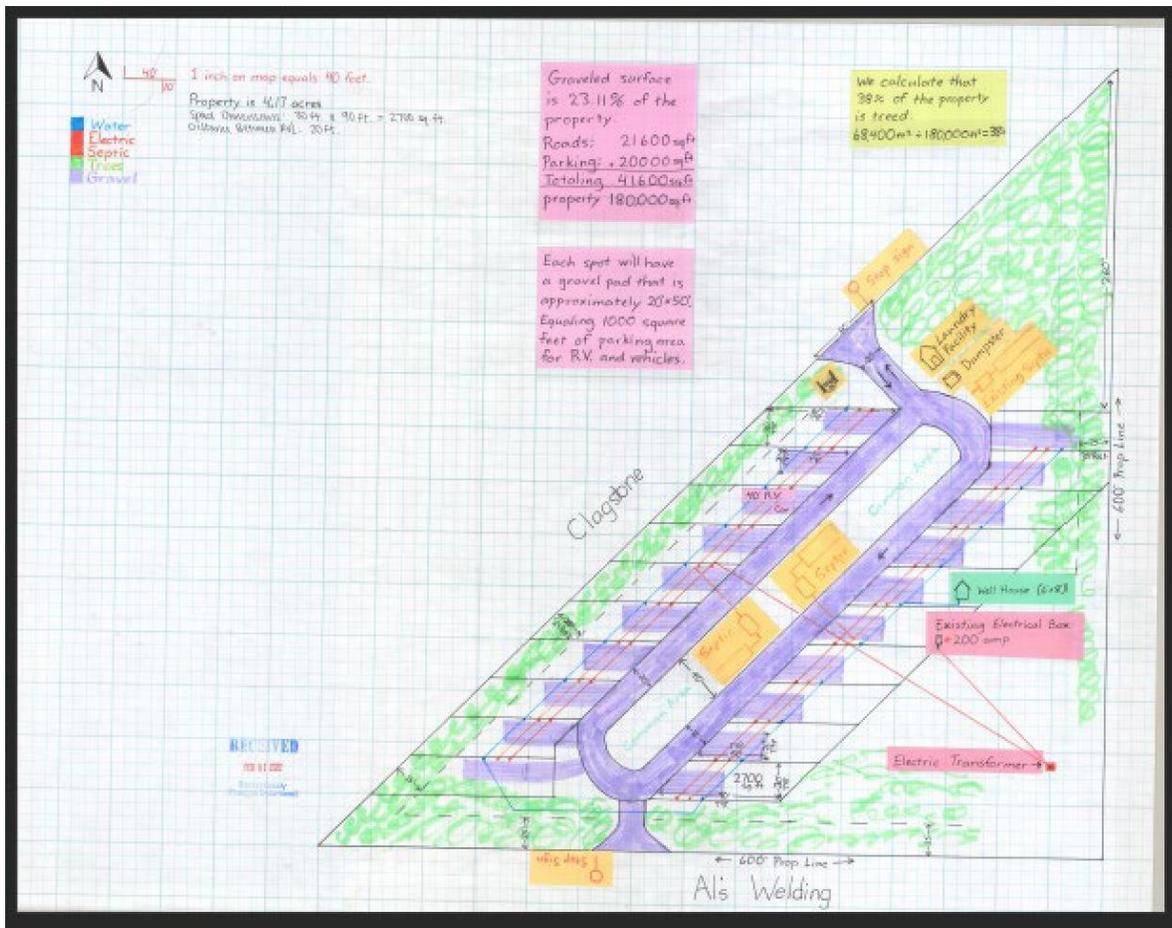
BCRC 12-7.2, Grading, Stormwater Management, and Erosion Control

BCRC 12-800, et seq, Definitions

The following sections of Idaho State Statute are included as reference to this project:

Idaho Code 63-1803(4), Defining short-term rentals as stays of 30 days or less

Idaho Code 67-6539, Short-term rentals



Background:

A. Site data:

- Unplatted
- Size: 4.17 acres
- Zone: Rural-5
- Land Use: Rural Residential

B. Access:

- Clagstone Road and Al’s Welding Road, both are Bonner County owned and maintained public rights-of-way.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Entire parcel is within SFHA Zone X, per FIRM Panel 16017C1100E, Effective Date 11/18/2009

D. Services:

- Water: Individual well
- Sewage: Individual septic system
- Fire: Spirit Lake Fire District
- Power: Inland Power
- School District: West Bonner School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural-5	Vacant/ 4.17 acres
North	Rural Residential	Rural-5	Vacant/ 41 acres
East	Rural Residential	Rural-5	Single Family Dwelling/ 5.88 acres
South	Rural Residential	Rural-5	Single Family Dwelling/ 5 acres
West	Rural Residential	Rural-5	Vacant/ 6.82 acres

Agency Notice and Public Comments:

A full list of agencies notified of this file can be found in Appendix A. Several agency comments were received through the various previous hearings in 2022 and 2023 on this file and are included in the record. Given the application has been amended, the following agencies provided comment in response to the public notice for this hearing:

Bonner County Road and Bridge:

"Bonner County Road & Bridge has the following comments:

1. In our previous review of this file, we stated that the Applicant would need to file for commercial approach encroachment permits from our department for the proposed entrances into their parcel. The Applicant has done so, and built the approaches to our standards. No further action is required.

2. There has been much discussion of late regarding the public road status of Al's Welding Road. The road was originally a private road, but began receiving maintenance by Bonner County in the 1990's when a Road & Bridge Dept employee lived on the road and drove the grader in and out for winter plowing, which established a precedent which never stopped.

Idaho requires only 5 years of public maintenance and public use to establish prescriptive public right of way per Idaho Code 40-202 (3). That threshold has been more than adequately met in the ~30 years of public maintenance and public use the road has received, and there is no doubt that the road is a public road at this point, receiving full maintenance by Bonner County.

-Matt Mulder, PE"

Idaho Department of Environmental Quality:

"Per the application, the drinking water system serving this project would meet the definition of a public drinking water system (PWS) serving 25 people 60 days or more per year and must meet the requirements of a transient, noncommunity PWS under the Idaho Rules for Public Drinking Water Systems (Rules). If the CUP is approved the owner must meet the following requirements prior to developing and serving water to the public:

- The well location and construction must first be assessed and approved by DEQ. If it cannot be approved to meet Idaho Rules, another drinking water site and source must be approved.*
- A facility plan and preliminary engineering report (PER) developed by an Idaho licensed professional engineer, which includes relevant requirements listed in IDAPA 58.01.18 Section 500, must be submitted to and approved by DEQ.*
- Plans and specifications for the drinking water infrastructure to serve this project must be submitted to DEQ by an Idaho licensed professional engineer and approved by DEQ, and the well pump test must be performed and approved in*
 - accordance with DEQ requirements.*
 - Initial water quality monitoring must be performed.*
 - Contact DEQ, Coeur d'Alene for further information (208) 769-1422.*

Wastewater

The application states wastewater will be disposed of through a drainfield. DEQ may be involved in the review of the wastewater system at the request of Panhandle Health District (PHD). If the cumulative design flow from all wastewater generating facilities on the property exceeds 2,500 gallons per day (gpd), the wastewater system will be considered a public wastewater system and must meet the applicable rules defined in IDAPA 58.01.16 and IDAPA 58.01.03. If DEQ is requested to review the project, and the project exceeds 2,500 gpd, DEQ will require the applicant to submit a preliminary engineering report (PER) prepared by an Idaho-licensed professional engineer, a demonstration of technical, financial, and managerial capacity, engineered plans and specifications, and results from a nutrient-pathogen evaluation, prior to DEQ recommending approval to PHD.

If you have any questions about the comments this project has received please contact:

*Katy Baker-Casile for engineering and wastewater.
Anna Moody for drinking water.
Shawn Sweetapple for air quality.*

Kevin Aardahl for remediation or RCRA.
Robert Steed for surface water and setback requirements.
Thank you
Idaho Department of Environmental Quality”

Idaho Department of Fish and Game:

Please consider this email as comment by Idaho Department of Fish and Game (IDFG) regarding CUP0030-21:

Game species such as deer, elk, and wild turkey likely use this and nearby habitat year-round. Moose, black bear, and mountain lion are likely to occasionally pass through. The Department will not be responsible for losses of domestic animals (dogs, cats, livestock), ornamental plants, or private property.

IDFG offers the following voluntary recommendations:

Standing timber (including dead snags) and natural vegetation (including shrubs) be retained (outside building envelopes and with consideration for defensible space in a wildfire context) to provide cover, food, nesting sites, perching sites, etc. for indigenous wildlife.

Garbage should not be left outside, bear-proof dumpsters should be used, and an adequate garbage collection system should be designed and implemented including bear-aware signage.

We recommend that signage be placed prohibiting purposely feeding wild animals. We recommend that any onsite security lighting be downcast to avoid disturbance of nocturnal wildlife.

We recommend pets be kept kenneled, leashed, indoors, or otherwise restrained from chasing or disturbing wildlife.

If perimeter fencing cannot be avoided, we recommend wildlife-friendly fencing (such as post and rail) that allows animals to move through unrestricted. Woven wire and chain link fencing can result in entanglement and injury to deer and elk. Exclusion fencing (eg. chain link with slats, wood slat) is recommended for smaller areas such as gardens or pet runs. Wildlife friendly fencing guides are available online from NRCS, Arizona Game & Fish, and Montana Fish Wildlife and Parks.

Thank you for the opportunity to comment,

Merritt Horsmon

Spirit Lake Fire Protection District:

“The Spirit Lake Fire Protection District will follow and enforce the International Fire Code to the full extent regarding file CUP0030-21. Notably, RV parks pose a unique risk, especially in the Wildland Urban Interface. Spirit Lake Fire Protection District opposes any approval(s) that allows the applicant to proceed without the appropriate and required amount of fire flow, spacing, setbacks, and fire access. In addition to the risk to other RVs, and the

surrounding homes and businesses, a fire in this park could spread to the wildland, become a significant wildfire incident, and impact all of Bonner County, even potentially threatening homes in neighboring fire districts. RV parks are unregulated in Idaho and the transient nature of the park makes prevention and enforcement nearly impossible. RVs burn more rapidly than structures and spread to other neighboring RVs rapidly. A full RV park poses a high risk for civilian rescue, or even life loss. LPG tanks and other hazards associated with RVs can pose unique operational challenges for short-staffed fire districts. With limited resources in our county, this RV park poses a tactical challenge and requires us to be more attentive to fire prevention features, conditions, and designs."

US Forest Service:

No Comment

Bonner County Sheriff's Office:

"Bonner County Sheriff's Office would like to express concern and opposition to approving the proposed CUP Application on this non-conforming 4.17-acre parcel that is located in a Rural-5 zone, which zone only allows "one dwelling unit per five (5) acre density" per Bonner County Revised Code 12-323(B)(2). BCRC 12-340(D) states: "... it is the intent of this title to permit these nonconformities to continue as required by law. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district or zone. (Ord. 501, 11-18-2008)"

The density of 20 RVs on less than 5 acres in a rural area exacerbates the intensity of danger or hazards both to the occupants of those RVs and to the residents on adjacent parcels. One safety issue to note is that there are no sidewalks along the gravel roadways, which will experience increased pedestrian (including children), bicycle, RV, vehicle and animal traffic. If there is an emergency requiring a response from law enforcement, fire, and/or medical services, the fallout may be intensified because of the response time and the lack of and/or poor or damaged infrastructure. There is also a question as to the adequacy of the rural dirt ingress and egress for all emergency services (potentially more than one of each at one time), along with water resources readily and adequately available.

The health, welfare, and safety of visitors and our residents staying or living in or around RV parks is far better served by placing those facilities in zones with close proximity to emergency infrastructure (e.g., fire hydrants, paved roads) and emergency services.

*Sincerely,
Sheriff Daryl Wheeler"*

Panhandle Health District

"This letter is intended as Panhandle Health District (PHD) comments pertaining to the proposed CUP file listed above. PHD reviewed the proposed application, which indicates an intention to create an RV Park with 20 spots and a laundry facility for use by the residents.

- *PHD has not granted any septic permits for a proposed RV Park on this property. PHD does not have any current septic applications for the parcel.*
- *PHD previously conveyed to the landowner that this parcel is not suitable for an RV park with 20 spots because that would generate at least 2,500gpd in wastewater, which would require a Large Soil Absorption System (LSAS). The site does not have adequate space to meet LSAS standards. Any proposal must remain below 2,500gpd in wastewater discharges.*
- *PHD received two (2) septic permit applications (21-09-151024 & 22-09-04079) for 9 RV spots each (total of 18 spots). However, PHD never issued any septic permits because we did not receive a clear Letter of Intended Use describing the details of the project, nor did we receive an adequate Plot Plan and all items necessary for PHD to determine the proposed nature & quantity of wastewater discharges proposed – as is required per IDAPA 58.01.03.005.04. PHD emailed the landowner on July 6, 2023, but never heard back, nor received necessary items. The applications are now expired.*
- *PHD will need current applications and all requisite information to determine the scope of the project, whether the RV's will be intended as dwellings or short-term recreational use and the proposed layouts and setbacks between all water & sewage system components proposed.*
- *The landowner will need to consult the Idaho Dept of Environmental Quality (DEQ) regarding the proposed water system – as it may need to meet Public Water System requirements.*

In summary, PHD does not have adequate information to verify what type of project may be suitable for this property. Per IDAPA 58.01.03.001.04, every owner of real property is jointly and individually responsible for storing, treating, and disposing of blackwaste and wastewater generated on that property; connecting all plumbing fixtures on that property that discharge wastewaters to an approved wastewater system or facility; and obtaining necessary permits and approvals for installation of individual or subsurface blackwaste and wastewater disposal systems.

Therefore, PHD recommends that any proposals for this property be required to obtain all necessary permits and approvals first, to ensure the sanitary services will be adequate to serve the proposed uses on the land.

If there are any questions about this information, please feel free to contact our office 208.265.6384 or email me at kkolberg@phd1.idaho.gov.

Regards, Kathryn Kolberg, REHS / Environmental Health Program Manager"

Public Comments: Several public comments were received for the scheduled hearing. Several public comments were received through the various previous hearings in 2022 and 2023 on this file and are included in the record.

Standards Review and Staff Analysis:

BCRC 12-220, et seq, conditional use permit, application and standards.

Staff: The application was considered complete and routed to agencies on March 4, 2025.

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is not in conflict with the policies of the comprehensive plan, as found in the adopted Implementation Component, and that the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property. An analysis of this project against the policies of the comprehensive plan is found within this staff report.

BCRC 12-331 A. In the case of a question as to the inclusion or exclusion of a particular proposed use in a particular use category, the Planning Director shall have the authority to make the final determination based on the characteristics of the operation of the proposed use and the Planning Director's interpretation of the standard land use coding manuals, as provided in section 12-339 of this subchapter.

BCRC 12-333 Commercial Use Table, Recreational vehicle parks/ Campgrounds (8),(21)

Use	Zoning District								
	F	A/F	R	S	C	I	RSC	REC	AV
Recreational vehicle parks/campgrounds (8),(21)		C	C	C	C		C	C	C

BCRC 12-333 (8) Adequate water supplies for drinking and fire suppression, as well as approval of sewage disposal sites and methods by the Panhandle Health District and/or the state of Idaho, must be demonstrated as appropriate.

Staff, Analysis of Adequate Water Supplies For Drinking:

Water will be supplied by an individual well. The applicant submitted a well driller’s report indicating the existing well produces 30 gallons per minute (gpm). In addition to the existing well, the applicant has applied for a new well permit for the project. An application for a new well has been submitted to the Idaho Department of Water Resources (IDWR) and is on file. *(See IDWR Application.)*

The Idaho Department of Environmental Quality (DEQ) reviewed the application and determined that the proposed use will qualify as a Transient Non-Community Public Water System, as it will serve more than 25 people for 60 or more days per year. DEQ provided a list of pre-construction requirements the applicant must meet before water can be served to the public, including:

- Approval of the well location and construction;
- Submission and approval of a facility plan and Preliminary Engineering Report (PER) prepared by an Idaho-licensed engineer;
- Approval of final plans and specifications;
- Well pump testing;
- Initial water quality monitoring.

A condition of approval has been included to require compliance with these DEQ requirements prior to development of the water system. **See Conditions of Approval**

Staff, Analysis of Adequate Sewage Disposal:

Regarding wastewater, the application indicates sewage disposal will be provided via a drainfield. A speculative site evaluation was conducted and submitted to the Panhandle Health District (PHD) for the proposed RV Park. *(See PHD Site Evaluation.)* Additionally, the applicant submitted an upgrade application and payment for review of the wastewater system. *(See PHD Upgrade Application and PHD Receipt.)* These materials confirm the applicant is actively coordinating with PHD to ensure compliance.

Per PHD’s comment, the applicant’s applications for septic facilities have expired; the applicant has not contacted PHD to provide additional information or submit new applications regarding this project. PHD addressed concerns of the feasibility of a Large Soils Absorption System (LSAS) on the property, and the full scope of the project, as presented to PHD by the applicant.

In the event that the total projected flow exceeds 2,500 gallons per day, the wastewater system may be subject to review by DEQ as a public wastewater system, depending on PHD’s determination. In that case, DEQ will require a PER, demonstration of technical, financial, and managerial capacity, engineered plans, and a nutrient-pathogen evaluation. A condition of approval has been included to address potential review and approval by DEQ and/or PHD as required by BCRC 12-333(8).

See Conditions of Approval

Staff Analysis of BCRC 12-335 and 12-818 Public Utility Facility:

A public, private or community utility facility, including, but not limited to, station houses or station grounds; pumping stations; power substations; dam structures; solid waste transfer stations; fire stations; telephone transmission stations; telegraph stations; sewage disposal, treatment or storage stations and subsurface sewage disposal systems serving ten (10) or more residential dwelling units or designed with a capacity of two thousand five hundred (2,500) gallons or more per day; public community water systems designed for fifteen (15) or more connections or regularly serves at least twenty five (25) year round residents; public libraries; railroad transportation lines or spurs; railroad classification lines; or structures used in interstate transmission of electricity, natural gas or fuel.

Per the application, the RV spaces will be equipped with water and septic hook-ups; 20 hook-ups for each service. The proposed water service, per the definition in this code, would qualify as a public utility facility. The applicant has not provided information on the size of the septic system that would be installed. However, the applicant has not requested this use in this application. Prior to the issuance of this Conditional Use Permit, the applicant shall receive another Conditional Use Permit approval for a Public Community Facility for a water system, and if found to meet the requirements for a public wastewater system by DEQ or Panhandle Health District, a sewage disposal system. **See Conditions of Approval**

Staff, Analysis of Adequate Water Supplies Fire Suppression:

Fire protection is provided by the Spirit Lake Fire District. In a letter received on March 25, 2025, Spirit Lake Fire District stated, *“Spirit Lake Fire Protection District opposes any approval(s) that allows the applicant to proceed without the appropriate*

and required amount of fire flow, spacing, setbacks, and fire access.” In this updated comment the fire district did not specify a minimum requirement of water supply for fire suppression. In order to adequately address the potential public safety concerns as it relates to fire prevention and protection a condition of approval has been added requiring an approval from Spirit Lake Fire that the required fire standards have been satisfied prior to issuing the conditional use permit. **See Conditions of Approval**

In a letter received on October 6, 2023, the fire district calculated the necessary fire flow using three recognized resources: the Insurance Services Office (ISO), International Fire Code Appendix B, and the National Fire Protection Association (NFPA). The district determined that 250 gpm for one hour is sufficient and recommended an on-site water supply of 15,000 gallons, with a 250 gpm fire pump and hydrant connection.

The Spirit Lake Fire District was sent notice of this public hearing and did not submit a comment. Additionally, staff called and left a voicemail with the fire chief but and have not receive a response as of the date of this staff report.

This standard was challenged during the prior judicial review. The BOCC’s decision letter dated November 6, 2023, included a specific finding addressing this standard (Finding of Fact #5), which the District Court did not reverse in its ruling dated November 15, 2024, in Case No. CV09-24-0240. That finding is copied below and remains part of the record:

“5. The proposal meets the required standards of BCRC 12-333, notes (8). The proposal is within the Spirit Lake Fire District. The International Fire Code and State Fire Code do not have statutes that address fires in RV Parks. The Insurance Service Office and National Fire Protection Association only contain recommendations for RV Parks fires.

Adequate fire protection is the availability of resources at the time of a fire. The ability to call other fire districts for back up fire suppression. The fire district maintains water tenders which are capable of delivering water to sites to achieve the recommended 250 gpm. All residents in the area of service of the fire district are provided fire protection equally.

In addition, the applicant’s Building Location Permit for the RV Park, BLP2022-1243, was reviewed and approved for fire protection by the fire district on 12/16/2022 with a comment of “no cisterns or fire suppression systems are required for this construction project”.

Generally, rural fire districts do not use on site water cisterns which have been dedicated for fire suppression because the cisterns are not well maintained. The cisterns may contain debris such as rocks and frogs which may damage firefighting equipment and therefore may not be used for fire suppression by the fire districts in case of a fire on-site.

The property has multiple ingress and egress onto multiple roads for multiple fire agencies to provide adequate fire trucks to provide supplies. Spirit Lake Fire districts has mutual aid agreements with the neighboring fire districts which may respond in case of fires on the subject property.

Fire protection is adequate based on the absence of state statutes for RV Parks, the capabilities of the local fire districts, and the limitations imposed by non-maintained on site water storage.”

BCRC 12-333 (21) Refer to Section 12-497 of this Title for RV Parks/Campground standards. Site requirements for RV parks include at least 25 percent tree canopy coverage and a maximum of 25 percent impervious surface.

Staff: The proposed site is 4.17 acres. The submitted site plan indicates that approximately 38 percent or 1.5 acres of the parcel has the tree canopy. This will meet the requirement of 25 percent coverage. Approximately 1 acre or 25 percent can be impervious surface, for which this proposal is meeting this requirement.

BCRC 12-4.2, Performance Standards for All Uses

Staff: The application was reviewed against these standards and no special requests were made.

BCRC 12-4.3, Parking Standards: Table 4-3 minimum off street parking requirements: 1.25 spaces/unit.

Staff: To comply with the ordinance, the applicant must provide off-street parking spaces. The proposed site plan allocates 1,000 square feet of off-street parking per RV space. According to the standard, 1.25 parking spaces per unit are required, with each parking space measuring 250 square feet. Based on this calculation, the applicant has designated 80 parking spaces, equating to four spaces per unit. **See Conditions of Approval**

BCRC 12-4.4, Sign Standards

Staff: The application proposes a 5 ft. by 10 ft. sign located on Clagstone Road. BCRC 12-441(E) allows up to 96 sq. ft. of aggregate sign area, with no single sign exceeding 64 sq. ft. A Building Location Permit is required and shall meet all requirements of Title 11 and Title 12, Bonner County Revised Code. **See Conditions of Approval**

BCRC 12-4.5, et seq, Design Standards

The standards in section 12-453 of this chapter shall apply to all new development in the commercial, industrial where commercial uses and services are proposed, and rural service center districts and all other commercial, multi-family, public and industrial development in other zoning districts unless otherwise noted.

Staff: RV Park/Campgrounds are listed in the Commercial Use Table; any development would be considered to be “Commercial”. This standard is applicable to this project.

BCRC 12-452: Site and Building Plans

The applicant shall submit site and building plans through the applicable permit process detailed as necessary to demonstrate how the standards in section 12-453 of this chapter have been met. **See Conditions of Approval.**

BCRC 12-453: Standards (Reviewing Only Those Applicable Standards)

Staff: Per the proposed site plan, walking paths will be developed within the park to connect the RV pads to common areas and other amenities. **See Conditions of Approval**

BCRC 12-4.6, Landscaping and Screening Standards

Staff: The landscape plan submitted with the RV Park Building Location Permit, permit number BLP2022-1243, was deemed sufficient and approved by staff with the approval of the permit.

BCRC 12-496: RV Dwelling Unit

Staff: The Residential Use Table (BCRC 12-332) includes a separate use category for RV Dwelling Units, defined in BCRC 12-804 as:

“A recreational vehicle used in the same manner as a single-family dwelling or an accessory dwelling unit.”

Standards for RV Dwelling Units are detailed in BCRC 12-496, which clearly establishes these as long-term housing options intended for use by property owners. This use is limited to residential zoning districts.

This proposal does not request approval for RV Dwelling Units. Rather, it is a request for an RV Park, a commercial use defined in BCRC 12-818 as:

“Any premises designed for the rental of three (3) or more recreational vehicle parking stalls or spaces.”

BCRC 12-497: RV Parks/Campgrounds

Staff: In the most recent round of litigation addressing this file, Bonner County attempted to distinguish between RV Dwelling Units used for residential purposes (BCRC 12-332) and permanent RVs contained within an RV Park (BCRC 12-497). However, the Court rejected that argument. As such, we must conclude that the code as currently drafted does not allow for that distinction. As a consequence, the only way to harmonize the two sections is to impose a limitation-of-stay requirement on new RV Parks such that they cannot be utilized for long-term residential use.

BCRC 12-497 does not contain a specific standard or regulation limiting the duration of stay for RV park occupants. However, because RV Parks are listed in the Commercial Use Table (BCRC 12-333) and not in the Residential Use Table (BCRC 12-332), a limitation on duration of stay is both appropriate and consistent with the intent of the commercial zoning designation.

Other transient lodging uses identified in the Commercial Use Table include hotels, hostels, resorts, and retreats—none of which are intended for residential occupancy. Likewise, an RV Park permitted under commercial zoning should not be used for permanent residential purposes.

In the revised application, the applicant indicated that the RV park is intended to operate seasonally, from March through November, which reflects the transient, recreational nature of the use. The applicant has also removed all references to long-term or affordable housing in the amended application.

To further support a limitation on the duration of stay, Idaho Code 63-1803(4) and 67-6539 provide guidance by defining short-term stays as 30 days or less and affirming the authority of local governments to regulate such uses. Accordingly, a limitation of 30 cumulative days per calendar year per guest is appropriate to preserve the commercial character of the use and avoid its classification as residential. **See Conditions of Approval**

To ensure compliance with the 30-day limitation, the applicant will be required to maintain a guest logbook. The log must record the names of guests, RV license plate numbers, assigned spaces, and dates of occupancy; log records shall be made available to Bonner County Planning upon request. This record-keeping requirement provides the County with a practical means of verifying adherence to the transient use standard and prevents circumvention of the stay limit by rotating between spaces. It also supports enforcement of the condition and aligns with the County's duty to ensure zoning consistency and public accountability in land use approvals. **See Conditions of Approval**

A. Density:

1. Each RV space shall be an area to accommodate the size of the RV, not less than 1800 square feet and a width of not less than twenty-four feet (24').

Staff: The proposed site plan indicates each RV site will be ± 2700 sq.ft. and each site will have a width of 30'. **See Conditions of Approval**

3. RV parking is limited to five (5) units per acre.

Staff: The parcel is ± 4.17 acres which is enough land to accommodate 20 recreational vehicles. **See Conditions of Approval**

B. Yards and Spacing:

1. All structures must be setback a minimum of twenty-five (25) feet from all exterior property lines.

Staff: As shown on the site plan no structures are proposed to be closer than the 25' required by code. A site inspection will be required in conjunction with the Building Location Permit to confirm all setbacks.

2. An RV may not be located closer than ten (10) feet from any other RV or permanent building within the RV Park.

Staff: As shown on the site plan all RV sites will have 20' between each space and none of the proposed structures are closer than 25' from any RV space on the parcel.

3. An RV accessory building shall not be closer than five (5) feet from an RV or

building on an adjacent RV space.

Staff: No additional accessory structures are proposed for each RV site. If the applicant is to add accessory structures, they will need to meet the requirements of this code.

See Conditions of Approval.

C. Access:

1. RV parks/Campgrounds shall access on maintained County roads, State highways or forest access roads whenever possible.

Staff: This proposal is access by Al's Welding Road and Clagstone Road which are both Bonner County owned and maintained gravel roadways.

D. Parking:

1. Parking design shall follow the standards in Section 12-4.3 Parking Standards.

Staff: To meet this requirement of the ordinance, the applicant is required to have off-street parking spaces. The proposed site plan indicates each RV space will accommodate for 1000sq.ft. off street parking per space. The standard requires 1.25 parking spaces/unit per code which is equal to 250sq.ft. per parking space; a total of 80 parking spaces. **See Conditions of Approval**

E. Park Site Design:

1. Provisions for vehicular, bicycle and pedestrian access shall be integrated into the site.

Staff: This provision has been integrated into the RV park as per the site plan as the 20' proposed travel way will be able to accommodate this requirement.

2. May be associated with other recreational uses such as rafting, canoeing, swimming, cross country skiing, hiking, hunting and fishing, horseback riding and snowmobiling, together with accessory facilities.

Staff: These activities may be pursued by guests of the RV park.

3. Each space within an RV park shall have direct access to a travel way.

Staff: Each space shown on the site plan demonstrates direct access to the internal 20' travel way within the park that allows access to Al's Welding Road and Clagstone Road.

4. The park travel way shall consist of an unobstructed area twenty feet (20') wide and shall be well marked to provide for continuous traffic flow.

Staff: The 20' wide travel way within the park is meeting this requirement as shown on the site plan.

5. Parking spaces may be up to a forty-five (45) degree angle from the travel

way.

Staff: All spaces are meeting this requirement as shown on site plan.

6. The travel way system shall have direct connection to a public or private road meeting applicable standards set forth in title 2 of this code or appendix A of this title.

Staff: The proposed RV Park will have direct access to Al's Welding Road and Clagstone Road, which are both Bonner County owned and maintained roads.

7. Any RV space that is to be occupied throughout the winter months may have an open-shell snow-roof. Snow roofs shall have a minimum of ten foot spacing from one another, measured from greatest architectural projection. Complete enclosure of snow roofs is prohibited.

Staff: This proposal does not indicate that there are any proposed snow roofs. If snow roofs are to be built the applicant will need to follow any requirements of Bonner County Revised Code.

8. The RV Park/Campground may be built in phases as approved through a conditional use permit.

Staff: No phasing is proposed for this project.

9. Uses that are clearly incidental to the operation of the park, such as management headquarters, recreational facilities, toilets, dumping stations, laundry facilities, a convenience store, and other facilities established within the park, are permitted as accessory uses.

Staff: A laundry facility and dumpster are proposed for this RV Park. If the applicant chooses to add any incidental uses they shall apply for a modification.

10. Internal roads and parking service areas shall provide safe and convenient access for service and emergency vehicles and to amenities within the park. Internal roads shall not be designed to encourage use by outside traffic to traverse the park to adjoining developed areas.

Staff: The proposed RV Park design appears to be providing safe and convenient access throughout the park. Spirit Lake Fire Chief requested that the internal travel way be 26' in width. The required width is 20' per Bonner County Revised Code. Given the design of the internal road it does not appear that outside traffic will be encouraged to traverse the property.

11. Setbacks to wetlands, floodplain, vegetative buffers, and shorelines shall be maintained for all uses onsite.

Staff: The property does not have any mapped wetlands, floodplain or shoreline. The vegetative buffer that is required is the 25 percent tree coverage that will be maintained.

F. Landscaping

Landscaping and screening shall follow the standards in BCRC12-4.6 Landscaping and Screening Standards.

Staff: A landscaping plan showing compliance with this section was submitted with the RV Park Building Location Permit, permit number BLP2022-1243, and approved by staff with the approval of the permit.

G. Water and Sewer:

1. Each site may provide utility connections, including water and sub-surface sewage disposal system.

Staff: This is not a requirement; however, the applicant has indicated that electrical, water, and sewage connections will be an option and available for the park. All requirements and approvals for the water system and sewage disposal system shall be obtained by the applicant. **See Conditions of Approval.**

H. Refuse Collection:

1. The park shall provide for regular refuse service whether self-supported or contracted out with a refuse service. Accumulation of trash is prohibited.

Staff: Site plan indicates one trash dumpster located in the northern section of the property. The applicant has indicated that a contract will be in place for the removal of all refuse.

I. Signs:

1. Signs advertising the business are allowed per BCRC 12-4.4.

Staff: The application indicates a sign 5ft. by 10ft. will be located on Clagstone Road. This meets the requirements of BCRC 12-441(E) which allows up to 96sq.ft. of aggregate size and no one sign exceeding 64sq.ft. A Building Location Permit is required. **See Conditions of Approval**

J. Permits Required:

1. A conditional use permit is required for each RV park/campground for twenty-five (25) spaces or less.

Staff: This standard is being met as the applicant is pursuing approval of a conditional use permit currently.

2. A building location permit is required for construction of the entire project or each phase of the approved project.

Staff: The applicant applied for a RV Park Building Location Permit, permit number BLP2022-1243, on September 29, 2022 and the permit was issued on February 14, 2023. The addressing requirements for this project were applied for and satisfied with this building location permit, per the GIS department. No additional addressing is required in conjunction with this conditional use

permit.

The Building Location Permit approval has been suspended due to the remand of the file by the district court. If approval is granted for this Conditional Use Permit application, the Building Location Permit suspension will be lifted. The applicant will not be granted an issuance of this application, if approved, nor could commence the proposed use, until the required conditions of approval are met and the issuance granted and recorded with Bonner County.

K. Site Plan:

1. Existing structures which will remain on the parcel, and their uses, and any existing structures proposed to be modified or removed;
2. All proposed structures and their uses;
3. Existing and proposed roads, easements, and points of access;
4. Recreational vehicle space dimensions;
5. Campground space dimensions;
6. Size of the site in acres;
7. Dimensions of property lines and property line setbacks;
8. Reserved or dedicated open space;
9. Major landscape features, both natural and manmade;
10. Locations of existing and proposed utility lines;
11. Accessory off street parking and loading facilities, and parking space areas;
12. Wastewater drainfield areas;
13. Traffic circulation patterns;
14. Refuse and service areas;
15. Signs;
16. Outdoor storage; and
17. Proposed screening and buffering, including fences, yards, walls or vegetation.

Staff: The site plan submitted includes all of the above requirements of 1-17 BCRC 12-497(K).

BCRC 12-7.2, Grading, Stormwater Management and Erosion Control.

Staff: A stormwater management plan and erosion control are required in accordance with this code section. **See Conditions of Approval**

Analysis of the Project Against the Comprehensive Plan:

The Zoning Commission shall review the particular facts and circumstances of each proposal submitted. To grant a conditional use permit, the Zoning Commission must find that the proposal is not in conflict with the policies of the comprehensive plan, as found in the adopted Implementation Component, and that the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.

Property Rights

Policies:

1. Bonner County should follow the attorney general's checklist, proscribed at Idaho

Code §67-8003 and provided in the "Property Rights" component of the county's comprehensive plan, for all land use decisions.

2. For all land use decisions, findings of fact and conclusions of law should be adopted that reflect the justifications for exactions, conditions and restrictions and should confirm that a taking of private property has not occurred.

3. The property rights of the applicant, adjoining and nearby landowners and future generations should be considered, as well as the short-term and long-term consequences of decisions.

4. Bonner County should review all rezoning requests (down-zoning and up-zoning) pursuant to the Idaho State Code, Title 67, Chapter 65 – Local Land Use Planning Act. The approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by Idaho Code Section 67-8003.

Staff: The application was routed to neighbors 300' from the property line, informing neighbors of the proposed conditional use permit. As of the date of this staff report, Bonner County has received public comments and they are included in the record. This proposal has been reviewed for compliance with Bonner County Revised Code and findings of fact will be adopted with the decision of this project. This proposal does not appear to be in conflict with the policies of this component.

Population

Policies:

1. Population projections should be analyzed regularly to determine if changes need to be made to the Comprehensive Plan goals, objectives and policies and/or the Zoning Ordinance to ensure that the public and community needs are being met through land use decisions.

2. Population forecasts and census data should be used to evaluate housing and school needs, and impacts to the transportation system and other county services.

3. Bonner County should cooperate with its incorporated cities and neighboring counties to address growth challenges within the ACI areas and coordinate planning efforts whenever possible.

Staff: Bonner County, according to 2022 population estimates census data, has seen a 9.1% increase in population since the 2020 census was performed; increasing from 47,105 to an estimated 51,414. With the increase in the population, there is upward pressure on housing needs in Bonner County, both in the unincorporated portion of the County, and in the incorporated cities. This proposal is not within any Areas of City Impact and does not appear to be in conflict with the policies of this component.

School Facilities & Transportation

Policies:

1. Current data regarding school capacity and transportation issues as provided by

the School Districts will be included in the assessment of all land use proposals.

2. Bonner County should examine the impacts of land use proposals to the school system and should seek mitigation from developers such as providing facilities, safety features, fees or other measures as permitted by Idaho Code, to address the impact of the proposals.

Staff: The West Bonner School District #83 and West Bonner School Transportation that serves the property were notified of the proposed Conditional Use Permit. West Bonner School District did not comment as to how this project would or would not adversely impact the district's ability to provide adequate school services (and facilities) for new and existing students. The Transportation department did not provide a comment. This project does not appear to conflict with this component.

Economic Development

Policies:

1. Small scale cottage businesses and home occupations should be allowed in all areas of the county. Reasonable conditions on such uses should be set to minimize adverse impacts to the neighborhood based on factors including, but not limited to, hours of operation and traffic volume generated by the business.
2. Develop land use regulations to allow Bonner County's agricultural heritage to be maintained by enabling local food production, distribution, congregation, and retail sales. Examples include community gardens, school gardens, farm related education programs, farmers or public markets, and other small-scale, collaborative initiatives.
3. Develop standards for commercial and industrial development that are appropriate for the surrounding community, including: appropriate site sizes, use types, buffering and design standards that encourage both attractive and efficient function, while protecting the environment.
4. Review and update land use regulations for employee housing to support the goal of enabling this use in proximity to commercial, industrial and agricultural uses.

Staff: The project supports rural economic development by providing seasonal lodging that aligns with tourism and recreation activities in the county. The proposed Conditional Use Permit does not appear to conflict with policies of this component.

Land Use

Policies:

1. Commercial and industrial uses, in areas identified in the Comprehensive plan suitable for such development, should be unconditionally permitted. Evaluation of suitability should be based on availability of urban services, adequate access to hard surfaced publicly maintained roads and other factors that may impact the surrounding community.

2. Commercial and industrial uses may be conditionally permitted in areas not identified for such uses in the Comprehensive Plan if a critical review of the proposed use determines that with appropriate conditions the use will not adversely impact the surrounding area.

Staff: The proposed Conditional Use Permit does not appear to conflict with the policies of this component. The Rural zone does allow for some commercial and industrial uses, either unconditionally or conditionally permitted, per BCRC 12-3.3. The proposed use is considered a “commercial use” and is conditionally permitted in the Rural zone.

Natural Resources

Policies:

1. Watershed standards should be employed in land use codes to protect water quality.
2. Best management practices for waterway setbacks should be instituted to reduce erosion and sedimentation into waterways.
3. Development standards should be designed to encourage clustered development resulting in the preservation of open space and wildlife habitat.
4. Bonner County should recognize its critical wildlife habitat and create development standards to protect these areas and mitigate development impacts to these habitats.
5. Protect water quality by creating standards for development in close proximity to shorelines.
6. Productive farmland, timberland and mining lands should be identified and protected from adverse effects of adjoining developments.

Staff: Impacts to natural resources were not identified by any agency. Agricultural uses exist on the land and anticipated to be maintained. The Rural Residential land use designation encourages small-scale agricultural uses and residential development. Both are protected and maintained with this proposal.

Hazardous Areas

Policies:

1. Flood mitigation standards should be adopted that meet or exceed the National Flood Insurance Program minimum requirements.
2. Residential, commercial or industrial development within the floodway should be discouraged.
3. Fill within the floodplain should be discouraged.

4. The county's wildland fire, urban/wildland interface policies and plans should be integrated into development standards.
5. Excessive slopes should be identified and development discouraged by providing lower densities within these areas.
6. Multiple points of ingress/egress should be considered for large developments
7. Development should be avoided in avalanche zones.

Staff: The subject property is not located in a mapped floodplain. Potential damage to property or people due to soil erosion or avalanches are minimal. Furthermore, the property is provided with emergency services. The Spirit Lake Fire District, in their comment, addressed concerns with the RV Park and the urban/wildland interface. The Fire District has indicated concerns with wildfires and potential damage to neighboring properties, without the proper precautions. Bonner County Emergency has adopted a plan to mitigate wildfires, with collaboration from fire districts, government entities, and public input. Condition B-3 has been proposed to address the concerns brought forth by the Spirit Lake Fire District. **See Spirit Lake Fire District's Comment for Full Details and Conditions of Approval.**

Public Services, Facilities & Utilities

Policies:

1. Encourage high-density development to take place within the boundaries of existing sewer and water areas.
2. Bonner County should seek comment from existing service providers on their ability to serve future developments without adversely impacting the ability of the utility providers to serve current users.
3. Bonner County should provide adequate facilities for responsible disposal of solid waste to protect the health and welfare of the public as well as the County's natural resources.

Staff: Any future development on this parcel should not impact existing services, which currently include a well and septic system. Per DEQ's comment, the water system will be required to be a public water system, regulated by DEQ and/or Panhandle Health District; it is still to be determined whether the sewage disposal will be required to have similar oversight. The applicant shall coordinate with DEQ, PHD, and IDWR to ensure compliance with public water and wastewater regulations. **See Conditions of Approval.**

The parcel is also served by electricity from Inland Power and emergency services from Bonner County EMS. Both entities were notified of this proposal but did not provide comments on potential service impacts related to the Conditional Use Permit. Any expansion of utilities or other services will require the applicant to obtain the necessary permits from the appropriate regulatory agencies.

These services, along with existing utilities and emergency response access,

contribute to the continued functionality of public infrastructure. Comments on this application were provided by the Spirit Lake Fire District and the Bonner County Sheriff. **See Comments for Full Details.**

Transportation

Policies:

1. A long-term transportation system plan should be developed and regularly updated to ensure reasonable levels of service can be maintained in the future, and that needs for future road extensions or transportation corridors are identified as early as possible.
2. Development in areas that are not served by county standard roads or where transportation is inadequate should be discouraged.
3. Bike and pedestrian trails should be considered in development proposals to connect the communities with existing and planned bike and walking paths wherever possible.

Staff: The proposal does not appear to be in conflict with the policies of this component.

Recreation

Policies:

1. Bonner County is encouraged to develop a waterways and park access program to preserve and develop access to public recreational lands and waterways. The program should include retaining access parcels that may be acquired from tax sales or private donations.
2. A plan for a system of green belts and pathways (bike and pedestrian) should be considered as areas develop, so that a connected system can be developed and preserved.
3. Under no circumstances, will Bonner County require access easements on private property as a condition of development. This policy does not preclude providing voluntary incentives to developers in return for access easements.

Staff: Current recreational opportunities for the general public that are available in Bonner County are anticipated remain the same with this conditional use permit. The availability of more lodging or camping options could potentially expand recreational activities.

Special Areas or Sites

Policies:

1. A generalized map of the known pre-historic and historic sites should be developed so that future developments are aware of special areas of concern and are connected

with the historical society and Native American tribes for appropriate preservation and protection.

2. Bonner County should implement road side development standards for recognized scenic byways to protect the view sheds.

3. Special areas should be recognized and addressed when development is proposed in these areas.

Staff: The project appears to not conflict with the policies of this component.

Housing

Policies:

1. Encourage development of a variety of housing options including mobile home parks, tiny home communities and recreational vehicle parks located in areas that are compatible with their density.

2. Work with municipalities and private parties to find solutions for all types of housing projects and developments.

3. Clustering of housing in developments to save on infrastructure and transportation costs should be encouraged through mechanisms such as density bonuses.

4. Bonner County recognizes opportunities should be made for assisted living and group shelters.

5. Enable workforce housing in direct proximity to agricultural, commercial and industrial uses.

Staff: While recreational vehicle parks are referenced as a housing option under BCRC 12-496, this proposal is not intended to serve as long-term or workforce housing and has removed all references to such use. As a seasonal commercial use, it does not conflict with the goals of this component.

Community Design

Policies:

1. To promote and preserve the natural features and rural atmosphere of the community, the county should enact development standards that address development within scenic byways and design standards that account for waterfront setbacks, wildlife corridors, commercial and industrial landscaping, requirements for reduced lighting, cluster development, rural rather than urban setback standards and other design objectives aimed at preserving the rural, natural character of the community.

2. Allow unique and flexible design standards such that new development within older neighborhoods and historic settlements is compatible with those unique neighborhoods.

3. Allow particularized design standards to address waterfront and mountaintop developments which may differ from standard design objectives.

Staff: This proposal does not appear to conflict with the policies of this component. Furthermore, lighting plans and landscaping plans have been submitted to the Planning Department in the Building Location Permit; these standards were reviewed and approved. However, the approval of the Building Location Permit has been suspended by the Planning Department, pending the decision made on this proposal.

Agriculture

Policies:

1. Residential uses should continue being permitted in Agricultural zoning districts.
2. Protect agricultural uses and activities from land use conflicts or interference created by residential, commercial or industrial development
3. Land use regulations should support home occupations, cottage industries and farm-based family businesses on agricultural parcels. Examples include farm stands and other agri-business pursuits.
4. Bonner County acknowledges the provisions of Idaho State’s Right to Farm Act. Those shall be considered in the land use decisions.

Staff: This proposal does not appear to conflict with the policies of this component, as farming and agricultural pursuits remain viable and are encouraged in the Rural zoning districts.

Planner’s Initials: JG

Date: March 28, 2025

Note: 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.

Motion by the Governing Body:

MOTION TO APPROVE: I move to approve this project, FILE CUP0030-21, requesting a conditional use permit for an RV Park, finding that it is not in conflict with the policies of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following Conclusions of Law:

Conclusion 1: The proposed conditional use permit **is not** in conflict with the policies Bonner County Comprehensive Plan.

Conclusion 2: This proposal **was** reviewed for compliance with the criteria and standards set forth at BCRC Title 12, Chapter 2, Subchapter 2.2 Conditional Use Permits; Chapter 3, Subchapter 3.3.; Chapter 4 Development Standards; Subchapter 4.9 Standards for Specific Uses, and Chapter 7 Environmental Standards and **was** found to be in compliance.

Conclusion 3: The proposed use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

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 and conclusions of law 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 Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

MOTION TO DENY: I move to deny this project, FILE CUP0030-21, requesting a conditional use permit for an RV Park, based upon the following Conclusions of Law:

Conclusion 1: The proposed conditional use permit **is/ is not** in conflict with the policies of the Bonner County Comprehensive Plan.

Conclusion 2: This proposal **was** reviewed for compliance with the criteria and standards set forth at BCRC Title 12, Chapter 2, Subchapter 2.2 Conditional Use Permits; Chapter 3, Subchapter 3.3.; Chapter 4 Development Standards; Subchapter 4.9 Standards for Specific Uses, and Chapter 7 Environmental Standards and **was / was not** found to be in compliance.

Conclusion 3: The proposed use **will not/ will** create a hazard or will not be dangerous to persons on or adjacent to the property.

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 and conclusions of law 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 Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the zone change is to:

- 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.

Suggested Findings of Fact:

1. The Rural Zoning District allows for conditional use permits for RV Parks. The property is within the Rural District and is currently zoned Rural-5.
2. The site is approximately 4.17 acres in area.
3. The proposal is for an RV Park, which is classified as a commercial use under BCRC 12-333.
4. The proposal meets the required standards of BCRC 12-333, including Notes (8) and (21).
5. The proposal meets the required standards of BCRC 12-333, Note (8), regarding adequate fire protection. The subject property is located within the Spirit Lake Fire

District, which provides fire protection services to all properties in its service area equally.

There are no state-adopted statutes within the International Fire Code or Idaho State Fire Code specifically addressing fire protection standards for RV Parks. The Insurance Services Office (ISO) and National Fire Protection Association (NFPA) provide recommendations—but not mandatory standards—regarding fire protection in RV Parks.

The fire district possesses water tenders capable of delivering water to meet the recommended 250 gallons per minute (gpm) fire flow. These resources can be supplemented through mutual aid agreements with neighboring fire districts to ensure backup fire suppression capability.

The applicant's Building Location Permit (BLP2022-1243) for the RV Park was reviewed and approved by the Spirit Lake Fire District on December 16, 2022, with a comment stating, "No cisterns or fire suppression systems are required for this construction project."

Rural fire districts generally do not rely on on-site cisterns for fire suppression due to maintenance concerns. Such cisterns may be contaminated or inaccessible during emergencies, which can damage firefighting equipment and limit effectiveness.

The site also benefits from multiple ingress and egress points, allowing efficient access for emergency response vehicles from Spirit Lake Fire or mutual aid partners.

Based on the capabilities of the local fire district, the absence of enforceable state-level RV Park fire suppression statutes, and limitations associated with on-site water storage systems, fire protection for the proposed RV Park is adequate.

6. The property is accessed from Clagstone Road and Al's Welding Road. Both roads are Bonner County-owned and maintained gravel rights-of-way.
7. The proposal is within the Spirit Lake Fire District. The district indicated that 250 gallons per minute for one hour is sufficient for fire protection, as noted in their comment dated October 6, 2023.
8. Electricity is provided by Inland Power.
9. The site has an individual well.
10. The proposal is for a 20-unit RV Park.
11. Per BCRC 12-331, in the case of a question as to the inclusion or exclusion of a particular proposed use in a specific use category, the Planning Director has the authority to make the final determination based on the characteristics of the proposed operation. In this case, the Director determined that the proposed use fits in the category of an RV Park, as defined in BCRC 12-333, Commercial Use Table, and does not fall under Residential Uses—Recreational Vehicle Dwelling Unit.
12. A landscaping plan showing compliance with this BCRC 12-4.6 was submitted with the RV Park Building Location Permit, application number BLP2022-1243, and approved by staff with the approval of the permit; the approval of the Building Location Permit has been suspended by the Planning Department, pending the

decision made on this proposal.

13. The addressing requirements for this project were applied for and satisfied with Building Location Permit application number BLP2022-1243, per the GIS department. No additional addressing is required in conjunction with this conditional use permit.
14. In the most recent round of litigation addressing this file, Bonner County attempted to distinguish between RV Dwelling Units used for residential purposes (BCRC 12-332) and permanent RVs contained within an RV Park (BCRC 12-497). However, the Court rejected that argument. As such, we must conclude that the code as currently drafted does not allow for that distinction. As a consequence, the only way to harmonize the two sections is to impose a limitation-of-stay requirement on new RV Parks such that they cannot be utilized for long-term residential use.
15. The applicant has applied for a Conditional Use Permit for an RV Park per BCRC 12-333 and BCRC 12-497, as a commercial use. BCRC 12-332 and BCRC 12-496, which apply to residential uses, are not applicable to this proposal.
16. The Residential Use Table (BCRC 12-332) provides for RV Dwelling Units, defined in BCRC 12-804 as "A recreational vehicle used in the same manner as a single-family dwelling or an accessory dwelling unit." These units are regulated under BCRC 12-496, which establishes them as long-term housing options permitted only in residential zones. This application is not requesting long term housing and is not requesting for the RV Dwelling Unit use, it is for the RV Park found in BCRC 12-333 and defined in BCRC 12-818.
17. The proposed use is an RV Park, which is defined in BCRC 12-818 as "Any premises designed for the rental of three (3) or more recreational vehicle parking stalls or spaces."

BCRC 12-497 does not contain a specific limitation on the duration of stay. However, because RV Parks are listed in the Commercial Use Table and not in the Residential Use Table, it is appropriate to apply a duration of stay limitation consistent with transient lodging.

Other transient lodging uses in the Commercial Use Table—such as hotels, hostels, resorts, and retreats—are not intended for residential occupancy. Similarly, an RV Park permitted under commercial zoning should not function as a residential development.

The applicant's revised application indicates the RV Park will operate seasonally, from March through November, and has removed all references to long-term or affordable housing, which reflects the transient, recreational character of the use.

Idaho Code 63-1803(4) and 67-6539 define short-term occupancy as 30 days or less and affirm the authority of local governments to regulate short-term lodging. This supports the imposition of a 30-day maximum occupancy per calendar year per guest or RV unit to preserve the commercial nature of the use.

18. A guest logbook is required to be maintained by the applicant. This log must include guest names, RV license plate numbers, assigned spaces, and dates of occupancy, and must be made available to the Planning Department upon request. This record

provides an effective enforcement mechanism for verifying compliance with the 30-day limitation and supports the County's responsibility to ensure proper zoning administration.

19. The applicant submitted a speculative site evaluation and wastewater system upgrade application to the Panhandle Health District (PHD), along with the required payment; which has expired. An application for a new well was also submitted to the Idaho Department of Water Resources (IDWR). The Idaho Department of Environmental Quality (DEQ) reviewed the proposed project and determined it will qualify as a Transient Non-Community Public Water System. Conditions of approval have been added requiring compliance with applicable state requirements prior to development of the water and wastewater systems.

Suggested Conditions of Approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or, once issued, if the use has not commenced within two (2) calendar years from the date of issuance. A single time extension of up to two (2) additional years may be granted, provided a written request is submitted to the Planning Department prior to the expiration date and the required fee is paid. The extension request shall be reviewed by the applicable governing body, and, if approved, shall automatically modify the original permit to reflect the new expiration date. No additional public hearing shall be required.
- A-5** Each structure, to include the proposed sign, is required to first obtain a Building Location Permit and meet the applicable standards of Title 11 and Title 12, Bonner County Revised Code.
- A-6** This project shall be developed in accordance with BCRC 12-4.5
- A-7** This project shall be in accordance with all applicable standards required by BCRC 12-497.
- A-8** Each RV parking stall shall be 2,700 square feet, per the site plan provided.
- A-9** Proper signage indicating directional traffic in and out of the park shall be on site.
- A-10** No guest, group of guests, or RV unit shall occupy the RV Park for more than thirty (30) cumulative days within any calendar year, regardless of whether the guest or RV unit moves between different spaces within the park.
- A-11** The property owner shall maintain a guest log documenting the names of guests, license plate numbers, assigned space(s), and dates of occupancy. This log shall be made available for inspection by the Bonner County Planning Department upon request.

Conditions to be met prior to issuance:

- B-1.** The applicant shall provide documentation of adequate drinking water, with approval

by the Idaho Department of Environmental Quality (DEQ), in accordance with BCRC 12-333 Note 8.

- B-2.** If the wastewater system is determined by PHD or DEQ to exceed 2,500 gallons per day, the applicant shall also obtain approval from DEQ or PHD, as applicable, prior to system installation. A conditional use permit from Bonner County for a Public Utility Facility will also be required.
- B-3.** The applicant shall provide documentation from Spirit Lake Fire District that fire flow, spacing, setbacks, and fire access standards have been satisfied.
- B-4.** The applicant shall provide documentation that Water rights are approved and permitted by the Idaho Department of Water Resources (IDWR) as requested in the IDWR water rights application dated April 29, 2022.
- B-5.** Per BCRC 12-7.2, a Stormwater/Grading/Erosion Control plan, prepared by an Idaho Licensed Engineer, shall be submitted and approved by the Bonner County Engineering Department.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online prior to the scheduled hearing at www.bonnercountyyid.gov. Bonner County Revised Code (BCRC) is available at the Planning Department or online.

**APPENDIX A
NOTICE OF PUBLIC HEARING AND AGENCY RECORD OF
MAILING**

NOTICE OF PUBLIC HEARING



I hereby certify that a true and correct copy of this "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **4th** day of **March 2025**.

Jessica Montgomery

Jessica Montgomery, Hearing Coordinator

This notice was mailed to political subdivisions, property owners within 300 feet of the subject property, and the media on **Tuesday, March 4, 2025**.

NOTICE IS HEREBY GIVEN that the Bonner County Zoning Commission will hold a public hearing at **5:30 pm** on **April 3, 2025** in the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, by Zoom teleconference and YouTube Livestream to consider the following request:

File CUP0030-21 – Conditional Use Permit - Idaho Land LLC-RV Park

The applicant is requesting a conditional use permit for a 20-unit RV Park on 4.17 acres. The property is zoned Rural-5. The project is located off Clagstone Road and Al's Welding Road in Section 24, Township 54 North, Range 5 West, Boise-Meridian. On November 15, 2024, the District Court vacated the previous approval and remanded the file back to Bonner County for further proceedings. (See Reverse for Map)

For details regarding this application, Zoom teleconference, or YouTube livestream, visit the Planning Department web site at www.bonnercountyid.gov/departments/Planning. Staff reports are available online or may be viewed at the planning department approximately a week before the scheduled hearing.

Written statements must be submitted to the planning department record no later than seven (7) days prior to the public hearing. Written statements not exceeding one standard letter sized, single spaced page may be submitted at the public hearing. Statements can be sent to the Bonner County Planning Department at 1500 Highway 2, Suite 208, Sandpoint, Idaho 83864; faxed to 866-537-4935 or e-mailed to planning@bonnercountyid.gov. The referenced start time stated above reflects the beginning of the hearing. Specific file start time and hearing duration vary.

During the hearing for this application, the public will be given an opportunity to provide testimony and/or evidence regarding how the proposal does or does not comply with the applicable approval criteria of the Bonner County Revised Code. At the close of the public hearing, the governing body will make a decision on the application that may include, but is not limited to, approval, denial, remand, or continuance of the public hearing. Any person needing special accommodations to participate in the public hearing should contact the Bonner County Planning Department at (208) 265-1458 at least 48 hours prior to the scheduled hearing.

If you have no comment or response, you may indicate below and return this form to the Planning Department.

NO COMMENT _____
Name Date

RECORD OF MAILING

Page 1 of 1

File No.: C U P 0 0 3 0 - 2 1

Record of Mailing Approved By: 

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **4th** day of **March, 2025**.



Jessica Montgomery, Hearing Coordinator

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



Jessica Montgomery <jessica.montgomery@bonnercountyid.gov>

Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

1 message

Bonner County Planning Department <planning@bonnercountyid.gov>

Tue, Mar 4, 2025 at 9:04 AM

To: Army Corps of Engineers <CENWW-RD-CDA@usace.army.mil>, Assessors Office Group <assessorgroup@bonnercountyid.gov>, Avista Copr - Jay West <jay.west@avistacorp.com>, Bay Drive Recreation District <kirbymc45@gmail.com>, Bayview Water & Sewer <bwsd637@gmail.com>, BC Airport Manager Dave Schuck <dave.schuck@bonnercountyid.gov>, BC EMS Jeff Lindsey <jeff.lindsey@bonnercountyid.gov>, Bonner Sheriff <bonnersheriff@bonnerso.org>, Brenna Garro <Brenna.Garro@oer.idaho.gov>, Bryan Quayle <quaylelanduseconsulting@gmail.com>, City of Clark Fork <city@clarkforkidaho.org>, City of Dover <cityclerk@cityofdoveridaho.org>, City of East Hope <easthope.city@gmail.com>, City of Hope <hopecityclerk@gmail.com>, City of Kootenai - Ronda Whittaker <cityclerk@cityofkootenai.org>, City of Oldtown <cityofoldtown@hotmail.com>, City of Ponderay KayLeigh Miller <klmiller@ponderay.org>, City of Priest River <layers@priestriver-id.gov>, City of Sandpoint <cityplanning@sandpointidaho.gov>, City of Spirit Lake <cityclerk@spiritlakeid.gov>, Coolin Sewer <coolinsewer@gmail.com>, Coolin-Cavanaugh Bay Fire District <coolinfirechief@gmail.com>, DEQ <deqcomments@deq.idaho.gov>, Drainage District #7 Kim Hoodenpyle <kjh5345@gmail.com>, East Bonner Library <vanessa@ebonnerlibrary.org>, East Priest Lake Fire Chief Tom Renzi <epfldchief@gmail.com>, Ellisport Bay Sewer District <clerk@ebsewerdistrict.com>, Facilities Director LPOSD #84 <matt.diel@lposd.org>, Garfield Bay Water and Sewer District Clerk <garfieldbaywsd@hotmail.com>, Granite Reeder Sewer District <granitereeder@gmail.com>, ID State Historical Society - Dave Everhart <dan.everhart@ishs.idaho.gov>, Idaho Department of Fish & Game <merritt.horsmon@idfg.idaho.gov>, IDL - Mike Ahmer <mahmer@idl.idaho.gov>, "IDL - Nav. Waters Ryan Zandhuisen" <RZandhuisen@idl.idaho.gov>, IDL - Pend Oreille Lake Supervisory <esjoquist@idl.idaho.gov>, IDL - Priest Lake Supervisory Area <dbrown@idl.idaho.gov>, IDWR Chase Bell <chase.bell@idwr.idaho.gov>, Independent Hwy Dist - Julie Bishop <ihdclerk@gmail.com>, ITD <D1Permits@itd.idaho.gov>, Jack Schenck Vyve/Northland Cable <Jack.schenck@vyvebb.com>, Jason Johnson <jason.johnson@bonnercountyid.gov>, Kenny Huston <kenny.huston@oer.idaho.gov>, Kootenai Ponderay Sewer District <CJohnson@kootenaiponderaysewerdistrict.org>, Laclede Water District <LWdistrict@frontier.com>, Lakeland Joint School District #272 <cpursley@lakeland272.org>, Lakeland Joint School District #272 Jessica Grantham <jessica.grantham@lakeland272.org>, Lisa Rosa <hr@ebonnerlibrary.org>, North of the Narrows Fire Dept <Huckbay2501@gmail.com>, Northern Lights - Kristin Mettke <kristin.mettke@nli.coop>, Northside Fire District - Karen Quenell <kquenell@northsidefire.org>, Outlet Bay Sewer District <outletbaysewer@gmail.com>, Pend Orielle Hospital District <kim.kichenmaster@bonnergeneral.org>, PHD <EHApplications@phd1.idaho.gov>, Priest Lake Public Library District <plplibrary@hotmail.com>, Priest Lake Translator District - Frankie Dunn <Frankiejedunn@hotmail.com>, Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>, Ruen Yeager <planning@ruenyeager.com>, Sagle Valley Water & Sewer District <saglewatersewer@gmail.com>, Sam Owen Fire Rescue Sam Owen Fire Rescue <sofd@wow-tel.net>, School District #83 - Joseph Kren <joekren@sd83.org>, School District 84 Transportation - James Koehler <james.koehler@lposd.org>, "Schweitzer Fire, Spencer Newton" <firedistrict@msn.com>, Selkirk Association of Realtors Danielle <danielle@selkirkaor.com>, Selkirk Fire Gavin Gilcrease <ggilcrease@sandpointidaho.gov>, Selkirk Recreation District <selgar@mac.com>, Southside Water and Sewer <southsidewaterandsewer@swsdidaho.org>, "Spirit Lake Fire Dept. (Debbie Carpenter)" <chief@spiritlakefire.com>, "Superintendent No. 84 Becky Meyer" <becky.meyer@lposd.org>, Superintendent School Dist 84 <kelly.fisher@lposd.org>, Syringa Heights Water <allwater49@outlook.com>, Timberlake Fire <kwright@timberlakefire.com>, Trestle Creek Sewer District Janice Best <janicesb@televar.com>, US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>, West Bonner Library <meagan@westbonnerlibrary.org>, West Pend Oreille Fire District <wpofd1@gmail.com>, West Priest Lake Fire Josh Gilbert <WPLFD.Chief@gmail.com>
Cc: Jacob Gabell <jake.gabell@bonnercountyid.gov>, Alexander Feyen <alexander.feyen@bonnercountyid.gov>

Dear Agencies,

The referenced application has been submitted to the Bonner County Planning Department for processing. We kindly ask that you review the application in relation to your agency's expertise and provide any recommended conditions of approval along with the relevant supporting code sections. For additional details, please refer to the attached documents.

Thank you for your attention to this matter.

Best regards,



BONNER COUNTY
IDAHO

Jessica Montgomery, M.S.

Hearing Coordinator, Department of Planning
jessica.montgomery@bonnercountyid.gov
(208) 265-1458 ext. 1277



Notice - Public Notice Remand Zoning 4.3.25_Approved.pdf
312K

APPENDIX B
AGENCY COMMENTS - CURRENT COMMENTS AND COMMENTS
FROM PREVIOUS HEARINGS

2025 **AGENCY COMMENTS**



Jacob Gabell <jacob.gabell@bonnercountyid.gov>

Re: Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

DEQ Comments <deqcomments@deq.idaho.gov>

Thu, Mar 6, 2025 at 3:41 PM

To: Bonner County Planning Department <planning@bonnercountyid.gov>

Per the application, the drinking water system serving this project would meet the definition of a public drinking water system (PWS) serving 25 people 60 days or more per year and must meet the requirements of a transient, non-community PWS under the Idaho Rules for Public Drinking Water Systems (Rules). If the CUP is approved the owner must meet the following requirements prior to developing and serving water to the public:

- The well location and construction must first be assessed and approved by DEQ. If it cannot be approved to meet Idaho Rules, another drinking water site and source must be approved.
- A facility plan and preliminary engineering report (PER) developed by an Idaho licensed professional engineer, which includes relevant requirements listed in IDAPA 58.01.18 Section 500, must be submitted to and approved by DEQ.
- Plans and specifications for the drinking water infrastructure to serve this project must be submitted to DEQ by an Idaho licensed professional engineer and approved by DEQ, and the well pump test must be performed and approved in
 - accordance with DEQ requirements.
 - Initial water quality monitoring must be performed.
 - Contact DEQ, Coeur d'Alene for further information (208) 769-1422.

Wastewater

The application states wastewater will be disposed of through a drainfield. DEQ may be involved in the review of the wastewater system at the request of Panhandle Health District (PHD). If the cumulative design flow from all wastewater generating facilities on the property exceeds 2,500 gallons per day (gpd), the wastewater system will be considered a public wastewater system and must meet the applicable rules defined in IDAPA 58.01.16 and IDAPA 58.01.03. If DEQ is requested to review the project, and the project exceeds 2,500 gpd, DEQ will require the applicant to submit a preliminary engineering report (PER) prepared by an Idaho-licensed professional engineer, a demonstration of technical, financial, and managerial capacity, engineered plans and specifications, and results from a nutrient-pathogen evaluation, prior to DEQ recommending approval to PHD.

If you have any questions about the comments this project has received please contact:

- Katy Baker-Casile for engineering and wastewater.
- Anna Moody for drinking water.
- Shawn Sweetapple for air quality.
- Kevin Aardahl for remediation or RCRA.
- Robert Steed for surface water and setback requirements.

Thank you-

Idaho Department of Environmental Quality

2110 Ironwood Parkway, Coeur d'Alene, Idaho 83814

Office Line: 208.769.1422

www.deq.idaho.gov

Our mission: To protect human health and the quality of Idaho's air, land, and water.

From: Bonner County Planning Department <planning@bonnercountyid.gov>

Sent: Tuesday, March 4, 2025 9:04 AM

To: Army Corps of Engineers <CENWW-RD-CDA@usace.army.mil>; Assessors Office Group <assessorsgroup@bonnercountyid.gov>; Avista Copr - Jay West <jay.west@avistacorp.com>; Bay Drive Recreation District <kirbymc45@gmail.com>; Bayview Water & Sewer <bwsd637@gmail.com>; BC Airport Manager Dave Schuck <dave.schuck@bonnercountyid.gov>; BC EMS Jeff Lindsey <jeff.lindsey@bonnercountyid.gov>; Bonner Sheriff <bonnersheriff@bonnerso.org>; Brenna Garro <Brenna.Garro@oer.idaho.gov>; Bryan Quayle <quaylelanduseconsulting@gmail.com>; City of Clark Fork <city@clarkforkidaho.org>; City of Dover <cityclerk@cityofdoveridaho.org>; City of East Hope <easthope.city@gmail.com>; City of Hope <hopecityclerk@gmail.com>; City of Kootenai - Ronda Whittaker <cityclerk@cityofkootenai.org>; City of Oldtown <cityofoldtown@hotmail.com>; City of Ponderay KayLeigh Miller <klmiller@ponderay.org>; City of Priest River <layers@priestriver-id.gov>; City of Sandpoint <cityplanning@sandpointidaho.gov>; cityclerk@spiritlakeid.gov; Coolin Sewer <coolinsewer@gmail.com>; Coolin-Cavanaugh Bay Fire District <coolinfirechief@gmail.com>; DEQ Comments <deqcomments@deq.idaho.gov>; Drainage District #7 Kim Hoodenpyle <kjh5345@gmail.com>; East Bonner Library <vanessa@ebonnerlibrary.org>; East Priest Lake Fire Chief Tom Renzi <epbfdchief@gmail.com>; Ellisport Bay Sewer District <clerk@ebsewerdistrict.com>; Facilities Director LPOSD #84 <matt.diel@lposd.org>; Garfield Bay Water and Sewer District Clerk <garfieldbaywsd@hotmail.com>; Granite Reeder Sewer District <granitereeder@gmail.com>; Dan Everhart <Dan.Everhart@ishs.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>; Mike Ahmer <mahmer@idl.idaho.gov>; IDL - Nav. Waters Ryan Zandhuisen <RZandhuisen@idl.idaho.gov>; IDL - Pend Oreille Lake Supervisory <esjoquist@idl.idaho.gov>; dbrown@idl.idaho.gov; IDWR Chase Bell <chase.bell@idwr.idaho.gov>; Independent Hwy Dist - Julie Bishop <ihdclerk@gmail.com>; ITD <D1Permits@itd.idaho.gov>; Jack Schenck Vyve/Northland Cable <Jack.schenck@vyvebb.com>; Jason Johnson <jason.johnson@bonnercountyid.gov>; Kenny Huston <kenny.huston@oer.idaho.gov>; Kootenai Ponderay Sewer District <CJohnson@kootenaiponderaysewerdistrict.org>; Laclede Water District <LWdistrict@frontier.com>; Lakeland Joint School District #272 <cpursley@lakeland272.org>; Lakeland Joint School District #272 Jessica Grantham <jessica.grantham@lakeland272.org>; Lisa Rosa <hr@ebonnerlibrary.org>; North of the Narrows Fire Dept <Huckbay2501@gmail.com>; Northern Lights - Kristin Mettke <kristin.mettke@nli.coop>; Northside Fire District - Karen Quenell <kquenell@northsidefire.org>; Outlet Bay Sewer District <outletbaysewer@gmail.com>; Pend Orielle Hospital District <kim.kichenmaster@bonnergeneral.org>; PHD <EHApplications@phd1.idaho.gov>; Priest Lake Public Library District <plplibrary@hotmail.com>; Priest Lake Translator District - Frankie Dunn <Frankiejdunn@hotmail.com>; Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>; Ruen Yeager <planning@ruenyeager.com>; Sagle Valley Water & Sewer District <saglewatersewer@gmail.com>; Sam Owen Fire Rescue Sam Owen Fire Rescue <sofd@wow-tel.net>; joekren@sd83.org; School District 84 Transportation - James Koehler <james.koehler@lposd.org>; Schweitzer Fire, Spencer Newton <firedistrict@msn.com>; Selkirk Association of Realtors Danielle <danielle@selkirkaor.com>; Selkirk Fire Gavin Gilcrease <ggilcrease@sandpointidaho.gov>; Selkirk Recreation District <selgar@mac.com>; Southside Water and Sewer <southsidewaterandsewer@swsdidaho.org>; Spirit Lake Fire Dept. (Debbie Carpenter) <chief@spiritlakefire.com>; Superintendent No. 84 Becky Meyer <becky.meyer@lposd.org>; Superintendent School Dist 84 <kelly.fisher@lposd.org>; Syringa Heights Water <allwater49@outlook.com>; Timberlake Fire <kwright@timberlakefire.com>; Trestle Creek Sewer District Janice Best <janicesb@televar.com>; US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>; West Bonner Library <meagan@westbonnerlibrary.org>; West Pend Oreille Fire District <wpoofd1@gmail.com>; West Priest Lake Fire

Josh Gilbert <WPLFD.Chief@gmail.com>

Cc: Jacob Gabell <jake.gabell@bonnercountyid.gov>; Alexander Feyen <alexander.feyen@bonnercountyid.gov>

Subject: Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

[Quoted text hidden]



Janna Brown <janna.brown@bonnercountyid.gov>

Fwd: Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

1 message

Matt Mulder <matt.mulder@bonnercountyid.gov>
 To: Mail-Planning <planning@bonnercountyid.gov>
 Cc: Jason Topp <jason.topp@bonnercountyid.gov>

Tue, Mar 4, 2025 at 1:39 PM

Bonner County Road & Bridge has the following comments:

1. In our previous review of this file, we stated that the Applicant would need to file for commercial approach encroachment permits from our department for the proposed entrances into their parcel. The Applicant has done so, and built the approaches to our standards. No further action is required.
2. There has been much discussion of late regarding the public road status of Al's Welding Road. The road was originally a private road, but began receiving maintenance by Bonner County in the 1990's when a Road & Bridge Dept employee lived on the road and drove the grader in and out for winter plowing, which established a precedent which never stopped. Idaho requires only 5 years of public maintenance and public use to establish prescriptive public right of way per Idaho Code 40-202(3). That threshold has been more than adequately met in the ~30 years of public maintenance and public use the road has received, and there is no doubt that the road is a public road at this point, receiving full maintenance by Bonner County.

-Matt Mulder, PE
 Staff Engineer
 Bonner County Road & Bridge
 208-255-5681 ext 1

----- Forwarded message -----

From: **Bonner County Planning Department** <planning@bonnercountyid.gov>

Date: Tue, Mar 4, 2025 at 9:04 AM

Subject: Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

To: Army Corps of Engineers <CENWW-RD-CDA@usace.army.mil>, Assessors Office Group <assessorsgroup@bonnercountyid.gov>, Avista Copr - Jay West <jay.west@avistacorp.com>, Bay Drive Recreation District <kirbymc45@gmail.com>, Bayview Water & Sewer <bwsd637@gmail.com>, BC Airport Manager Dave Schuck <dave.schuck@bonnercountyid.gov>, BC EMS Jeff Lindsey <jeff.lindsey@bonnercountyid.gov>, Bonner Sheriff <bonnersheriff@bonnerso.org>, Brenna Garro <Brenna.Garro@oer.idaho.gov>, Bryan Quayle <quaylelanduseconsulting@gmail.com>, City of Clark Fork <city@clarkforkidaho.org>, City of Dover <cityclerk@cityofdoveridaho.org>, City of East Hope <easthope.city@gmail.com>, City of Hope <hopecityclerk@gmail.com>, City of Kootenai - Ronda Whittaker <cityclerk@cityofkootenai.org>, City of Oldtown <cityofoldtown@hotmail.com>, City of Ponderay KayLeigh Miller <klmiller@ponderay.org>, City of Priest River <layers@priestriver-id.gov>, City of Sandpoint <cityplanning@sandpointidaho.gov>, City of Spirit Lake <cityclerk@spiritleakeid.gov>, Coolin Sewer <coolinsewer@gmail.com>, Coolin-Cavanaugh Bay Fire District <coolinfirechief@gmail.com>, DEQ <deqcomments@deq.idaho.gov>, Drainage District #7 Kim Hoodenpyle <kjh5345@gmail.com>, East Bonner Library <vanessa@ebonnerlibrary.org>, East Priest Lake Fire Chief Tom Renzi <epfldchief@gmail.com>, Ellisport Bay Sewer District <clerk@ebsewerdistrict.com>, Facilities Director LPOSD #84 <matt.diel@lposd.org>, Garfield Bay Water and Sewer District Clerk <garfieldbaywsd@hotmail.com>, Granite Reeder Sewer District <granitereeder@gmail.com>, ID State Historical Society - Dave Everhart <dan.everhart@ishs.idaho.gov>, Idaho Department of Fish & Game <merritt.horsmon@idfg.idaho.gov>, IDL - Mike Ahmer <mahmer@idl.idaho.gov>, IDL - Nav. Waters Ryan Zandhuisen <RZandhuisen@idl.idaho.gov>, IDL - Pend Oreille Lake Supervisory <esjoquist@idl.idaho.gov>, IDL - Priest Lake Supervisory Area <dbrown@idl.idaho.gov>, IDWR Chase Bell <chase.bell@idwr.idaho.gov>, Independent Hwy Dist - Julie Bishop <ihdclerk@gmail.com>, ITD <D1Permits@itd.idaho.gov>, Jack Schenck Vyve/Northland Cable <Jack.schenck@vyvebb.com>, Jason Johnson <jason.johnson@bonnercountyid.gov>, Kenny Huston <kenny.huston@oer.idaho.gov>, Kootenai Ponderay Sewer District <CJohnson@kootenaiponderaysewerdistrict.org>, Laclede Water District <LWdistrict@frontier.com>, Lakeland Joint School District #272 <cpursley@lakeland272.org>, Lakeland Joint School District #272 Jessica Grantham <jessica.grantham@lakeland272.org>, Lisa Rosa <hr@ebonnerlibrary.org>, North of the Narrows Fire Dept <Huckbay2501@gmail.com>, Northern Lights - Kristin Mettke <kristin.mettke@nli.coop>, Northside Fire District - Karen

Quenell <kquenell@northsidefire.org>, Outlet Bay Sewer District <outletbaysewer@gmail.com>, Pend Orielle Hospital District <kim.kichenmaster@bonnergeneral.org>, PHD <EHapplications@phd1.idaho.gov>, Priest Lake Public Library District <plplibrary@hotmail.com>, Priest Lake Translator District - Frankie Dunn <Frankiejdunn@hotmail.com>, Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>, Ruen Yeager <planning@ruenyeager.com>, Sagle Valley Water & Sewer District <saglewatersewer@gmail.com>, Sam Owen Fire Rescue Sam Owen Fire Rescue <sofd@wow-tel.net>, School District #83 - Joseph Kren <joekren@sd83.org>, School District 84 Transportation - James Koehler <james.koehler@lposd.org>, Schweitzer Fire, Spencer Newton <firedistrict@msn.com>, Selkirk Association of Realtors Danielle <danielle@selkirkaor.com>, Selkirk Fire Gavin Gilcrease <ggilcrease@sandpointidaho.gov>, Selkirk Recreation District <selgar@mac.com>, Southside Water and Sewer <southsidewaterandsewer@swsdidaho.org>, Spirit Lake Fire Dept. (Debbie Carpenter) <chief@spiritlakefire.com>, Superintendent No. 84 Becky Meyer <becky.meyer@lposd.org>, Superintendent School Dist 84 <kelly.fisher@lposd.org>, Syringa Heights Water <allwater49@outlook.com>, Timberlake Fire <kwright@timberlakefire.com>, Trestle Creek Sewer District Janice Best <janicesb@televar.com>, US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>, West Bonner Library <meagan@westbonnerlibrary.org>, West Pend Oreille Fire District <wpofd1@gmail.com>, West Priest Lake Fire Josh Gilbert <WPLFD.Chief@gmail.com>
Cc: Jacob Gabell <jake.gabell@bonnercountyid.gov>, Alexander Feyen <alexander.feyen@bonnercountyid.gov>

Dear Agencies,

The referenced application has been submitted to the Bonner County Planning Department for processing. We kindly ask that you review the application in relation to your agency's expertise and provide any recommended conditions of approval along with the relevant supporting code sections. For additional details, please refer to the attached documents.

Thank you for your attention to this matter.

Best regards,



BONNER COUNTY
IDAHO

Jessica Montgomery, M.S.

Hearing Coordinator, Department of Planning

jessica.montgomery@bonnercountyid.gov

(208) 265-1458 ext. 1277

Notice - Public Notice Remand Zoning 4.3.25_Approved.pdf
312K



Jacob Gabell <jacob.gabell@bonnercountyid.gov>

Re: [EXT SENDER] RE: Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>

Mon, Mar 24, 2025 at 1:25 PM

To: Bonner County Planning Department <planning@bonnercountyid.gov>

Hi Jessica,

Please consider this email as comment by Idaho Department of Fish and Game (IDFG) regarding CUP0030-21:

Game species such as deer, elk, and wild turkey likely use this and nearby habitat year-round. Moose, black bear, and mountain lion are likely to occasionally pass through. The Department will not be responsible for losses of domestic animals (dogs, cats, livestock), ornamental plants, or private property.

IDFG offers the following voluntary recommendations:

Standing timber (including dead snags) and natural vegetation (including shrubs) be retained (outside building envelopes and with consideration for defensible space in a wildfire context) to provide cover, food, nesting sites, perching sites, etc. for indigenous wildlife.

Garbage should not be left outside, bear-proof dumpsters should be used, and an adequate garbage collection system should be designed and implemented including bear-aware signage.

We recommend that signage be placed prohibiting purposely feeding wild animals.

We recommend that any onsite security lighting be downcast to avoid disturbance of nocturnal wildlife.

We recommend pets be kept kenneled, leashed, indoors, or otherwise restrained from chasing or disturbing wildlife.

If perimeter fencing cannot be avoided, we recommend wildlife-friendly fencing (such as post and rail) that allows animals to move through unrestricted. Woven wire and chain link fencing can result in entanglement and injury to deer and elk. Exclusion fencing (eg. chain link with slats, wood slat) is recommended for smaller areas such as gardens or pet runs. Wildlife friendly fencing guides are available online from NRCS, Arizona Game & Fish, and Montana Fish Wildlife and Parks.

Thank you for the opportunity to comment,

Merritt Horsmon

Regional Technical Assistance Manager

Panhandle Region

2885 W. Kathleen Ave.

[Coeur d'Alene, ID 83815](#)

208.769.1414 office

208.251.4509 mobile

merritt.horsmon@idfg.idaho.gov



[Quoted text hidden]

NOTICE OF PUBLIC HEARING



I hereby certify that a true and correct copy of this "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **4th** day of **March 2025**.

Jessica Montgomery

Jessica Montgomery, Hearing Coordinator

This notice was mailed to political subdivisions, property owners within 300 feet of the subject property, and the media on **Tuesday, March 4, 2025**.

NOTICE IS HEREBY GIVEN that the Bonner County Zoning Commission will hold a public hearing at **5:30 pm on April 3, 2025** in the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, by Zoom teleconference and YouTube Livestream to consider the following request:

File CUP0030-21 – Conditional Use Permit - Idaho Land LLC-RV Park

The applicant is requesting a conditional use permit for a 20-unit RV Park on 4.17 acres. The property is zoned Rural-5. The project is located off Clagstone Road and Al's Welding Road in Section 24, Township 54 North, Range 5 West, Boise-Meridian. On November 15, 2024, the District Court vacated the previous approval and remanded the file back to Bonner County for further proceedings. (See Reverse for Map)

For details regarding this application, Zoom teleconference, or YouTube livestream, visit the Planning Department web site at www.bonnercountyid.gov/departments/Planning. Staff reports are available online or may be viewed at the planning department approximately a week before the scheduled hearing.

Written statements must be submitted to the planning department record no later than seven (7) days prior to the public hearing. Written statements not exceeding one standard letter sized, single spaced page may be submitted at the public hearing. Statements can be sent to the Bonner County Planning Department at 1500 Highway 2, Suite 208, Sandpoint, Idaho 83864; faxed to 866-537-4935 or e-mailed to planning@bonnercountyid.gov. The referenced start time stated above reflects the beginning of the hearing. Specific file start time and hearing duration vary.

During the hearing for this application, the public will be given an opportunity to provide testimony and/or evidence regarding how the proposal does or does not comply with the applicable approval criteria of the Bonner County Revised Code. At the close of the public hearing, the governing body will make a decision on the application that may include, but is not limited to, approval, denial, remand, or continuance of the public hearing. Any person needing special accommodations to participate in the public hearing should contact the Bonner County Planning Department at (208) 265-1458 at least 48 hours prior to the scheduled hearing.

If you have no comment or response, you may indicate below and return this form to the Planning Department.

NO COMMENT *[Signature]*
Name SANDPOINT RANGER DISTRICT
Idaho Panhandle National Forests
1602 Ontario St.
Sandpoint, ID 83864

Date 3/25/25

8/12



Janna Brown <janna.brown@bonnercountyid.gov>

CUP0030-21 - Opposition to RV Park - Hearing April 3, 2025

1 message

Sheryl Messer <sheryl.messer@bonnercountyid.gov>
To: Mail-Planning <planning@bonnercountyid.gov>
Cc: Daryl Wheeler <daryl.wheeler@bonnercountyid.gov>

Wed, Mar 26, 2025 at 1:25 PM

Planning Department,

Attached is a letter from Sheriff Daryl Wheeler, which is submitted in opposition for the CUP 0030-21 hearing scheduled for April 3, 2025.

Thank you.

Sheryl Messer
Executive Assistant
Bonner County Sheriff's Office
4001 N. Boyer Road
Sandpoint, Idaho 83864
(208) 263-8417 Ext. 3049
sheryl.messer@bonnercountyid.gov

 **2025_0326 Opposition to CUP0030-21_Sheriff.pdf**
391K



BONNER COUNTY SHERIFF'S OFFICE

Daryl Wheeler, Sheriff • Ror Lakewold, Undersheriff

March 26, 2025

Bonner County Planning Department
(via planning@bonnercountyid.gov)

IN RE: CUP 0030-21 – RV PARK HEARING APRIL 3, 2025

Bonner County Sheriff's Office would like to express concern and opposition to approving the proposed CUP Application on this **non-conforming** 4.17-acre parcel that is located in a Rural-5 zone, which zone only allows "one dwelling unit per five (5) acre density" per *Bonner County Revised Code* 12-323(B)(2). BCRC 12-340(D) states: ". . . It is the intent of this title to permit these nonconformities to continue as required by law. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district or zone. (Ord. 501, 11-18-2008)."

The density of 20 RVs on less than 5 acres in a rural area exacerbates the intensity of danger or hazards both to the occupants of those RVs and to the residents on adjacent parcels. One safety issue to note is that there are no sidewalks along the gravel roadways, which will experience increased pedestrian (including children), bicycle, RV, vehicle and animal traffic. If there is an emergency requiring a response from law enforcement, fire, and/or medical services, the fallout may be intensified because of the response time and the lack of and/or poor or damaged infrastructure. There is also a question as to the adequacy of the rural dirt ingress and egress for all emergency services (potentially more than one of each at one time), along with water resources readily and adequately available.

The health, welfare, and safety of visitors and our residents staying or living in or around RV parks is far better served by placing those facilities in zones with close proximity to emergency infrastructure (e.g., fire hydrants, paved roads) and emergency services.

Sincerely,

Sheriff Daryl Wheeler



Jacob Gabell <jacob.gabell@bonnercountyid.gov>

Re: [EXT SENDER] RE: Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

Anne Boisvert <admin@spiritlakefire.com>

Wed, Mar 26, 2025 at 12:50 PM

To: Bonner County Planning Department <planning@bonnercountyid.gov>

Cc: Jacob Gabell <jake.gabell@bonnercountyid.gov>, Alexander Feyen <alexander.feyen@bonnercountyid.gov>

Good afternoon,

The Spirit Lake Fire Protection District will follow and enforce the International Fire Code to the full extent regarding file CUP0030-21.

Thank you,

Anne

Anne Boisvert

District Administrator

Spirit Lake Fire Protection District*Physical Address:* 32182 N 6th Ave.*Mailing Address:* P.O. Box 116

Spirit Lake, ID 83869

(208) 623-5800 phone

www.spiritlakefire.com

From: Bonner County Planning Department <planning@bonnercountyid.gov>**Sent:** Tuesday, March 4, 2025 9:04 AM**To:** Army Corps of Engineers <CENWW-RD-CDA@usace.army.mil>; Assessors Office Group <assessorsgroup@bonnercountyid.gov>; Avista Copr - Jay West <jay.west@avistacorp.com>; Bay Drive Recreation District <kirbymc45@gmail.com>; Bayview Water & Sewer <bwsd637@gmail.com>; BC Airport Manager Dave Schuck <dave.schuck@bonnercountyid.gov>; BC EMS Jeff Lindsey <jeff.lindsey@bonnercountyid.gov>; Bonner Sheriff <bonnersheriff@bonnerso.org>; Brenna Garro <Brenna.Garro@oer.idaho.gov>; Bryan Quayle <quaylelanduseconsulting@gmail.com>; City of Clark Fork <city@clarkforkidaho.org>; City of Dover

<cityclerk@cityofdoveridaho.org>; City of East Hope <easthope.city@gmail.com>; City of Hope <hopecityclerk@gmail.com>; City of Kootenai - Ronda Whittaker <cityclerk@cityofkootenai.org>; City of Oldtown <cityofoldtown@hotmail.com>; City of Ponderay KayLeigh Miller <klmiller@ponderay.org>; City of Priest River <layers@priestriver-id.gov>; City of Sandpoint <cityplanning@sandpointidaho.gov>; City of Spirit Lake <cityclerk@spiritlakeid.gov>; Coolin Sewer <coolinsewer@gmail.com>; Coolin-Cavanaugh Bay Fire District <coolinfirechief@gmail.com>; DEQ <deqcomments@deq.idaho.gov>; Drainage District #7 Kim Hoodenpyle <kjh5345@gmail.com>; East Bonner Library <vanessa@ebonnerlibrary.org>; East Priest Lake Fire Chief Tom Renzi <epfldchief@gmail.com>; Ellisport Bay Sewer District <clerk@ebsewerdistrict.com>; Facilities Director LPOSD #84 <mat.diel@lposd.org>; Garfield Bay Water and Sewer District Clerk <garfieldbaywsd@hotmail.com>; Granite Reeder Sewer District <granitereeder@gmail.com>; ID State Historical Society - Dave Everhart <dan.everhart@ishs.idaho.gov>; Idaho Department of Fish & Game <merritt.horsmon@idfg.idaho.gov>; IDL - Mike Ahmer <mahmer@idl.idaho.gov>; IDL - Nav. Waters Ryan Zandhuisen <RZandhuisen@idl.idaho.gov>; IDL - Pend Oreille Lake Supervisory <esjoquist@idl.idaho.gov>; IDL - Priest Lake Supervisory Area <dbrown@idl.idaho.gov>; IDWR Chase Bell <chase.bell@idwr.idaho.gov>; Independent Hwy Dist - Julie Bishop <ihdclerk@gmail.com>; ITD <D1Permits@itd.idaho.gov>; Jack Schenck Vyve/Northland Cable <Jack.schenck@vyvebb.com>; Jason Johnson <jason.johnson@bonnercountyid.gov>; Kenny Huston <kenny.huston@oer.idaho.gov>; Kootenai Ponderay Sewer District <CJohnson@kootenaiponderaysewerdistrict.org>; Laclede Water District <LWdistrict@frontier.com>; Lakeland Joint School District #272 <cpursley@lakeland272.org>; Lakeland Joint School District #272 Jessica Grantham <jessica.grantham@lakeland272.org>; Lisa Rosa <hr@ebonnerlibrary.org>; North of the Narrows Fire Dept <Huckbay2501@gmail.com>; Northern Lights - Kristin Mettke <kristin.mettke@nli.coop>; Northside Fire District - Karen Quenell <kquenell@northsidefire.org>; Outlet Bay Sewer District <outletbaysewer@gmail.com>; Pend Orielle Hospital District <kim.kichenmaster@bonnergeneral.org>; PHD <EHapplications@phd1.idaho.gov>; Priest Lake Public Library District <plplibrary@hotmail.com>; Priest Lake Translator District - Frankie Dunn <Frankiejdunn@hotmail.com>; Road & Bridge - Matt Mulder <mat.mulder@bonnercountyid.gov>; Ruen Yeager <planning@ruenyeager.com>; Sagle Valley Water & Sewer District <saglewatersewer@gmail.com>; Sam Owen Fire Rescue Sam Owen Fire Rescue <sofd@wow-tel.net>; School District #83 - Joseph Kren <joekren@sd83.org>; School District 84 Transportation - James Koehler <james.koehler@lposd.org>; Schweitzer Fire, Spencer Newton <firedistrict@msn.com>; Selkirk Association of Realtors Danielle <danielle@selkirkaor.com>; Selkirk Fire Gavin Gilcrease <ggilcrease@sandpointidaho.gov>; Selkirk Recreation District <selgar@mac.com>; Southside Water and Sewer <southsidewaterandsewer@swsdidaho.org>; Chief Debbie Carpenter <chief@spiritlakefire.com>; Superintendent No. 84 Becky Meyer <becky.meyer@lposd.org>; Superintendent School Dist 84 <kelly.fisher@lposd.org>; Syringa Heights Water <allwater49@outlook.com>; Timberlake Fire <kwright@timberlakefire.com>; Trestle Creek Sewer District Janice Best <janicesb@televar.com>; US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>; West Bonner Library <meagan@westbonnerlibrary.org>; West Pend Oreille Fire District <wpofd1@gmail.com>; West Priest Lake Fire Josh Gilbert <WPLFD.Chief@gmail.com>

Cc: Jacob Gabell <jake.gabell@bonnercountyid.gov>; Alexander Feyen <alexander.feyen@bonnercountyid.gov>

Subject: Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

Dear Agencies,

[Quoted text hidden]



Alexander Feyen <alexander.feyen@bonnercountyid.gov>

Notice of Public Hearing - File CUP0030-21 Remanded - Conditional Use Permit - RV Park

Anne Boisvert <admin@spiritlakefire.com>

Wed, Mar 26, 2025 at 2:22 PM

To: Bonner County Planning Department <planning@bonnercountyid.gov>

Cc: Jacob Gabell <jake.gabell@bonnercountyid.gov>, Alexander Feyen <alexander.feyen@bonnercountyid.gov>, Gary Pfahler <gpfahler@spiritlakefire.com>, Dan Meliza <dmeliza@spiritlakefire.com>, Mark Tapscott <mtapscott@spiritlakefire.com>

Good afternoon,

The Spirit Lake Fire Protection District will follow and enforce the International Fire Code to the full extent regarding file CUP0030-21. Notably, RV parks pose a unique risk, especially in the Wildland Urban Interface. Spirit Lake Fire Protection District opposes any approval(s) that allows the applicant to proceed without the appropriate and required amount of fire flow, spacing, setbacks, and fire access. In addition to the risk to other RVs, and the surrounding homes and businesses, a fire in this park could spread to the wildland, become a significant wildfire incident, and impact all of Bonner County, even potentially threatening homes in neighboring fire districts. RV parks are unregulated in Idaho and the transient nature of the park makes prevention and enforcement nearly impossible. RVs burn more rapidly than structures and spread to other neighboring RVs rapidly. A full RV park poses a high risk for civilian rescue, or even life loss. LPG tanks and other hazards associated with RVs can pose unique operational challenges for short-staffed fire districts. With limited resources in our county, this RV park poses a tactical challenge and requires us to be more attentive to fire prevention features, conditions, and designs.

[Quoted text hidden]



Janna Brown <janna.brown@bonnercountyid.gov>

[EXT SENDER] CUP0030-21 - Agency Comments

1 message

Kathryn Kolberg <KKolberg@phd1.idaho.gov>
To: "planning@bonnercountyid.gov" <planning@bonnercountyid.gov>
Cc: Aubrey Naylor <anaylor@phd1.idaho.gov>

Thu, Mar 27, 2025 at 3:25 PM

Good Afternoon –

Please see attached for PHD Agency Comments.

Thank you,

Kathryn

 <p>Public Health Prevent. Promote. Protect. Panhandle Health District</p>	<p>Kathryn Kolberg Environmental Health Program Manager 2101 W. Pine St., Sandpoint, ID 83864 Office: 208-265-6384 Office Desk: 208-920-7902 Email: kkolberg@phd1.idaho.gov Web: Panhandlehealthdistrict.org</p>
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IMPORTANT: The information contained in this email may be privileged, confidential or otherwise protected from disclosure. All persons are advised that they may face penalties under state and federal law for sharing this information with unauthorized individuals. If you received this email in error, please reply to the sender that you received this information in error. Also, please delete this email after replying to the sender.

 **CUP0030-21 CUP_ PHD Comments 3.27.25.pdf**
1660K



Panhandle Health District

Healthy People in Healthy Communities

Public Health
Prevent. Promote. Protect.

Panhandle Health District

Bonner County Zoning Commission

Bonner County Administrative Building

1500 Highway 2

Sandpoint, ID 83864

March 27, 2025

Re: File CUP0030-21 Conditional Use Permit – Idaho Land LLC – RV Park

Bonner County Zoning Commission –

This letter is intended as Panhandle Health District (PHD) comments pertaining to the proposed CUP file listed above. PHD reviewed the proposed application, which indicates an intention to create an RV Park with 20 spots and a laundry facility for use by the residents.

- PHD has not granted any septic permits for a proposed RV Park on this property. PHD does not have any current septic applications for the parcel.
- PHD previously conveyed to the landowner that this parcel is not suitable for an RV park with 20 spots because that would generate at least 2,500gpd of wastewater, which would require a Large Soil Absorption System (LSAS). The site does not have adequate space to meet LSAS standards. Any proposal must remain below 2,500gpd in wastewater discharges.
- PHD received two (2) septic permit applications (21-09-151024 & 22-09-04079) for 9 RV spots each (total of 18 spots). However, PHD never issued any septic permits because we did not receive a clear *Letter of Intended Use* describing the details of the project, nor did we receive an adequate *Plot Plan* and all items necessary for PHD to determine the proposed nature & quantity of wastewater discharges proposed – as is required per IDAPA 58.01.03.005.04. PHD emailed the landowner on July 6 2023, but never heard back, nor received the necessary items. The applications are now expired.
- PHD will need current applications and all requisite information to determine the scope of the project, whether the RV's will be intended as dwellings or short-term recreational use, and the proposed layouts and setbacks between all water & sewage system components proposed.
- The landowner will need to consult with Idaho Dept of Environmental Quality (DEQ) regarding the proposed water system – as it may need to meet Public Water System requirements.

Sandpoint – Bonner County
2101 W. Pine St.
Sandpoint, ID 83864
208.263.5159

In summary, PHD does not have adequate information to verify what type of project may be suitable for this property. Per IDAPA 58.01.03.001.04, every owner of real property is jointly and individually responsible for storing, treating, and disposing of blackwaste and wastewater generated on that property; connecting all plumbing fixtures on that property that discharge wastewaters to an approved wastewater system or facility; and obtaining necessary permits and approvals for installation of individual or subsurface blackwaste and wastewater disposal systems.

Therefore, PHD recommends that any proposals for this property be required to obtain all necessary permits and approvals first, to ensure the sanitary services will be adequate to serve the proposed uses on the land.

If there are any questions about this information, please feel free to contact our office 208. 265.6384 or email me at kkolberg@phd1.idaho.gov

Regards,



Kathryn Kolberg, REHS / Environmental Health Program Manager

Cc: Aubrey Naylor, REHS



NOTICE OF PUBLIC HEARING

I hereby certify that a true and correct copy of this "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **4th** day of **March 2025**.

Jessica Montgomery

Jessica Montgomery, Hearing Coordinator

This notice was mailed to political subdivisions, property owners within 300 feet of the subject property, and the media on **Tuesday, March 4, 2025**.

NOTICE IS HEREBY GIVEN that the Bonner County Zoning Commission will hold a public hearing at **5:30 pm** on **April 3, 2025** in the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, by Zoom teleconference and YouTube Livestream to consider the following request:

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If you have no comment or response, you may indicate below and return this form to the Planning Department.

NO COMMENT _____

Name

Date

PHD Comments - See attached letter dated 3/27/25

2023 AGENCY COMMENTS



Daniel Britt <daniel.britt@bonnercountyid.gov>

[EXT SENDER] RE: [EXT SENDER] RE: [EXT SENDER] RE: CUP0030-21 Requesting Comment

1 message

Chief Debbie Carpenter <chief@spiritlakefire.com>
To: Daniel Britt <daniel.britt@bonnercountyid.gov>

Fri, Oct 6, 2023 at 5:37 PM

Sorry this took so long today. I almost forgot to send it!

Debbie

Debbie Carpenter**Fire Chief**

Spirit Lake Fire Protection District

Cell 986-205-0450

Office 208-623-5800



From: Daniel Britt <daniel.britt@bonnercountyid.gov>**Sent:** Friday, October 6, 2023 8:00 AM**To:** Chief Debbie Carpenter <chief@spiritlakefire.com>**Subject:** Re: [EXT SENDER] RE: [EXT SENDER] RE: CUP0030-21 Requesting Comment

You're welcome to send your comment to me and I'll make sure it gets entered into the record.

Daniel Britt- Planner II

Bonner County Planning Department

208-265-1458 office

daniel.britt@bonnercountyid.gov

On Thu, Oct 5, 2023 at 3:30 PM Chief Debbie Carpenter <chief@spiritlakefire.com> wrote:

Great! I plan on getting all my notes in tomorrow. Do you want me to send them to you first to run through and see if they make sense? Or just send them to planning department email?

From: Daniel Britt <daniel.britt@bonnercountyid.gov>
Sent: Thursday, October 5, 2023 3:24 PM
To: Chief Debbie Carpenter <chief@spiritlakefire.com>
Subject: Re: [EXT SENDER] RE: CUP0030-21 Requesting Comment

Yes, October 10th would be great.

Thanks!

Daniel Britt- Planner II
Bonner County Planning Department
208-265-1458 office
daniel.britt@bonnercountyid.gov

On Thu, Oct 5, 2023 at 3:20 PM Chief Debbie Carpenter <chief@spiritlakefire.com> wrote:

Thanks! I have been researching this for a few days now. I can still officially comment until October 10, correct?

And thank you for attaching the previous comments.

Debbie

From: Daniel Britt <daniel.britt@bonnercountyid.gov>
Sent: Thursday, October 5, 2023 2:53 PM
To: Chief Debbie Carpenter <chief@spiritlakefire.com>
Subject: CUP0030-21 Requesting Comment

Good afternoon Chief Carpenter,

I'm reaching out to you for a comment addressing adequate fire suppression on this project if you have any comment . I've included the previous chief's comment on this file for your consideration. In addition our department emailed an agency review memo to you on September 22, 2023.

Thank you for your time and consideration. If you have any questions or concerns please feel free to contact me.

Daniel Britt- Planner II
Bonner County Planning Department
208-265-1458 office
daniel.britt@bonnercountyid.gov

 **Fire flow requirements for proposed RV park.docx**
34K

There are three primary resources where we can research the fire flow requirements for an RV park:

1. Insurance Service Office (ISO) formula
2. International Fire Code Appendix B
3. National Fire Protection Association (NFPA) publications

1. Insurance Service Office (ISO) formula:

To estimate the amount of water required to fight a fire in an individual, non-sprinklered building, ISO uses the formula:

$NFF = (C)(O)[1.0 + (X + P)]$, where

NFF = the needed fire flow in gallons per minute (gpm)

C = a factor related to the type of construction and effective area

O = a factor related to the type of occupancy

X = a factor related to the exposure hazard of adjacent buildings

P = a factor related to the communication hazard with adjacent buildings

Applying this formula:

$C = 18 * \text{Construction Class 1 (wood frame)} * \text{square root of the area (we can estimate 360 sq ft)}$, making this portion of the formula $18 * 1.5 * 19 = 513$

$O = 1.0$

X + P is not generally used for individual buildings rated as habitational

For an RV fire, the needed fire flow is 513gpm, which can be rounded down to 500gpm.

2. International Fire Code Appendix B

The State of Idaho has adopted the 2018 International Fire Code. Table B105.1, *Required fire flow for one- and two-family dwelling, group R-3 and R-4 buildings and townhouses*, shows the minimum fire flow for an unsprinklered dwelling unit to be:

1,000gpm for 1 hour (which equates to 60,000 on site)

3. National Fire Protection Association (NFPA) publications

NFPA 1194, *Standard for Recreational Vehicle Parks and Campgrounds*, states that water supplies for fire protection purposes shall meet the requirements of the authority having jurisdiction, and to reference NFPA 1142.

NFPA 1142, *Standard for Water Supplies for Suburban and Rural Firefighting*, uses a formula based on the occupancy hazard, the type of construction, the structure dimensions, and any exposures.

For structures with unattached structural exposure hazards, the minimum water supply, in gallons, shall be determined by calculating the total enclosed volume, in cubic feet, of the structure, dividing by the occupancy hazard classification number as determined from Chapter 5, multiplying by the construction classification number as determined from Chapter 6, and multiplying by 1.5 as follows:

$$WS_{\min} = \frac{VS_{\text{tot}}}{OHC}(CC) \times 1.5$$

where:

WS_{\min} = minimum water supply in gal

VS_{tot} = total volume of structure in ft³ (we can estimate 360 ft³ in area)

OHC = occupancy hazard classification number (manufactured homes are classified as 3)

CC = construction classification number (because these are dwellings, the classification is 1.0)

For an RV fire, the formula would be $360/3 \times 1.0 \times 1.5 = 180\text{gpm}$

However, the publication goes on to state:

The minimum water delivery rate shall not be less than 250gpm.

Applying these three resources, we have a range of needed fire flow from 250–1000 gallons per minute.

Spirit Lake Fire is willing to concede to the lowest estimated fire flow, 250gpm for 1 hour. The proposed RV Park must provide an on-site water supply (e.g., a cistern or storage tank) totaling 15,000 gallons, and supply a fire pump of a minimum 250gpm with a connecting hydrant to satisfy fire protection standards.

The on-site water would need to be maintained and available 365 days a year.

Bonner County Planning- Fire Sign Off

Applicant Name: IDAHO LAND LLC ; STEPHEN DOTY

BLP#: BLP 2022-1243

RP#: RP54N05W242300A

Address: 1021 ALI WELDING RD., SPIRIT LAKE, ID 83869

Subdivision:

Fire District: SPIRIT LAKE FIRE PROTECTION DISTRICT

Requirements: NONE BEYOND APPROVED PLANS

Cistern/Storage Tank Fire Suppression Sprinklers System

Approved: YES NO:

Fire Chief signature:  12/16/2022

Comments:

NO CISTERNS OR FIRE SUPPRESSION SYSTEMS
ARE REQUIRED FOR THIS CONSTRUCTION PROJECT.





Daniel Britt <daniel.britt@bonnercountyid.gov>

[EXT SENDER] RE: [EXT SENDER] RE: CUP0030-21 Requesting Comment

1 message

Chief Debbie Carpenter <chief@spiritlakefire.com>
To: Daniel Britt <daniel.britt@bonnercountyid.gov>

Thu, Oct 5, 2023 at 3:30 PM

Great! I plan on getting all my notes in tomorrow. Do you want me to send them to you first to run through and see if they make sense? Or just send them to planning department email?

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Sent: Thursday, October 5, 2023 3:24 PM
To: Chief Debbie Carpenter <chief@spiritlakefire.com>
Subject: Re: [EXT SENDER] RE: CUP0030-21 Requesting Comment

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Thanks!

Daniel Britt- Planner II
Bonner County Planning Department
208-265-1458 office
daniel.britt@bonnercountyid.gov

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Debbie

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Good afternoon Chief Carpenter,



Daniel Britt <daniel.britt@bonnercountyid.gov>

[EXT SENDER] RE: CUP0030-21 Requesting Comment

1 message

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Daniel Britt- Planner II

Bonner County Planning Department
208-265-1458 office
daniel.britt@bonnercountyid.gov

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Thank you for your time and consideration. If you have any questions or concerns please feel free to contact me.

Daniel Britt- Planner II

Bonner County Planning Department

208-265-1458 office

daniel.britt@bonnercountyid.gov



Daniel Britt <daniel.britt@bonnercountyid.gov>

Re: [EXT SENDER] RE: Comments on File CUP0030-21

1 message

Jake Gabell <jake.gabell@bonnercountyid.gov>

Thu, Oct 19, 2023 at 7:18 AM

To: Chief Debbie Carpenter <chief@spiritlakefire.com>

Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>, Bill Wilson <bill.wilson@bonnercountyid.gov>

Chief,

I appreciate your quick reply and for clearing that up. My apologies, the meeting is on Thursday, the 26th at 1:00 p.m. The meeting will be at the County Administration building, the address is in my signature block. Currently, we are scheduled for the third-floor conference room.

Respectfully,

Jake Gabell, Director

Bonner County Planning Department

1500 Highway 2, Suite 208

Sandpoint, ID 83864

Phone: 208-265-1458

On Wed, Oct 18, 2023 at 4:52 PM Chief Debbie Carpenter <chief@spiritlakefire.com> wrote:

Jake,

The only answer I have for you is that I write that statement on so many sign offs that I likely did not realize it was for that RV park when I wrote it. We do not require cisterns or storage tanks for single family residences in our district. In addition (and this is no excuse), I believe that sign off at the time was focused on whether the drive width and space size was compliant with the International Fire Code, and it is as it was written in the planning documents.

The calculations I wrote out 2 weeks ago were entirely focused on answering the question about how much water would be needed in the event of a fire at that location, and I tried to answer that question to the best of my ability as well as making an allowance for the fact that we will have our neighboring fire districts bringing water tenders to the location should there be a fire.

I appreciate your office focusing on fire protection on this project.

One last question...Is the meeting next week on Thursday or on the 27th? You said both, and I would like to attend.

Please call with any questions,

Debbie

Debbie Carpenter**Fire Chief**

Spirit Lake Fire Protection District

Cell 986-205-0450

Office 208-623-5800



From: Jake Gabell <jake.gabell@bonnercountyid.gov>
Sent: Wednesday, October 18, 2023 4:20 PM
To: Chief Debbie Carpenter <chief@spiritlakefire.com>
Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>; Bill Wilson <bill.wilson@bonnercountyid.gov>
Subject: Comments on File CUP0030-21

Good afternoon Chief Carpenter,

The applicant brought to our attention today that you signed off on the BLP application back in December 2022, see the attached "Public comment - BLP" page 7. In this comment you stated, "No cisterns or fire suppression systems are required for this construction project". This appears to be in direct conflict with the comment you provided to the Planning Department earlier this month in regard to the proposed project, see attached "Agency Comment - Spirit Lake Fire".

Can you please provide some clarity? Has the fire district adopted a new standard? Has there been a modification to the RV park requirements since December 2022?

We are finalizing the staff report this week and there is a public hearing scheduled for next Thursday, the 27th, at 1:00 p.m. You are more than welcome to attend the meeting in person or online to speak to the Board of County Commissioners directly.

Respectfully,

Jake Gabell, Director

Bonner County Planning Department

[1500 Highway 2, Suite 208](#)

[Sandpoint, ID 83864](#)

Phone: 208-265-1458



Daniel Britt <daniel.britt@bonnercountyid.gov>

Comments on File CUP0030-21

1 message

Jake Gabell <jake.gabell@bonnercountyid.gov>

Wed, Oct 18, 2023 at 4:19 PM

To: Spirit Lake Fire District - Fire Chief John DeBernardi <chief@spiritlakefire.com>

Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>, Bill Wilson <bill.wilson@bonnercountyid.gov>

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Jake Gabell, Director

Bonner County Planning Department

1500 Highway 2, Suite 208

Sandpoint, ID 83864

Phone: 208-265-1458

2 attachments **Public comment - BLP.pdf**
5181K **Agency Comment- Spirit Lake Fire.pdf**
71K



Daniel Britt <daniel.britt@bonnercountyid.gov>

Re: [EXT SENDER] RE: Comments on File CUP0030-21

1 message

Jake Gabell <jake.gabell@bonnercountyid.gov>

Thu, Oct 19, 2023 at 7:18 AM

To: Chief Debbie Carpenter <chief@spiritlakefire.com>

Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>, Bill Wilson <bill.wilson@bonnercountyid.gov>

Chief,

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Bonner County Planning Department

1500 Highway 2, Suite 208

Sandpoint, ID 83864

Phone: 208-265-1458

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Debbie

Debbie Carpenter**Fire Chief**

Spirit Lake Fire Protection District

Cell 986-205-0450

Office 208-623-5800



From: Jake Gabell <jake.gabell@bonnercountyid.gov>
Sent: Wednesday, October 18, 2023 4:20 PM
To: Chief Debbie Carpenter <chief@spiritlakefire.com>
Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>; Bill Wilson <bill.wilson@bonnercountyid.gov>
Subject: Comments on File CUP0030-21

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Respectfully,

Jake Gabell, Director

Bonner County Planning Department

[1500 Highway 2, Suite 208](#)

[Sandpoint, ID 83864](#)

Phone: 208-265-1458



Daniel Britt <daniel.britt@bonnercountyid.gov>

Fwd: Agency Project Review Request - File CUP0030-21 - Remand by the Bonner County District Court

1 message

Jenna Crone <jenna.crone@bonnercountyid.gov>
To: Daniel Britt <daniel.britt@bonnercountyid.gov>

Thu, Oct 5, 2023 at 2:09 PM

Jenna Crone, Hearing Coordinator
Bonner County Planning Department
208-265-1458 ext - 1277

----- Forwarded message -----

From: **Bonner County Planning Department** <planning@bonnercountyid.gov>

Date: Fri, Sep 22, 2023 at 9:01 AM

Subject: Agency Project Review Request - File CUP0030-21 - Remand by the Bonner County District Court

To: Spirit Lake Fire Dept. (Debbie Carpenter) <chief@spiritlakefire.com>

Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>, Jacob Gabell <jake.gabell@bonnercountyid.gov>, Travis Haller <travis.haller@bonnercountyid.gov>, <stephenjdoty@gmail.com>

The above-named application has been submitted to the Bonner County Planning Department for processing.

Please review the application relative to your agency's area of expertise and include any recommended conditions of approval and supporting code sections. Please see attached for details.

Thank you,

Jenna Crone, Hearing Coordinator
Bonner County Planning Department
208-265-1458 ext - 1277

 **Agency Routing Memo.pdf**
160K

2022 AGENCY COMMENTS



Janna Berard <janna.berard@bonnercountyid.gov>

File CUP0030-21 Agency Review Request

Kristie May <Kristie.May@deq.idaho.gov>

Thu, Apr 21, 2022 at 3:42 PM

To: Bonner County Planning Department <planning@bonnercountyid.gov>

Good Afternoon,

Thank you for providing the opportunity to comment. Please find attached DEQ's comments for the project listed above.

Thank you,

Kristie

Kristie May | Admin Assistant IIIdaho Department of Environmental Quality
2110 Ironwood Parkway, Coeur d'Alene, Idaho 83814
Direct: 208.666.4608

Office Line: 208.769.1422

www.deq.idaho.gov**Our mission:** To protect human health and the quality of Idaho's air, land, and water.

From: Bonner County Planning Department <planning@bonnercountyid.gov>**Sent:** Thursday, March 24, 2022 9:50 AM**To:** PHD <EHAdmin@phd1.idaho.gov>; Bonner Sheriff <bonnersheriff@bonnerso.org>; IDL - Sandpoint <jeshelman@idl.idaho.gov>; Spirit Lake Fire Dept. <chief@spiritlelakefire.com>; School District 84 Transportation - James Koehler <james.koehler@lposd.org>; Superintendent School Dist 84 <kelly.fisher@lposd.org>; ITD - Jason Kimberling <jason.kimberling@itd.idaho.gov>; ITD - Robert Beachler <robert.beachler@itd.idaho.gov>; ITD - Stacy Simkins <stacy.simkins@itd.idaho.gov>; Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>; Kristie May <Kristie.May@deq.idaho.gov>; Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>; Frederick, Adam <Adam.Frederick@idwr.idaho.gov>; Richman, Michelle <Michelle.Richman@idwr.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>; US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>**Cc:** Daniel Britt <daniel.britt@bonnercountyid.gov>; stephenjodty@gmail.com**Subject:** File CUP0030-21 Agency Review Request

The above-named application has been submitted to the Bonner County Planning Department for processing.

[Quoted text hidden]



CRO Environmental Comment Response CUP0030-21.pdf

259K



DEQ Response to Request for Environmental Comment

Date: April 21, 2022
Agency Requesting Comments: Bonner County
Date Request Received: March 24, 2022
Applicant/Description: CUP00030-21

Thank you for the opportunity to respond to your request for comment. While the Idaho Department of Environmental Quality (DEQ) does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply. This guide can be found at <https://www.deq.idaho.gov/assistance-resources/environmental-guide-for-local-govts/>

DEQ has not completed a thorough review of the documents provided, therefore, the following general comments should be applied as appropriate to the specific project:

1. Air Quality

- **Fugitive Dust** - The City should consider requiring reasonable controls on fugitive dust emitting activity during all phases of the project (including but not limited to; roadway construction, vehicle traffic on unpaved roads, land clearing activity, topsoil management, vegetation management). All reasonable precautions shall be taken to prevent particulate matter (dust) from becoming airborne, as required in IDAPA 58.01.01.651.
- **Land Clearing** - During the land clearing and construction phases of the project the applicant should consider alternatives to open burning of the vegetative debris that is generated. Mechanical processing of land clearing debris avoids generating smoke and offers the greatest flexibility for timely project progress. Mechanical processing is not required by DEQ however.
- **Open Burning** - If open burning of land clearing debris is incorporated into the land clearing phase, smoke management practices to protect air quality as described in the Idaho Department of Lands regulation IDAPA 20.02.01.071.03 and DEQ's regulation IDAPA 58.01.01.614 must be implemented by the applicant. Local fire protection permits may also be required. The City should consider requiring a smoke management plan be developed if open burning is used on this project.
- **Construction Debris** - The City should consider requiring a project plan that commits to the proper disposal of demolition and construction debris. Open burning of demolition or

construction debris is not an allowable form of open burning as defined by IDAPA 58.01.01.600. Demolition and construction debris must be treated in accordance with state solid waste regulations.

- For questions, contact Shawn Sweetapple, Air Quality Manager, at (208) 769-1422.
- **Air Quality Permits** - IDAPA 58.01.01.201 requires an owner or operator of a facility to obtain an air quality permit to construct prior to the commencement of construction or modification of any facility that will be a source of air pollution in quantities above established levels. DEQ asks that cities and counties require a proposed facility to contact DEQ for an applicability determination on their proposal to ensure they remain in compliance with the rules.

For permitting questions, contact the DEQ Air Quality Permitting Hotline at 1-877-573-7648.

2. Wastewater

- DEQ recommends that projects be served by existing approved wastewater collection systems or a centralized community wastewater system whenever possible. Please contact DEQ to discuss potential for development of a community treatment system along with best management practices for communities to protect ground water.

The application states wastewater will be disposed of through a drainfield. DEQ may be involved in the review of the wastewater system at the request of Panhandle Health District (PHD). If the cumulative design flow from all wastewater generating facilities on the property exceeds 2,500 gallons per day (gpd), the wastewater system will be considered a public wastewater system and must meet the applicable rules defined in IDAPA 58.01.16 and IDAPA 58.01.03. If DEQ is requested to review the project, and the project exceeds 2,500 gpd, DEQ will require the applicant to submit a preliminary engineering report (PER) prepared by an Idaho-licensed professional engineer, a demonstration of technical, financial, and managerial capacity, engineered plans and specifications, and results from a nutrient-pathogen evaluation, prior to DEQ recommending approval to PHD.

- If connecting to an existing wastewater utility, DEQ recommends verifying that there is adequate capacity to serve this project prior to approval. Please contact the sewer provider for a will-serve letter stating the provider's capacity to serve the project, willingness to serve this project, and a declining balance of available connections.
- IDAPA 58.01.16 and IDAPA 58.01.17 are the sections of Idaho rules regarding wastewater and recycled water. Please review these rules to determine whether this or future projects will require DEQ approval. IDAPA 58.01.03 is the section of Idaho rules regarding subsurface disposal of wastewater. Please review this rule to determine whether this or future projects will require permitting by the district health department.
- All projects for construction or modification of wastewater systems require preconstruction approval. Recycled water projects and subsurface disposal projects require separate permits as well.

For questions, contact Katy Baker-Casile, DEQ Water Quality Engineering Manager, at (208)769-1422.

3. Drinking Water

Per the application, the drinking water system serving this project would meet the definition of a public drinking water system (PWS) serving 25 people 60 days or more per year and must meet the requirements of a transient, non-community PWS under the Idaho Rules for Public Drinking Water Systems (Rules). If the CUP is approved the owner must meet the following requirements prior to developing and serving water to the public:

- The well location and construction must first be assessed and approved by DEQ. If it cannot be approved to meet Idaho Rules, another drinking water site and source must be approved.
 - A facility plan and preliminary engineering report (PER) developed by an Idaho licensed professional engineer, which includes relevant requirements listed in IDAPA 58.01.18 Section 500, must be submitted to and approved by DEQ.
 - Plans and specifications for the drinking water infrastructure to serve this project must be submitted to DEQ by an Idaho licensed professional engineer and approved by DEQ, and the well pump test must be performed and approved in accordance with DEQ requirements.
 - Initial water quality monitoring must be performed.
-
- If connecting to an existing public or non-public drinking water system, DEQ recommends verifying that there is adequate capacity to serve this project prior to approval. Please contact the water provider for a will-serve letter stating the provider's capacity to serve the project, willingness to serve this project, and a declining balance of available connections.
 - IDAPA 58.01.08 is the section of Idaho rules regarding public drinking water systems. Please review these rules to determine whether this or future projects will require DEQ approval. All projects for construction or modification of public drinking water systems require preconstruction approval.
 - If any private wells will be included in the proposed project, DEQ recommends at a minimum testing the private well for total coliform bacteria, nitrate, and nitrite prior to use and retested annually thereafter.

For questions, contact Katy Baker-Casile, DEQ Water Quality Engineering Manager, at (208) 769-1422.

4. Surface Water

- **Water Quality Standards.** Site activities adjacent to waters of the United States (US) must comply with Idaho's Water Quality Standards (WQS) (IDAPA 58.01.02). The WQS provide limits

to pollutants to assure water quality for the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water. The federal Clean Water Act (CWA) requires states to list current conditions of all state waters (required by §305(b)), including publicly-owned lakes (required by §314), and to list waters that are impaired by one or more pollutants (required by §303(d)).

- WQS: <http://www.deq.idaho.gov/water-quality/surface-water/standards/>
- Current conditions of state waters (with interactive map):
<http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/>
- **Point Source Discharges.** Site activities that discharge pollutants into waters of the US in Idaho may require Idaho Pollution Discharge Elimination System (IPDES) coverage (IDAPA 58.01.25) or the Environmental Protection Agency (EPA) National Pollution Discharge Elimination Program (NPDES) coverage.
 - <http://www.deq.idaho.gov/permitting/water-quality-permitting/ipdes/>
- **Construction activities.** Construction activities should implement Best Management Practices (BMPs) to control, prevent, or minimize pollution. Construction activities disturbing areas greater than one acre of land that may discharge stormwater directly or indirectly into waters of the US require development and implementation of a Stormwater Pollution Prevention Plan (SWPP) under a Construction General Permit with EPA NPDES.
 - <http://www.deq.idaho.gov/water-quality/wastewater/stormwater/>
- **Stream channel/lakeshore alteration and dredge and fill activities.** Site activities that disturb ground below the ordinary high water mark (OHWM) within streams/lakeshores must have a permit under IDAPA 37.03.07 (administered by Dept. of Lands) and IDAPA 58.13 (administered by Dept. of Water Resources). Activities that discharge fill material below the OHWM must have a permit under Section 404 of the CWA (administered by US Army Corps of Engineers). All activities must also comply with Idaho Water Quality Standards.
 - Idaho Department of Water Resources permits: <https://idwr.idaho.gov/streams/>
 - Idaho Department of Lands permits: <https://www.idl.idaho.gov/lakes-rivers/lake-protection/index.html>
 - US Army Corp of Engineers permits: <https://www.nww.usace.army.mil/Business-With-U/Regulatory-Division/>

For questions, contact Robert Steed, Surface Water Manager at (208) 769-1422.

5. Solid/Hazardous Waste And Ground Water Contamination

- **Hazardous Waste.** The types and number of requirements that must be complied with under the federal Resource Conservation and Recovery Act (RCRA) and the Idaho Rules and Standards for Hazardous Waste (IDAPA 58.01.05) are based on the quantity and type of waste generated. Every business in Idaho is required to track the volume of waste generated, determine whether each type of waste is hazardous, and ensure that all wastes are properly disposed of according to federal, state, and local requirements.

- **Solid Waste.** The disposal of all solid waste must comply with Idaho's Solid Waste Management Rules (IDAPA58.01.06). No trash or other solid waste shall be buried, burned, or otherwise disposed of at the project site. These disposal methods are regulated by various state regulations including Idaho's Solid Waste Management Regulations and Standards, Rules and Regulations for Hazardous Waste, and Rules and Regulations for the Prevention of Air Pollution.
- **Water Quality Standards.** Site activities must comply with the Idaho Water Quality Standards (IDAPA 58.01.02) regarding hazardous and deleterious-materials storage, disposal, or accumulation adjacent to or in the immediate vicinity of state waters (IDAPA 58.01.02.800); and the cleanup and reporting of oil-filled electrical equipment (IDAPA 58.01.02.849); hazardous materials (IDAPA 58.01.02.850); and used-oil and petroleum releases (IDAPA 58.01.02.851 and 852).

Petroleum releases must be reported to DEQ in accordance with IDAPA 58.01.02.851.01 and 04. Hazardous material releases to state waters, or to land such that there is likelihood that it will enter state waters, must be reported to DEQ in accordance with IDAPA 58.01.02.850.

- **Ground Water Contamination.** DEQ requests that all activities comply with Idaho's Ground Water Quality Rules (IDAPA 58.01.11), which states that "No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that causes a ground water quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."
- **Underground Storage Tanks.** DEQ requests that the installation of all underground storage tanks and piping along with any required testing and owner/operator training comply with Idaho's Rules Regulating Underground Storage Tank Systems (IDAPA 58.01.07)

6. Additional Notes

- If an underground storage tank (UST) or an aboveground storage tank (AST) is identified at the site, the site should be evaluated to determine whether the UST is regulated by DEQ. The Panhandle Health District regulates all ASTs over the Rathdrum Prairie aquifer. EPA regulates ASTs at all other areas. UST and AST sites should be assessed to determine whether there is potential soil and ground water contamination. Please call DEQ at 769-1422, or visit the DEQ website (<http://www.deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx>) for assistance.
- If applicable to this project, DEQ recommends that BMPs be implemented for any of the

following conditions: wash water from cleaning vehicles, fertilizers and pesticides, animal facilities, composted waste, and ponds. Please contact DEQ for more information on any of these conditions.

For questions, contact Gary Stevens, Waste & Remediation Manager, at (208) 769-1422.

We look forward to working with you in a proactive manner to address potential environmental impacts that may be within our regulatory authority. If you have any questions, please contact me, or any of our technical staff at (208)769-1422.

Dan McCracken, Regional Administrator, Coeur d'Alene

File CUP0030-21 Agency Review Request

Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>
To: Bonner County Planning Department <planning@bonnercountyid.gov>

Wed, Apr 13, 2022 at 11:53 AM

Hi Jenna,

The Idaho Department of Fish and Game does not have any comments to submit for this application.

Thank you,

Merritt Horsmon

Environmental Staff Biologist

Panhandle Region

2885 W. Kathleen Ave.

Coeur d'Alene, ID 83815

208.769.1414 office

208.251.4509 mobile

merritt.horsmon@idfg.idaho.gov



From: Bonner County Planning Department <planning@bonnercountyid.gov>

Sent: Thursday, March 24, 2022 9:50 AM

To: PHD <EHAdmin@phd1.idaho.gov>; Bonner Sheriff <bonnersheriff@bonnerso.org>; IDL - Sandpoint <jeshelman@idl.idaho.gov>; Spirit Lake Fire Dept. <chief@spiritleakefire.com>; School District 84 Transportation -

James Koehler <james.koehler@lposd.org>; Superintendent School Dist 84 <kelly.fisher@lposd.org>; ITD - Jason Kimberling <jason.kimberling@itd.idaho.gov>; ITD - Robert Beachler <robert.beachler@itd.idaho.gov>; ITD - Stacy Simkins <stacy.simkins@itd.idaho.gov>; Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>; DEQ - Kristie McEnroe <kristie.mcenroe@deq.idaho.gov>; IDWR - Tammy Alleman <tammy.alleman@idwr.idaho.gov>; IDWR - Adam Frederick <Adam.frederick@idwr.idaho.gov>; IDWR - Michelle Richman <Michelle.richman@idwr.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>; US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>

Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>; stephenjodty@gmail.com

Subject: File CUP0030-21 Agency Review Request

The above-named application has been submitted to the Bonner County Planning Department for processing.

[Quoted text hidden]

File CUP0030-21 Agency Review Request

Frederick, Adam <Adam.Frederick@idwr.idaho.gov>
To: Bonner County Planning Department <planning@bonnercountyid.gov>

Fri, Mar 25, 2022 at 7:32 AM

Hello,

The applicant will need to file for and receive an approved water right permit prior to the use of water for this proposed project. The applicant can contact the Department with any questions.

Adam

**Adam Frederick | Water Rights Supervisor****Idaho Department of Water Resources**

Northern Regional Office

7600 N Mineral Drive, Suite 100

Coeur d'Alene, ID 83815-7763

Phone: (208) 762-2800

[Quoted text hidden]

**image001.png**
31K



Janna Berard <janna.berard@bonnercountyid.gov>

[EXT SENDER] CUP0030-21

1 message

Connie Nelson <connien@inlandpower.com>

Thu, Mar 31, 2022 at 11:43 AM

To: Bonner County Planning Department <planning@bonnercountyid.gov>

Attached is Inland Power response and yes, I did drip my coffee on it!

Tip: don't place your water glass inside your coffee cup when there is still coffee in it, because when you take it out it drips coffee all over your desk. Then you say a bad word, look for napkins and start wiping all the paper you just dripped coffee on.

I'm happy that I can fore warn you of this mistake. You're welcome.

Connie Nelson

Real Estate Specialist



509-789-4291

connien@inlandpower.com

Office Hours 7:00am to 5:30pm Monday – Thursday

Closed Fridays

 **20220331112609856.pdf**
825K



Bonner County Planning Department

"Protecting property rights and enhancing property value"

1500 Highway 2, Suite 208, Sandpoint, Idaho 83864
Phone (208) 265-1458 - Fax (866) 537-4935
Email: planning@bonnercountyid.gov - Web site: www.bonnercountyid.gov

March 24, 2022

TO:

Panhandle Health District	Bonner County Road & Bridge Department
Bonner County Sheriff	Idaho Department of Environmental Quality
Idaho Department of Lands: Sandpoint	Idaho Department of Water Resources
Spirit Lake Fire District	Idaho Department of Fish and Game
Inland Power Utility Company	U.S. Fish and Wildlife Service
Bonner School District #84	Bonner County Schools – Transportation
Idaho Transportation Department	

FROM: Daniel Britt Planner

SUBJECT: CUP0030-21 – Conditional Use Permit - Idaho Land LLC-RV Park

The above-named application has been submitted to the Bonner County Planning Department for processing. The Planning Department has determined this application to be complete and a public hearing has been scheduled with the Zoning Commission for May 5, 2022, at 5:30pm.

The applicants are requesting a conditional use permit for a 20-unit RV Park on 4.17 acres. The property is zoned Rural-5. The project is located off Clagstone Road and Al's Welding Road in Section 24, Township 54 North, Range 5 West, Boise-Meridian.

To review this application, go to the Planning Department web site at www.bonnercountyid.gov/departments/Planning/current-projects. If you experience difficulties visiting the project web page, try an alternative browser (Mozilla Firefox or Google Chrome) for access. If you prefer to receive hard copies of the application or have any difficulties reaching this web site, please contact the planning department as soon as possible.

Please review the application relative to your agency's area of expertise and include any recommended conditions of approval and supporting code sections by **April 21, 2022**. If your agency requires any additional information from the applicant, please advise the planning department in writing allowing ample time for applicant response. All comments will be forwarded to the applicant and representatives. If no response is provided, staff will conclude your agency has no objections to the project or recommended conditions.

If you have no comment or response, you may indicate below and return this form to the Planning Department. Thank you for your assistance.

NO COMMENT Inland Power & Light CSN 3/31/22
Agency Name, Initials of Agency Representative Date

c: Idaho Land LLC, Applicants
Stephen Doty, Project Representative



Janna Berard <janna.berard@bonnercountyid.gov>

[EXT SENDER] Comments RE CUP0030-21

1 message

Tammy May <admin@spiritlakefire.com>

Mon, May 2, 2022 at 1:43 PM

To: Bonner County Planning Dept <planning@bonnercountyid.gov>

Cc: Chief John DeBernardi <chief@spiritlakefire.com>, Jannette Bendinelli <jannette.bendinelli@gmail.com>

Comments from Fire Chief DeBernardi -

In regards to the layout of the RV Park:

We require a 26-foot wide road for Fire and EMS response

We require wildland mitigation and defensible space as the park will be adjacent to forest/timberland

Consideration of access/egress and traffic loading on Clagstone and Al's Welding roads for RVs and 5th wheels, up to 40 feet long

There is no water supply for firefighting in this remote area

IFC 1194 requirements for water supply to the RV park for firefighting would have to be analyzed and implemented

Thank you, Tammy

Tammy May, Administrative Assistant

Spirit Lake Fire Protection District

Physical Address: 32182 N. 6th Ave.

Mailing Address: PO Box 116

Spirit Lake, ID 83869

(208) 623-5800 phone | (208) 623-2305 fax

www.spiritlakefire.com



Daniel Britt <daniel.britt@bonnercountyid.gov>

[EXT SENDER] RE: CUP0030-21

1 message

Kathryn Kolberg <KKolberg@phd1.idaho.gov>
To: Daniel Britt <daniel.britt@bonnercountyid.gov>

Tue, May 10, 2022 at 6:37 PM

Hi Daniel –

I think that one of my inspectors has been working with the applicant for this and they may decide to reduce the proposed number of RV's to something below 20 in order to reduce the total proposed wastewater flows to below 2,500gpd (I'm not positive about that, as I don't know if it's the same one). I believe they wanted to do that because any system that discharges 2,500gpd or more is considered a Large Soil Absorption System (LSAS) and it must meet additional criteria to ensure protective standards or subsurface sewage disposal are met. And RV's w/ full hook-ups are sized at 125gpd (125gpd x 20 = 2,500gpd). If they want an LSAS, they need to meet the LSAS criteria in the Rules (IDAPA 58.01.03) and the guidance (attached) from our statewide SOP. One of the key items is a Nutrient-Pathogen (NP) Evaluation. And they should also keep I mind that this size of RV park may qualify as a Public Water System (PWS), and they should contact DEQ to discuss criteria necessary for a PWS.

If the proposed wastewater flows are *below* 2,500gpd, then PHD reviews their proposal relative to the normal standards for a subsurface sewage disposal system (IDAPA 58.01.03) and if the site meets setbacks and standards, we will issue a permit.

PHD does not review the proposals relative to their potential future impacts on groundwater resources; we review applications/sites relative to the rules and guidance for permitting septic in Idaho. If the site is observed to meet the intent of the septic rules & current standards, we will issue a permit. If the site doesn't meet the intent of the rules & standards, we won't issue a permit. PHD's lane is fairly narrow when it comes to this subject. However, IDEQ & IDWR could potentially help you out. IDWR is involved with water quantity (rights and permitting) and DEQ is involved with quality (existing quality and future protections).

Bonner County could also consider taking the approach of requiring NP studies (from applicants) for specific types or sizes of projects... I believe there is at least one County in Idaho that did something like that at the county level, to help protect their water resources.

When PHD receives an RV Park application, we require a Letter of Intent describing their proposal, we conduct a site evaluation to see if the site meets standards (IDAPA 58.01.03) and we advise people to consider installing RV Dump Stations in addition to their septic system (It is not required per PHD's guidance, just recommended). These allow people to discharge their holding tanks (w/ chemicals) into the RV Dump rather than the septic system, which may help further protect water resources.

I think Benewah County recently started requiring RV Dump stations for some or maybe all RV Parks... so, again, if Bonner County has concerns about potential impacts of larger projects/CUP's on water resources, they may want to obtain some input from IDWR & IDEQ and if there is anything else PHD can do to assist, we certainly will. I will be happy to meet with anyone involved at the County to explain PHD's roles and processes.

Sorry if this wasn't much help. Let me know if you have questions about this info.

-Kathryn

Kathryn Kolberg, BS, REHS

Environmental Health Program Manager

Panhandle Health District 1

2101 W. Pine St.

[Sandpoint, ID 83864](#)

(208) 265-6384

panhandlehealthdistrict.org



From: Daniel Britt <daniel.britt@bonnercountyid.gov>
Sent: Tuesday, May 10, 2022 2:41 PM
To: Kathryn Kolberg <KKolberg@phd1.idaho.gov>
Subject: CUP0030-21

CAUTION: This message originated outside of Panhandle Health District. Do not click links or open attachments unless you recognize the sender, are expecting something from them, and know the content is safe. Please forward spam & phishing emails to IT Support.

Hi Kathryn,

I'm working on a CUP for a 20-unit RV Park located on Clagstone and Al's Welding Road. The Zoning commission had some concerns about the effects the wastewater could have on the aquifer. I'm hoping if you have some time you could comment on the impact this may or may not have.

Thank you for your time.

Daniel Britt- Planner

Bonner County Planning Department

208-265-1458 office

daniel.britt@bonnercountyid.gov

3 attachments

 **RV Parks - SOP & TGM info.pdf**
957K

 **RV Dump Station.pdf**
108K

 **Sewage SOP LSAS Info.pdf**
519K

3. Subsurface Sewage Disposal Program Process

3.1. Application

3.1.1. Form

The subsurface sewage disposal program application is a two part form. The applicant provides the information on the first section, while the EHS provides the information on page two. It is vital that the application be complete and accurate because it is incorporated by reference into the issued permit. The Health Districts do not design subsurface sewage disposal systems. The EHS only evaluates the applicant's proposal to verify that it meets all of the requirements of IDAPA 58.01.03. If a question is not applicable, then an N/A shall be written as the answer. If a question or item is not observed then N/O shall be written as the answer. Directions to the property must be legible and accurate. The application must be signed and dated by the applicant. The applicant need not be the owner of the system. The owner's authorized representative, such as the installer or the builder, may submit the suitably completed application in writing in lieu of the owner (IDAPA 58.01.03.005.03).

A client seeking a permit to install any type of subsurface sewage disposal system can obtain forms and information from the appropriate Health District website listed in Section 11 or at any Health District office. The subsurface sewage disposal application should be accompanied by general project information and the specific requirements as provided in rule (IDAPA 58.01.03.005.04).

3.1.2. Required Attachments

An EHS shall not design any subsurface system, but may offer suggestions, options, and general referrals. The EHS responsibility is to review the application with all attached documents to determine compliance with IDAPA 58.01.03 and set minimum requirements based on the site review and the application. Additional information may be required to accompany the application (IDAPA 58.01.03.005.04.).

Plot plans are required for all installations and at a minimum must include all items listed in IDAPA 58.01.03.005.04.g. If some of the information is unknown at the time of application, the applicant may be required to obtain the information prior to a permit being issued or the EHS may be able to obtain the information during the site evaluation. The plot plan is to be drawn to scale (preferable 1 inch = 20 feet) or be dimensioned.

Floor plans of structures to be built are required for all new construction and shall also be required for modification to existing structures to substantiate expected wastewater flow rates (IDAPA 58.01.03.005.04.o).

Any other documentation that would assist in the evaluation of the application and eventual issuance of the permit should also be included (IDAPA 58.01.03.005.04.o).

3.1.3. Large Soil Absorption System Preliminary Review

When a client proposes to install a Large Soil Absorption System (LSAS) a meeting will be conducted with the Regional DEQ office, Health District, and the applicant to review the project. DEQ will review

whether the project is “Reasonably Accessible” to an existing municipal wastewater treatment facility (WWTF) per IDAPA 58.01.16.010.68, and determine if a Facility Plan, IDAPA 58.01.16.410 and Preliminary Engineering Report, IDAPA 58.01.16.411 are needed. If a municipal WWTF is not reasonably accessible, DEQ will also review the Nutrient-Pathogen Evaluation requirements for the project. DEQ will direct the applicant on how to proceed.

3.1.4. Fees

Fee categories are the same throughout the state, but fee amounts are determined independently by each Health District according to the costs associated with inherent expenses and wages for the individual district. The staff members in each Health District are responsible for familiarizing themselves with the appropriate fee schedule as set by each District Board of Health.

3.1.5. Renewal Process

Application: According to IDAPA 58.01.03.005.08, the on-site sewage disposal application is valid for one year. The applicant must provide the information required in IDAPA 58.01.03.005.04 for the Health District to be able to issue the permit within one year. If the applicant is actively pursuing permitting but is unable to complete all actions (such as need for spring time monitoring) the application may be extended until necessary steps have been completed. If the permit cannot be issued within one year because of inactivity by the applicant, then a new application will be required along with payment of the appropriate fee.

Permit: Once a permit is issued it may be renewed in accordance with IDAPA 58.01.03.005.09. A permit may be renewed one (1) or more times upon request by the applicant or owner provided that the request is received by the Health District prior to the permit’s date of expiration. Payment of the appropriate renewal fee will be required prior to the expiration date of the permit. If the permit is not renewed prior to the one year expiration date, then a new application must be made with payment of the appropriate fee and must meet all rules at the time of reapplication. Permits are transferable to a new property owner provided that the conditions of the application and permit are unchanged.

3.1.6. Exemptions for Federal Agencies Installing Non-Discharging Systems

Federal Agencies can claim sovereign immunity from permitting of vaulted toilets, a non-discharging system. The agency must demonstrate that the vaults are sealed. In order to make this demonstration the agency will need to provide to the Health District the vault specifications and maintenance plans for the units. The agency must also document vaulted toilets are not located in a wellhead protection area.

Federal agencies are exempt from the requirement to have the vaulted toilets installed by a licensed installer as long as the vaulted toilet is installed by the agency’s own staff.

3.2. Site Evaluation

3.2.1. Test Hole Safety Precautions

called a main or service line)(per IDAPA 58.01.08.542.07) and 25 foot separation to a public water distribution line (58.01.08.542.08).

Effluent Line Separation Distance to Wells; Effluent lines, or wastewater lines, should meet the requirements of IDAPA 58.01.03.007.22 and IDAPA 58.01.08.900 with respect to separation distances for wells; 50 foot separation to wells from gravity wastewater line (IDAPA 58.01.08.900 and 58.01.03.007.22) and 100 foot separation to a well from a pressurized wastewater line (IDAPA 58.01.08.900).

If the separation distance cannot be met between an effluent line and a water service line, either line may be sleeved to achieve the applicable separation distance. Pipe materials used for sleeving the effluent line/water service line must meet the minimum standard for pressurized potable water piping. A gravity effluent line may also be sleeved to provide the 50 foot separation from the ends of the sleeve to an individual well, but the separation distance from the sleeved effluent line to the well shall not be reduced to less than 25 feet. A pressurized effluent line may be sleeved to provide the 100 foot separation for the ends of the sleeve to an individual well, but the separation distance from the sleeved effluent line to the well shall not be reduced to less than 50 feet. The open ends of the sleeve pipe do not need to be sealed and will be utilized as the point of measurement for separation distances. Sleeving can also be used where an effluent line needs to cross a water service line. Separation distances between sleeved effluent lines to water service lines cannot be reduced to less than allowable under the Drinking Water Rules (IDAPA 58.01.08.542.07.a-c) and the Wastewater Rules (IDAPA 58.01.16.430.02.o)

In-ground pools are not specifically mentioned in IDAPA 58.01.03 but contain distribution of recreational contact water that can be accidentally ingested by users. Therefore, it is important to public health that this water supply and the associated distribution lines are protected. Separation distances from subsurface sewage disposal systems to in-ground pools and their associated water distribution system are described in the DEQ memorandum, "Separation Distances from Subsurface Sewage Disposal Systems to an In-Ground Pool," dated October 2, 2013 (see section 8.11).

Approval Process for Effluent Lines Crossing Public Water Distribution Lines:

1. The applicant must submit a design drawing to the Health District and the Water District for review and approval. The Health District will review for compliance with the Subsurface Sewage Disposal Rules. If those standards cannot be met, DEQ must review the proposed alternative.
2. The Water District submits a letter to the Health District approving the crossing and stating any conditions they feel are necessary to protect their water main (e.g., tracer tape, etc.)
3. Health District/Water District does a joint inspection (if possible) to insure the crossing is compliant with the permit.

3.3.9. Central and Large Soil Absorption Systems

Central and Large Soil Absorption Systems (LSAS) are defined in IDAPA 58.01.03.003. A central system may also be an LSAS if the system receives more than 2,500 gallons of wastewater per day. LSASs are sewage disposal systems designed to receive 2,500 gallons of wastewater or more per day, and

include projects where the design wastewater flow exceeds 2,500 gallons per day, but the flow is separated into modules that receive less than 2,500 gallons per day (IDAPA 58.02.03.003.20). Projects that are proposed under single ownership with several individual subsurface sewage disposal systems instead of on shared system may qualify as and LSAS based on this definition. If a Health District receives a development proposal with several systems that may qualify as and LSAS, they should confer with the DEQ on whether the development proposal qualifies as and LSAS. Subdivisions or lots splits utilizing individual subsurface disposal systems that are under separate ownership upon permitting and installation are not considered a LSAS under the project description. The oversight of large soil absorption systems is a joint venture between the Health Districts and the Idaho Department of Environmental Quality. Each organization has respective roles in reviewing plans, permitting, conducting inspections, etc. Please refer to the agencies Memorandum of Understanding for further clarification.

IDAPA 58.01.03.013 provides the system design and construction requirements for LSAS. Effective soil depths and separation distances are increased for LSAS. The other major requirement for systems with design flows greater than 2500 gpd is the need to install two disposal systems (drainfields) and a replacement area each sized to accept the daily design flows. LSAS drainfields may be composed of one, or several, modules. A single module is limited to receiving flows of 10,000 GPD or less (IDAPA 58.01.03.013.03), but an LSAS may be composed of as many modules as necessary to accept the projects total daily design flow.

IDAPA 58.01.03.013.06.f requires that an annual “*Large Soil Absorption System Report*” be filed with the Director no later than January 31 of each year for the last 12-month period. Annual reporting is required for systems designed to receive 2,500 gallons of wastewater per day regardless of the volume of wastewater being discharged to the system on a daily basis. The LSAS reporting has been administered by the Health Districts as part of the program delegation. LSAS permitting should include specific notations for monitoring, operation and maintenance, operator and reporting as outlined in IDAPA 58.01.03.013.06 and .07 and 58.01.16.203. Some LSASs may be exempt from annual reporting and licensed operator requirements as these requirements are based on the negotiations between DEQ and the DEQ Board of Environmental Quality at the time IDAPA 58.01.03.013 and IDAPA 58.01.16.203 were negotiated. Any exemption in LSAS operation and maintenance, operator requirements, and annual reporting are based upon the last permit issuance date for the LSAS and are described in the DEQ memorandum, “Large Soil Absorption Systems.” dated April 4, 2014 (see section 8.12).

Each Health District will maintain a database of the LSASs permitted within their respective district that includes specific information on each LSAS and copies of their annual reports. Each district will provide an updated copy of this list to the DEQ State Office as part of the annual audit process. The database will include the information included in the DEQ memorandum, “Large Soil Absorption Systems,” dated April 4, 2014 (see section 8.11).

IDAPA 58.01.03.013 specifies the additional requirements that must be met to support installation of Large Soil Absorption System (LSAS) drainfields. LSAS drainfield plans must be submitted to DEQ and the HD for review and approval. DEQ will require that an NP evaluation be conducted for all LSASs. For installations associated with subdivision development, approval of the NP evaluation, LSAS design, and Collection System design must be received before Sanitary Restrictions can be released on the development. Every LSAS permit issued by a Health District will contain the following statement:

Annual operation, maintenance, monitoring, and reporting are required as specified in IDAPA 58.01.03.013.03 and .07 and the operation and maintenance manual for this system. If a licensed operator is required, this additional statement should be included on the permit: *A maintenance entity that holds a very small wastewater system operator license or higher must oversee the operation and maintenance of this system.*

Drainfields meeting the requirements of a Central System, but which do not have the volume to be considered an LSAS as defined in (IDAPA 58.01.03.003.20), must submit the plans for the collection system to DEQ for approval. Additionally, if the Central System is located in a nitrate priority area or over a sensitive resource aquifer, DEQ will require that an NP evaluation is performed for the proposed system.

3.3.10. Engineering Design Requirements

Section 4.1 of the TGM provides a description of the complex alternative system designs that require submittal of engineering plans and specifications as part of the permit application. Permit applicants will be required to submit plans designed by an engineer licensed in the State of Idaho for all of the systems contained in section 4.1 of the TGM prior to the EHS issuing a permit. Additionally, section 1.5 of the TGM provides a comprehensive list of the alternative systems that are considered complex alternative systems regardless of whether an engineered system design is required or not.

Prior to issuing the permit the plans and specifications shall be reviewed and approved by the Health District. All engineered designs shall be approved or denied in writing by the Health District. Operation and Maintenance Manuals must be submitted to the Health District, and copy to the property owner, for all engineered systems. Health Districts may ask for DEQ review of plans if needed.

3.3.11. Extended Treatment Package System (ETPS)

The words “extended treatment system” are not defined under IDAPA 58.01.03.; however, the words are used to describe one of the alternative systems listed in the TGM. The TGM defines these systems as “Manufactured and “packaged” mechanical treatment devices that provide additional biological treatment to septic tank effluent.”

An ETPS is usually installed to allow permitting in difficult sites where site characteristics prohibit permitting a standard on-site sewage disposal system. The ETPS that are approved for use in Idaho are listed on the DEQ website and are mechanical treatment devices that provide additional wastewater treatment through various technologies. These systems are usually permitted in environmentally sensitive areas where high groundwater or fractured rock are encountered, or may be installed to reduce nitrate discharges in a nitrate priority area as a result of a Nutrient Pathogen (NP) evaluation. These systems require testing for Carbonaceous Biological Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), and/or Total Nitrogen (TN). Annual reporting requirements are necessary for these systems as described in the TGM’s *Extended Treatment Package System* section. Prior to permit issuance, and as part of the application, an operation and maintenance agreement must be signed by the property owner and the operation and maintenance (O&M) entity and provided to the Health District after it is recorded with the

5. Nutrient-Pathogen Evaluation

Nutrient-Pathogen (NP) evaluations are required by DEQ on all proposed LSASs, on proposed central septic systems located in nitrate priority areas or over sensitive resource aquifers, and by some Health Districts based on their individual NP policies. NP evaluations will be conducted in accordance with the NP guidance developed by DEQ, which can be found on DEQ's website at <http://www.deq.idaho.gov/water-quality/wastewater/septic-systems/nutrient-pathogen-evaluations.aspx>.

Nutrient-Pathogen evaluations are intended to demonstrate that a proposed subsurface sewage disposal system, particularly those proposed within areas of concern, will comply with the Idaho's Individual/Subsurface Sewage Disposal Rule, IDAPA 58.01.03, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. The evaluation's intended outcome is to identify the maximum number of proposed sewage systems that may occupy a parcel of land without significantly impacting the quality of ground water and/or surface water. The NP evaluation may assist in determining the minimum lot size based on site specific factors in lieu of using a prescriptively defined minimum lot size.

Public Health Districts 3 and 4 currently maintain NP policies that describe criteria triggering the requirement to perform an NP evaluation. NP evaluations are typically required for developments proposed in an area of concern meeting the following criteria:

1. Proposed subdivisions and/or lot splits of five or more splits of an original parcel, as defined by the local city or county planning and zoning authority;
2. Commercial facilities generating 600 gallons or more of wastewater per day;
3. Lot splits or accessory dwellings in platted subdivisions that result in additional waste water flows not previously evaluated in an NP evaluation.

An area of concern is:

1. An area or region where nutrient and/or pathogen contamination exists and has the potential to create a health risk, or
2. An area where soil depth is shallow or there exists a predominance of gravel or other coarse-grained sediment, a shallow depth to the normal high ground water (10 feet or less), or fractured bedrock (10 feet or less).

Required
for
new
LSAS

4.20 Recreational Vehicle Dump Station

Revision: April 19, 2013

Installer registration permit: Property owner or standard and basic

Licensed professional engineer required: No

4.20.1 Description

Recreational vehicle (RV) dump stations are sealed septic tanks for the disposal of RV-generated wastewater. RV dump stations pose a unique problem for subsurface sewage disposal systems because the recirculating fluid used in RV tanks contains formaldehyde and/or paraformaldehyde. The presence of these chemicals inhibits bacterial action inside of a septic tank, which leads to solids carry over and premature failure of the drainfield. Compounding the problem is that RV units recirculate the fluid several times before it is dumped. The fluid disposed in the dump station then is both *strong* and preserved. Because of these issues with RV-generated wastewater, RV dump stations should not be connected to subsurface sewage disposal systems.

4.20.2 Approval Conditions

1. A management entity or arrangement to provide maintenance and pumping of the dump station tank by a permitted septic tank pumper should be provided prior to permit issuance.
2. An RV dump station tank shall not have wastewater conveyed to it through a collection system.
3. RV wastewater shall be discharged into the dump station vault directly from the RV's wastewater storage tanks.
4. If the RV dump station tank is a modified septic tank, the inlet and outlet openings shall be sealed.
5. RV dump stations may not be located in a floodway.
6. The RV dump station tank lid shall be sloped to the dump point and have a wastewater spill containment rim.
7. A source for dump station wash-down water shall be provided to the RV dump station location.
8. The water source shall meet the same separation distances from the RV dump station tank as required by IDAPA 58.01.03.007.17.

4.20.3 Requirements

1. The RV dump station tank must meet the distance limitations of a septic tank (IDAPA 58.01.03.007.17).
2. The RV dump station tank must meet the septic tank design and construction standards as described in IDAPA 58.01.03.007. Requirements of IDAPA 58.01.03.007.07, 58.01.03.007.08, 58.01.03.007.09-10, 58.01.03.007.19, and 58.01.03.007.22 are exempt.
3. If the RV dump station tank is a modified septic tank, the inlet and outlet opening shall be sealed

4. A manhole extension shall be brought to finished grade that allows pumping access to the RV dump station tank.
5. An emergency warning system shall be required to be installed to indicate when the RV dump station tank is two-thirds full.
6. The RV dump station tank shall meet the volume requirements of a septic tank, except that no RV dump station tank shall be less than 1,500 gallons.
7. Any permit issued for a subsurface sewage disposal system serving RV spaces should include a requirement to install an RV dump station tank that allows RVs to discharge their preserved waste prior to discharging of waste to the subsurface sewage disposal system.

4.20.4 Recreational Vehicle Dump Station Waste Disposal

1. RV dump station tank waste shall be pumped and removed by a permitted septic tank pumper.
2. Wastewater from an RV dump may be disposed of at the following locations:
 - a. Municipal treatment plant
 - b. Approved septage land application site
 - c. Approved discharge to public sewer

3.3 Wastewater Flows

Revision: August 18, 2016

Assigning wastewater flow projections to a proposed subsurface sewage disposal system is necessary to adequately design the system and is required as part of the permit application by IDAPA 58.01.03.005.04.j. The term *wastewater flow* refers to the amount of wastewater a structure will generate in gallons per day (GPD). These flow estimates provide the basis for determining the minimum septic tank volume and subsurface disposal system sizing (IDAPA 58.01.03.007.07.b and 58.01.03.008.03.a). For most proposed projects, IDAPA 58.01.03.007.08 is used for providing the quantitative daily wastewater flow estimates necessary to design the proposed subsurface sewage disposal system.

Due to the limited number of commercial/industrial establishments and flow scenarios provided in IDAPA 58.01.03.007.08, not all proposed commercial or industrial projects will be capable of proposing daily wastewater flows based on this rule. IDAPA 58.01.03.005.04.d provides the applicant the allowance to propose wastewater flows through other appropriate measures to adequately size the subsurface sewage disposal facility. Daily wastewater flow projections may be provided from other sources when a proposed residential, commercial, or industrial project is not covered by IDAPA 58.01.03.007.08, or when an applicant feels that the daily wastewater flow projections for a commercial or industrial facility provided in IDAPA 58.01.03.007.08 are higher or lower than actual daily peak wastewater use for similar facilities.

Other appropriate measures for daily wastewater flow estimation as described in IDAPA 58.01.03.005.04.d must include the nature and quantity of wastewater the system will receive. Adequate documentation must be submitted with the permit application detailing the basis for the estimate of the quantity of wastewater and its nature (IDAPA 58.01.03.005.04.j). In the documentation include a description of the commercial or industrial facility's proposed operation, referred to as a Letter of Intended Use. Letter of Intended Use elements are described in section 3.3.1. Appropriate measures and documentation for the provision of empirical wastewater flow data not provided in IDAPA 58.01.03.007.08 are described in section 3.3.2.

3.3.1 Letter of Intended Use

As part of the permit application, the applicant must provide information regarding the type of establishment served (IDAPA 58.01.03.005.04.c), nature and quantity of wastewater the system will receive (IDAPA 58.01.03.005.04.j), and documentation that substantiates that the proposed system will comply with IDAPA 58.01.03 (IDAPA 58.01.03.005.04.o). This information should be included in a Letter of Intended Use that contains the following minimum elements:

- Description of the commercial/industrial processes that are occurring within the facility.
 - Type of business that will be discharging to the subsurface sewage disposal system and the processes involved in its operations.
 - Maximum number of employees and customers within the facility at any given time now or in the future if expansion is to occur later.
 - Estimated daily wastewater flow that may be produced by the domestic, commercial, and industrial uses occurring within the facility. Estimated daily wastewater flow projections must either be supported by IDAPA 58.01.03.007.08 or follow the guidance regarding empirical wastewater flow data as provided in section 3.3.2.

- Completed copy of the subsurface sewage disposal permit application supplement for nondomestic wastewater. Characteristics of the nondomestic wastewater should be supported with adequate documentation.

3.3.2 Empirical Wastewater Flow Data

Empirical wastewater flow data is collected from facilities similar to the one proposed in the subsurface sewage disposal permit application. Wastewater flow data is typically collected from facilities connected to a public water system or other water source that can provide water meter data for daily, weekly, or monthly water use by the facility. The daily wastewater flow is estimated based upon the potable water used by the facility as determined by water meter data. The data obtained often needs to be converted into GPD as most utilities and public water systems do not meter water by the gallon. The volume of water provided in a water usage history should be verified for the correct meter units.

Evaluated facilities should be located within Idaho if possible and may be from any region within the state. Unique facilities that may not be found elsewhere in the state may use similar facilities from other states. Facilities should be able to be compared to the proposed facility and capable of assigning a daily wastewater flow estimate on a per unit basis. Units may include employees, meals, visitors, or any other quantifiable unit applicable to the proposed facility. If the proposed facility will produce nondomestic wastewater (i.e., wastewater from sources other than hand sinks, toilets, showers/bathtubs, noncommercial kitchens, and washing machines), the wastewater data must also include characterization of the proposed commercial or industrial wastewater to be discharged to the subsurface sewage disposal system in addition to the daily wastewater flow data.

The time of year that water usage data is collected and evaluated should represent the proposed facility's peak usage time frame. If possible, DEQ recommends that water consumption data devoid of irrigation flows be provided. To accomplish this, locate facilities that do not have landscaping to irrigate or eliminate the irrigation season from the evaluation. Eliminating the irrigation season from the water data evaluation should only be used for facilities that do not have peak facility use occur over this time frame. Water usage data that does not include the irrigation season typically occurs from November through February.

Adequate documentation of daily wastewater flows may vary on a case-by-case basis. The following list of water usage data will be considered adequate for most circumstances:

- Water usage data from a minimum of three facilities of similar operation should be provided for review.
 - Facilities should be connected to a public or private water system for which monthly water use records are kept that can be readily converted to average GPD flows. Water usage data should be provided in writing by the water system operator.
 - Statistics should be provided on each facility's operation that are pertinent to the wastewater flow estimation (e.g., number of employees, number of children attending a childcare, number of meals served per day for restaurants, and occupancy per day of a hotel or RV park). Statistical data for each facility should be provided in writing by the facility providing the data.

- Water usage data should occur over an adequate time frame to provide data that is applicable to the design flows for subsurface sewage disposal permit issuance.
- Wastewater characterization for nondomestic wastewater sources (including the subsurface sewage disposal permit application supplement for nondomestic wastewater found on DEQ's website).
- Other facility specific data the Director feels is reasonable and necessary for daily wastewater flow estimation evaluation.

The Director shall evaluate the data provided to determine an acceptable flow. If the Director determines that any data provided is inadequate for assessment, the facility that the data applies to will not be included in the evaluation process. The provision of empirical wastewater flow data in lieu of using the wastewater flows provided in IDAPA 58.01.03.007.08 does not guarantee that the daily wastewater flow projection will be less than what is provided by IDAPA 58.01.03.007.08.

3.4 References

EPA (United States Environmental Protection Agency). 2002. *Onsite Wastewater Treatment Systems Manual*. Washington, DC: EPA. EPA/625/R-00/008.

3.3. Subsurface Sewage Disposal Permitting

IDAPA 58.01.03 requires that a permit must be issued to authorize the construction of a subsurface sewage disposal system. The SSD permit must document the conditions under which the system is to be installed in order to meet the needs of the dwelling being served while complying with state regulations. All appropriate portions of the permit must be completed by the EHS.

Permits for new construction or system expansion or enlargement must be issued as a conforming permit. A conforming subsurface sewage disposal system is one that is permitted and complies with the Rules for Individual/ Subsurface Sewage Disposal Systems, IDAPA 58.01.03, and the Technical Guidance Manual (TGM) (IDAPA 58.01.03.004.10). Nonconforming subsurface sewage disposal permits shall only be issued as a last resort for repair/replacement systems. Nonconforming permits must be issued to meet the intent of IDAPA 58.01.03 (IDAPA 58.01.03.004.01) and in conformance with the DEQ memorandum, "Failing Subsurface Sewage Disposal System," dated July 26, 1993 (see section 8.7).

Expansion or enlargement is the addition or alteration to an existing permitted standard or alternative subsurface sewage disposal system at the request of the applicant to accommodate additional wastewater flows. The Rules for Individual Subsurface Sewage Disposal Systems and the TGM also define expand as "to enlarge any non-failing system" (IDAPA 58.01.03.003.12).

If a development is proposing to use public sewer as a disposal method refer the developer to DEQ.

3.3.1. Design Flows

Design flows shall be established in accordance with IDAPA 58.01.03.007.08 and 59.01.03.008.03.a and section 3.3 of the TGM.

The word "flow" is not defined under IDAPA 58.01.03.; however, the word is used throughout the rules and is meant to establish the amount of wastewater a structure, residential or commercial, will generate in gallons per day.

Per IDAPA 58.01.03.007.08, Wastewater Flows from Various Establishments in Gallons per Day, this section of the rule provides quantitative values for residential, institutional, recreational, commercial, etc., structures that should be used in establishing wastewater flows in gallons per day.

The need to establish flows can also be referenced in IDAPA 58.01.03.005.04.j, Contents of Application. "*The nature and quantity of blackwaste and wastewater the system is to receive, including the basis for that estimate*".

Flows can also be referenced in IDAPA 58.01.03.004.04, Increased Flows. "*Unless authorized by the Director, no person shall provide for or connect additional blackwaste or wastewater to any system if the resulting flow or volume would exceed the design flow of the system*".

The septic application and subsequent permit must clearly establish a specific flow. Flows other than residential must have supporting documentation as a basis for permitting the flows as specified in section 3.3.4 below and section 3.3 of the TGM. An applicant is also allowed to propose a daily flow based upon

empirical wastewater flow data for their proposed project. Empirical wastewater flow data provided by an applicant needs to include the minimum elements described in section 3.3.2 of the TGM.

3.3.2. Bedroom

The SSD rules use the number of bedrooms to estimate the potential wastewater flow from a residence; however, the SSD rules do not provide a definition for a bedroom. Homeowners and/or their representative(s) are required to disclose the number of bedrooms for the proposed residence when applying for an on-site subsurface sewage disposal permit.

Bedrooms are typically a room within a dwelling that provides privacy for the occupant; can be primarily used for sleeping; and have at least two (2) methods of ingress/egress that meet jurisdictional building code requirement(s) applicable to bedrooms. Living rooms, dining rooms, kitchens, halls, bathrooms, are not considered bedrooms. The local building authority may designate any additional room as a bedroom (i.e., loft).

3.3.3. Residential Flows from Separate Structures

Wastewater flows being generated by occupants in separate dry structures on a parcel may need to be included in the design flows for the main residential dwelling. IDAPA 58.01.03.007.08 establishes wastewater flows from structures such as bunk houses, and rooming houses that are being served by restrooms and cooking facilities located in the main residential dwelling or other building being served by a subsurface sewage disposal system.

Separate structures with wastewater generating features (e.g., kitchens, bathrooms, and floor drains) will be evaluated as separate structures using appropriate design flows. Separate structures may share a septic tank and drainfield with the primary structure on the property, but the minimum sizing requirements for both the shared septic tank and shared drainfield shall be the sum of the requirements for all structures independently of one another.

3.3.4. Commercial/Industrial Wastewater Flows

The words “commercial/industrial” are not defined under IDAPA 58.01.03.; however, the words are used in the rules and are used as the basis for determining design flows for establishments, other than residential. Empirical data may be submitted for consideration in lieu of the values specified in Rule (IDAPA 58.01.03.007.08) to establish flows, see section 3.3.2 of the TGM for further information. Daily flow averages based on peak usage time frames are to be used to size the septic tank and drainfield. The timeframe used to determine flows must be representative of actual use. For facilities and operations that are either seasonal or only generate wastewater on weekends should only use those times when wastewater is generated to calculate design flows (e.g., if the facility operates mainly on weekends and the flows drop significantly during the rest of the week, the weekday data could be removed from the average, but the flow would be projected on the average of the weekend days).

Commercial/industrial wastewater must meet clarified domestic wastewater characteristics as described in the TGM prior to discharge to the drainfield. Establishing the nature and quantity of the wastewater is the

responsibility of the property owner. The property owner or their representative will submit the estimated flows in writing along with a letter of intended use as described in section 3.3 of the TGM. If nondomestic wastewater will be generated, the property owner or their representative will need to complete and submit the nondomestic wastewater application checklist, available through DEQ's website, with the permit application.

3.3.5. Septic Tank Sizing

Septic tank sizing shall be established in accordance with IDAPA 58.01.03.007.07. The permit shall clearly establish the minimum tank capacity required for the system based on the rule. IDAPA 58.01.03.007.07 segregates the minimum septic tank capacities based on residential and commercial/industrial facilities as well as by individual and central residential systems. Individual systems that are shared by two dwellings are to be sized based on the number of bedrooms in each individual dwelling independently from one another (e.g. as system shared by two 3-bedroom homes requires a minimum septic tank capacity of 2000 gallons total and a system design flow of 500 gallons per day).

3.3.6. Drainfield Sizing

Drainfield sizing shall be established in accordance with IDAPA 58.01.03 and the accompanying TGM.

Drainfield sizing can be referenced under IDAPA 58.01.03.008.03, Subsurface Disposal Facility Sizing. The size of a subsurface disposal system will be determined by the following procedures.

- a. Daily flow estimates should be determined in the same manner as are flow estimates for septic tank sizing in IDAPA 58.01.03.007.08.
- b. The site's soil will be classified and characterized during the site evaluation. The soil classification will determine the hydraulic application rate as specified in Rule (IDAPA 58.01.03.008.03.b) or section 2.3 of the TGM. Hydraulic application rates shall match those specified by rule or in section 2.3 of the TGM for the soil design group or subgroup assigned by the EHS. The site's other attributes such as quantity of gravel, rocks or other large soil fraction, may alter the application rate as specified in section 2.1.3 of the TGM. The drainfield will be sized based on the most restrictive hydraulic application rate within the necessary effective soil depth below the drainfield (necessary effective soil depth below a drainfield is that meeting the requirements of IDAPA 58.01.03.008.02.c or section 2.2 of the TGM).
- c. The total required square footage of absorption area is obtained by dividing the estimated daily flow by the appropriate soil application rate. The soil application rate values indicated in the rule are for A, B, and C soils only. The TGM further breaks down the soil texture classification per USDA textural classification. These values are widely accepted for use throughout the state and provide additional application rates in gallons/day/ft². Example: three bedroom home at 250 gpd in a B-2 soil at 0.45 gal/day/ft²; (250/0.45 = 556 ft²). Note: the area designated for the primary drainfield and the replacement/reserve area must include enough room to account for the required undisturbed earth between trenches (IDAPA 58.01.03.008.04). The addition of these undisturbed areas increases the installation area required to obtain the necessary drainfield disposal installation area.

- d. The size of an acceptable drainfield site must be large enough to construct two (2) complete drainfields (primary and reserve) in which each are sized to receive one hundred percent (100%) of the design wastewater flow (IDAPA 58.01.03.008.03.c).

Standard Subsurface Disposal Facility specifications can be found under IDAPA 58.01.03.008.04. This section of the rules outlines the configuration of a standard subsurface sewage disposal drainfield. Most notably, a drainfield is designed in a trench configuration with trenches 1 to 6 feet in width. Drainfields with a trench configuration shall be permitted in all circumstances unless otherwise directly specified in the TGM for alternative systems, or as specified below.

Standard absorption bed specifications can be found under IDAPA 58.01.03.008.10. This section states that: *“Absorption bed disposal facilities may be considered when a site is suitable for a standard subsurface disposal facility except that it is not large enough. The permit, when issued, shall indicate that a bed has been authorized and provide a basis for that authorization.”* If an absorption bed is authorized, the EHS shall include documentation in the permit application describing that the site is limited in size.

The permit must clearly establish the minimum drainfield size in square feet.

3.3.7. Alternative Systems and Options

Alternative systems and options shall be permitted in accordance with IDAPA 58.01.03 and the alternative system’s guidance in the TGM.

An Alternative System is defined under IDAPA 58.01.03.003.02 as any system for which the Department has issued design guidelines or which the Director judges to be a simple modification of a standard system.

Under IDAPA 58.03.01.004.10, “if a standard system as described in these rules cannot be installed on a parcel of land, an alternative system may be permitted if that system is in accordance with the recommendations of the Technical Guidance Committee and is approved by the Director.”

In essence, the Alternative Systems section of the TGM provides more flexibility and options than are specified in the SSD rules.

There are no allowances for compounding reductions in drainfield sizing for any of the alternative systems. If a system design utilizes multiple system components that are allowed reduction in drainfield square footage or hydraulic application rates, the system sizing can be based upon the component that grants the largest reduction.

3.3.8. Effluent Piping and Waterline Separation Distance

Effluent Lines Separation Distance to Water Distribution Lines: Effluent lines are treated the same as septic tanks with respect to separation distances in accordance with the Individual Subsurface Sewage Disposal Rules (IDAPA 58.01.03.007.17): 10 foot separation to a water distribution line (commonly

called a main or service line)(per IDAPA 58.01.08.542.07) and 25 foot separation to a public water distribution line (58.01.08.542.08).

Effluent Line Separation Distance to Wells; Effluent lines, or wastewater lines, should meet the requirements of IDAPA 58.01.03.007.22 and IDAPA 58.01.08.900 with respect to separation distances for wells; 50 foot separation to wells from gravity wastewater line (IDAPA 58.01.08.900 and 58.01.03.007.22) and 100 foot separation to a well from a pressurized wastewater line (IDAPA 58.01.08.900).

If the separation distance cannot be met between an effluent line and a water service line, either line may be sleeved to achieve the applicable separation distance. Pipe materials used for sleeving the effluent line/water service line must meet the minimum standard for pressurized potable water piping. A gravity effluent line may also be sleeved to provide the 50 foot separation from the ends of the sleeve to an individual well, but the separation distance from the sleeved effluent line to the well shall not be reduced to less than 25 feet. A pressurized effluent line may be sleeved to provide the 100 foot separation for the ends of the sleeve to an individual well, but the separation distance from the sleeved effluent line to the well shall not be reduced to less than 50 feet. The open ends of the sleeve pipe do not need to be sealed and will be utilized as the point of measurement for separation distances. Sleeving can also be used where an effluent line needs to cross a water service line. Separation distances between sleeved effluent lines to water service lines cannot be reduced to less than allowable under the Drinking Water Rules (IDAPA 58.01.08.542.07.a-c) and the Wastewater Rules (IDAPA 58.01.16.430.02.o)

In-ground pools are not specifically mentioned in IDAPA 58.01.03 but contain distribution of recreational contact water that can be accidentally ingested by users. Therefore, it is important to public health that this water supply and the associated distribution lines are protected. Separation distances from subsurface sewage disposal systems to in-ground pools and their associated water distribution system are described in the DEQ memorandum, "Separation Distances from Subsurface Sewage Disposal Systems to an In-Ground Pool," dated October 2, 2013 (see section 8.11).

Approval Process for Effluent Lines Crossing Public Water Distribution Lines:

1. The applicant must submit a design drawing to the Health District and the Water District for review and approval. The Health District will review for compliance with the Subsurface Sewage Disposal Rules. If those standards cannot be met, DEQ must review the proposed alternative.
2. The Water District submits a letter to the Health District approving the crossing and stating any conditions they feel are necessary to protect their water main (e.g., tracer tape, etc.)
3. Health District/Water District does a joint inspection (if possible) to insure the crossing is compliant with the permit.

3.3.9. Central and Large Soil Absorption Systems

Central and Large Soil Absorption Systems (LSAS) are defined in IDAPA 58.01.03.003. A central system may also be an LSAS if the system receives more than 2,500 gallons of wastewater per day. LSASs are sewage disposal systems designed to receive 2,500 gallons of wastewater or more per day, and

include projects where the design wastewater flow exceeds 2,500 gallons per day, but the flow is separated into modules that receive less than 2,500 gallons per day (IDAPA 58.02.03.003.20). Projects that are proposed under single ownership with several individual subsurface sewage disposal systems instead of on shared system may qualify as and LSAS based on this definition. If a Health District receives a development proposal with several systems that may qualify as and LSAS, they should confer with the DEQ on whether the development proposal qualifies as and LSAS. Subdivisions or lots splits utilizing individual subsurface disposal systems that are under separate ownership upon permitting and installation are not considered a LSAS under the project description. The oversight of large soil absorption systems is a joint venture between the Health Districts and the Idaho Department of Environmental Quality. Each organization has respective roles in reviewing plans, permitting, conducting inspections, etc. Please refer to the agencies Memorandum of Understanding for further clarification.

IDAPA 58.01.03.013 provides the system design and construction requirements for LSAS. Effective soil depths and separation distances are increased for LSAS. The other major requirement for systems with design flows greater than 2500 gpd is the need to install two disposal systems (drainfields) and a replacement area each sized to accept the daily design flows. LSAS drainfields may be composed of one, or several, modules. A single module is limited to receiving flows of 10,000 GPD or less (IDAPA 58.01.03.013.03), but an LSAS may be composed of as many modules as necessary to accept the projects total daily design flow.

IDAPA 58.01.03.013.06.f requires that an annual “*Large Soil Absorption System Report*” be filed with the Director no later than January 31 of each year for the last 12-month period. Annual reporting is required for systems designed to receive 2,500 gallons of wastewater per day regardless of the volume of wastewater being discharged to the system on a daily basis. The LSAS reporting has been administered by the Health Districts as part of the program delegation. LSAS permitting should include specific notations for monitoring, operation and maintenance, operator and reporting as outlined in IDAPA 58.01.03.013.06 and .07 and 58.01.16.203. Some LSASs may be exempt from annual reporting and licensed operator requirements as these requirements are based on the negotiations between DEQ and the DEQ Board of Environmental Quality at the time IDAPA 58.01.03.013 and IDAPA 58.01.16.203 were negotiated. Any exemption in LSAS operation and maintenance, operator requirements, and annual reporting are based upon the last permit issuance date for the LSAS and are described in the DEQ memorandum, “Large Soil Absorption Systems.” dated April 4, 2014 (see section 8.12).

Each Health District will maintain a database of the LSASs permitted within their respective district that includes specific information on each LSAS and copies of their annual reports. Each district will provide an updated copy of this list to the DEQ State Office as part of the annual audit process. The database will include the information included in the DEQ memorandum, “Large Soil Absorption Systems,” dated April 4, 2014 (see section 8.11).

IDAPA 58.01.03.013 specifies the additional requirements that must be met to support installation of Large Soil Absorption System (LSAS) drainfields. LSAS drainfield plans must be submitted to DEQ and the HD for review and approval. DEQ will require that an NP evaluation be conducted for all LSASs. For installations associated with subdivision development, approval of the NP evaluation, LSAS design, and Collection System design must be received before Sanitary Restrictions can be released on the development. Every LSAS permit issued by a Health District will contain the following statement:

Tank only permits must meet the appropriate separation distances as defined under IDAPA 58.01.03.007.17.

Tank only permits are also used to authorize installation of septic tanks discharging to central or LSAS system. Per the MOU with DEQ, the Health Districts have permitting authority for all septic tank installations if the septic tank effluent is being discharged to a permitted on site subsurface system. Health Districts will not issue tank only permits for building sewers that discharge to municipal wastewater collection systems with land application or NPDES permits.

3.3.16. Recreational Vehicle Waste Disposal

Recreational vehicles (RV) can be connected to municipal wastewater collection systems or be served by an approved onsite sewage disposal system. An onsite sewage disposal system would be sized at 125 GPD and minimum tank size of 900 gallons or the 125 GPD added to the loading rate to an existing onsite sewage disposal system.

The Alternative Systems section of the TGM addresses the use of RV Dump Stations. In practice, this is applied to commercial, municipal, and private RV Parks. These RV Dump Stations are not approved for use by individual RVs.

Options provided to individual RV owners include:

- Use the RVs built-in wastewater tank. When full the owner drives the RV to an approved wastewater disposal facility.
- Install a Vault Privy (or other non-discharging alternative) per TGM requirements. This use is limited to nonwater-carried sewage only. A Gray Water Sump permit may also be requested for hand carried waste.
- Use a portable waste holding tank (also called "tote"). Most are 5 to 30 gallons in capacity and on wheels for easy transportation to an approved wastewater disposal facility. Totes could be used for all wastewater, or just gray water.

Options provided to Recreational Vehicle Parks or Recreation Subdivisions include:

- RV Dump Stations are recommended to be provided. See the TGM for options.
- Connection of all wastewater flows to a municipal sewer system is preferred.
- If municipal sewer service is not available and an on-site sewage disposal system is necessary, there are two methods to establish wastewater flow for each RV space.
 - IDAPA 58.01.03.007.08 "Wastewater Flows From Various Establishments in Gallons Per Day"
 - If each RV space is served by a sewer and water hook-up, use "Travel Trailer Park with Sewer & Water Hook-up – 125/Space"
 - If each RV space is only served by water, and central restroom/shower facilities are available, use "Designated Camp Area: Toilet & Shower Wastes – 90/Space"
 - Determination of average daily flow through empirical data from existing RV Parks with similar amenities. Daily flow averages are to be used to size the septic tank and drainfield. The timeframe used to determine flows must be representative of actual use. For facilities and operations that are either seasonal or only generate wastewater on weekends should only use those

times when wastewater is generated to calculate design flows (e.g., if the facility operates mainly on weekends and the flows drop significantly during the rest of the week, the weekday data could be removed from the average, but the flow would be projected on the average of the weekend days).

- Review data from a minimum of three existing RV Parks
- Two years of data is preferred, but one year of data is acceptable if the RV Park is well established, and the data is accurately collected and documented.
- Assure that daily flow data is associated with RV space occupancy information so that a gallon per day rate can be determined per occupied space
- As mentioned above, use the average daily flow if available. If only weekly or monthly flow is available, work with the applicant to determine a margin of safety for daily flow.

3.4. Repair Permits

As defined under IDAPA 58.01.03.003.28, repair means “*to remake, reform, replace, or enlarge a failing (sewage) system, or any component thereof as is necessary to restore proper operation.*”

Per IDAPA 58.01.03.003.13, a failing system is “*any system which exhibits one (1) or more of the following characteristics:*

1. *The system does not meet the intent of these regulations, as stated in Subsection 004.01.*
2. *The system fails to accept blackwaste or wastewater.*
3. *The system discharges blackwaste or wastewater into the waters of the State of Idaho or onto the ground surface.”*

The rule establishes the appropriate course of action to take when responding to a Failing Subsurface Sewage Disposal System (IDAPA 58.01.03.008.12). The Failing Subsurface Sewage Disposal System section states:

“If the Director determines that the public’s health is at risk from a failed septic system, and that the replacement of a failing subsurface sewage disposal system cannot meet the current regulations, then the replacement system must meet the intent of the regulation utilizing a standard subsurface sewage disposal design or alternative system design as specified by the Director.”

The TGM Open Sewage Complaint Investigation Protocol (TGM section 7.1) establishes the procedures to follow when conducting an open sewage complaint and includes procedures for issuing Notice of Violations and the associated time frames for issuing replacement system permits and for replacement system construction.

3.4.1. Procedures

The following outline establishes the permitting procedures for repair permits. These systems shall meet the Rules, if at all possible, or the intent of the Rules (IDAPA 58.01.03.004.01). If the site characteristics associated with the failing system cannot support a standard, basic alternative, or complex alternative system to rectify the failed system, then a non-conforming subsurface sewage disposal system permit shall be issued as authorized by IDAPA 58.01.03.008.12. The specific nonconformity must legibly appear on



Daniel Britt <daniel.britt@bonnercountyid.gov>

Fwd: File CUP0030-21 Agency Review Request

1 message

Matt Mulder <matt.mulder@bonnercountyid.gov>
To: Daniel Britt <daniel.britt@bonnercountyid.gov>

Thu, Mar 24, 2022 at 1:46 PM

Daniel,
The Road & Bridge Department has the following comment:

1. An Encroachment Permit could not be located within Road & Bridge records for the existing driveway at [1021 Clagstone Road](#).
 - a. The Applicant shall file for a Commercial Encroachment Permit for the existing driveway and another permit for the proposed new driveway onto Al's Welding Road from Bonner County Road & Bridge Office.
 - b. Road & Bridge staff will inspect the existing driveway and the location of the proposed driveway and notify the Applicant of any improvements that are needed in order to bring the existing driveway into compliance with current County standards. The width of the driveway shown on The Applicant's proposed site plan is not wide enough to meet the 30ft wide commercial approach requirements, and lacks the necessary 30ft radii. All identified work will need to be completed by the Applicant in accordance with the Bonner County Road Standards Manual (BCRSM) for the existing and new driveways.

2. The proposed site plan shows stop signs at each driveway entrance. These stop signs are optional at private driveways, and their maintenance will be the sole responsibility of The Applicant.

-Matt Mulder, PE
Staff Engineer
Bonner County Road & Bridge
208-255-5681 ext 1

----- Forwarded message -----

From: **Bonner County Planning Department** <planning@bonnercountyid.gov>
Date: Thu, Mar 24, 2022 at 9:49 AM
Subject: File CUP0030-21 Agency Review Request
To: PHD <EHAdmin@phd1.idaho.gov>, Bonner Sheriff <bonnersheriff@bonnerso.org>, IDL - Sandpoint <jeshelman@idl.idaho.gov>, Spirit Lake Fire Dept. <chief@spirittakefire.com>, School District 84 Transportation - James Koehler <james.koehler@lposd.org>, Superintendent School Dist 84 <kelly.fisher@lposd.org>, ITD - Jason Kimberling <jason.kimberling@itd.idaho.gov>, ITD - Robert Beachler <robert.beachler@itd.idaho.gov>, ITD - Stacy Simkins <stacy.simkins@itd.idaho.gov>, Road & Bridge - Matt Mulder <matt.mulder@bonnercountyid.gov>, DEQ - Kristie McEnroe <kristie.mcenroe@deq.idaho.gov>, IDWR - Tammy Alleman <tammy.alleman@idwr.idaho.gov>, IDWR - Adam Frederick <Adam.frederick@idwr.idaho.gov>, IDWR - Michelle Richman <Michelle.richman@idwr.idaho.gov>, Idaho Department of Fish & Game <merritt.horsmon@idfg.idaho.gov>, US Fish & Wildlife Services - Christy Johnson Hughes <FW1idahoconsultationrequests@fws.gov>
Cc: Daniel Britt <daniel.britt@bonnercountyid.gov>, <stephenjodty@gmail.com>

The above-named application has been submitted to the Bonner County Planning Department for processing.

Please review the application relative to your agency's area of expertise and include any recommended conditions of approval and supporting code sections. Please see attached for details.

Thank you,

Jenna Crone, Hearing Coordinator
Bonner County Planning Department

208-265-1458 ext - 1277



Agency Routing Memo.pdf

162K



Daniel Britt <daniel.britt@bonnercountyid.gov>

CUP0030-21

1 message

Daniel Britt <daniel.britt@bonnercountyid.gov>
To: Kathryn Kolberg <KKolberg@phd1.idaho.gov>

Tue, May 10, 2022 at 2:40 PM

Hi Kathryn,

I'm working on a CUP for a 20-unit RV Park located on Clagstone and Al's Welding Road. The Zoning commission had some concerns about the effects the wastewater could have on the aquifer. I'm hoping if you have some time you could comment on the impact this may or may not have.

Thank you for your time.

Daniel Britt- Planner

Bonner County Planning Department

208-265-1458 office

daniel.britt@bonnercountyid.gov

**APPENDIX C
PREVIOUS DECISION LETTERS**

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF BONNER

KEEP BONNER COUNTY RURAL;
PENNY KAY LAMB; JOSHUA KEITH
EMMETT; PRISCILLA EILEEN
EMMETT; DENNIS ARTHUR WALKER;
and JEANETTE WALKER,

Petitioners,

v.

BONNER COUNTY,

Respondent.

Case No. **CV09-24-0240**

**MEMORANDUM DECISION
AND ORDER ON PETITION
FOR REVIEW**

I. INTRODUCTION

Keep Bonner County Rural, Penny Kay Lamb, Joshua Keith Emmett, Priscilla Eileen Emmett, Dennis Arthur Walker, and Jeanette Walker (the Petitioners) filed a Petition for Judicial Review of the Bonner County Board of Commissioners' (the Board) decision granting a conditional use permit (CUP) to Idaho Land LLC (the Applicant) on November 6, 2023. The Board's decision followed this Court's order in case number CV09-22-1674 vacating and remanding the Board's decision granting a CUP to the Applicant on December 9, 2022.

Petitioners allege the Board's decision violated their procedural and substantive rights. The Board counters that the Board's decision was proper because the Board correctly interpreted and applied the applicable zoning code to its decision to approve the CUP and substantial evidence existed in the Record and Transcripts supporting a finding that the proposed CUP provided "adequate" fire suppression. This Court heard argument on the motion on October 30, 2024.

II. BACKGROUND

On February 2, 2022, Idaho Land LLC submitted Application No. CUP0030-21 to the Bonner County Planning Department seeking a Conditional Use Permit for an RV Park containing 20 residential Recreational Vehicles with full utility hookups. R. 1. The proposed site for the park is a 4.17-acre parcel in the rural residential 5-acre zone of Bonner County. R. 2. The application states that the use for the subject property is “year round RV living” for “RV residents.” R. 2-3, 6. The Applicant states that the project “is to provide affordable housing” and “a low income housing option for current residents who are combating rising housing prices in the area.” R. 5-6. Water is to be supplied to RV residents by an individual well. R. 5. The Applicant proposed to have fire protection for the RV residents provided by the Spirit Lake Fire Protection District. R. 6. Numerous residences are located in close proximity to the proposed RV dwelling units, including single family homes on surrounding land. R. 2, 59.

The Board held two public hearings in 2022 considering whether to approve the CUP. Transcript of May 5, 2022, hearing, *Keep Bonner Cnty. Rural v. Bonner County*, No. CV09-22-1674 (Idaho Dist. Ct. Bonner County 2023); Transcript of August 24, 2022, hearing, *Keep Bonner Cnty. Rural*, No. CV09-22-1674. At the hearings, the Board considered individual comments and agency comments addressing which statute applied to the CUP and whether the water supply was adequate. Transcript of August 24, 2022, hearing at 26-28; Transcript of May 5, 2022, hearing at 8, ll. 21-23, 11, ll.10-19, 34-38.

After the Board approved the application in a written decision on September 1, 2022, The Petitioners filed a Petition for Judicial Review of the Board’s decision on December 9, 2022, and argued that the Board’s decision was not supported by substantial evidence as required under Idaho Code § 67-5279(3)(d), the Board’s written findings of fact and conclusions of law were insufficient under Idaho Code § 67-6535(2), and their substantial rights were prejudiced by the decision. R. 103-06. Petitioners requested attorney fees under Idaho Code § 12-117 on the basis that the Board’s decision was without a reasonable basis in fact or law. Petitioners’ Opening Brief at 5-10. On August 17, 2023, this Court issued a

Memorandum Decision and Order on Petition for Review, vacating Bonner County's decision and remanding the issue back to the county for further proceedings in Bonner County case number CV09-22-1674.

The Board held a public hearing to consider the CUP in light of this Court's decision on October 30, 2023.¹ It considered 28 written public comments at the hearing. Transcript of Oct. 30, 2023, hearing at 10-11; R. at 69-178. While at least one was allegedly neutral, most of the comments "expressed concerns about impact[s] to roads, wells, sewage disposal, noise, general safety, fire and garbage" the CUP would have. R. at 70. For example, one person who lived near the project said,

As one of the many nearby homeowners, I can't stress enough how this would change the complexion of this rural area. The application itself has many questionable sightings, and with a judge vacating and remanding various parts of it, it's indescribable to me how this project could possibly move forward. Fire and Water are big issues and this simply does not fit in this area.

R. at 128. Neighbors and other interested parties also commented at the hearing. The Petitioners' attorney, Mr. Semanko, presented extensive comment to the Board. Oct. 30, 2023, hearing at 13-18. He argued that the board was required to present facts and "explain on remand why [the use] fits in 12-333 instead of 24 12-332(9)." *Id.* at 14-15. He also argued that the Board was required to provide facts showing the existence of "Adequate water supplies for fire suppression." *Id.* at 16. Public comments largely echoed Mr. Semanko's comments. *Id.* at 35-90.

Spirit Lake District Fire Chief Debbie Carpenter also appeared at the hearing. She recommended a 15,000-gallon reservoir based on insurance and international fire suppression standards. *Id.* at 24-25. However, she indicated this was not a requirement under Idaho Code and was not required for similarly situated residences. *Id.*

¹ The Board initially attempted to hold the meeting on October 26, 2023, but rescheduled for the later date. Transcript of Oct. 26, 2023, hearing at 9.

In response, the Appellant argued that he did not intend to offer permanent residences. *Id.* at 92. He also claimed his well, which produces 30 gallons-per-minute, and firefighting experience reduced the risk of fire. *Id.* at 94.

The Board deliberated about the proper statute and fire suppression requirements, finding that the residential and commercial use statutes were “not even remotely the same.” *Id.* at 107. Additionally, one member claimed that the residential statute was not applicable because they were only discussing whether they should approve the CUP under the commercial statute. *Id.* The Board also considered the fire chief’s statements and the possibility that fire responders might not even use the reservoir to determine that requiring a reservoir was not warranted. *Id.* at 120. On November 6, 2023, the Board issued a written decision granting the CUP. R. at 221.

Petitioners petitioned for Judicial Review on February 16, 2024. Although the Board has provided a substantially more developed decision, the issues before the Court on this petition are largely the same as they were in the original case: whether the Board made adequate factual findings regarding the application of county ordinances and whether there are facts in the record showing that there is “adequate” water available for fire suppression.

III. STANDARD OF REVIEW

“The Local Land Use Planning Act (LLUPA) allows an affected person to seek judicial review of an approval or denial of a land use application, as provided for in the Idaho Administrative Procedure Act (IDAPA).” *917 Lusk, LLC v. City of Boise*, 158 Idaho 12, 14 (2015); I.C. § 67-6521(1)(d). “For the purposes of judicial review of LLUPA decisions, a local agency making a land use decision, such as the Board of Commissioners, is treated as a government agency under IDAPA.” *In re Variance ZV2011-2*, 156 Idaho 491, 494 (2014).

It is well established that “[t]he applicable statutory framework for reviewing agency action is found in I.C. § 67-5279.” *In re Variance*, 156 Idaho at 494. Under Idaho Code § 67-5279:

The reviewing court must vacate and remand for further agency action if the agency’s findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) not supported by substantial evidence on the record as a whole; or
- (e) arbitrary, capricious, or an abuse of discretion.

Jasso v. Camas Cnty., 151 Idaho 790, 793 (2011) (internal citations omitted). The “agency action shall be affirmed unless substantial rights of the appellant have been prejudiced.” I.C. § 67-5279(4).

Generally, “planning and zoning decisions are entitled to a strong presumption of validity; this includes the board’s application and interpretation of their own zoning ordinances.” *In re Variance ZV2011-2*, 156 Idaho at 494. When acting in an appellate capacity, the Court “will not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact and will defer to the agency’s findings unless they are clearly erroneous.” *Krempasky v. Nez Perce County Planning and Zoning*, 150 Idaho 231, 235 (2010). “[t]here is a strong presumption that the actions of the Board of Commissioners, where it has interpreted and applied its own zoning ordinances, are valid.” *Dry Creek Partners, LLC, v. Ada Cnty. Comm’rs, ex rel. State*, 148 Idaho 11, 16 (2009) (quoting *Evans v. Teton Cnty.*, 139 Idaho 71, 74 (2003)).

This Court construes a local ordinance as it construes a statute. *Friends of Farm to Market v. Valley Cnty.*, 137 Idaho 192, 196 (2002). Statutory construction always begins with the literal language of the statute or ordinance. *Id.* at 197. If an ordinance is unambiguous, this Court need not consider rules of statutory construction and the statute will be given its plain meaning. *Hamilton ex rel. Hamilton v. Reeder Flying Serv.*, 135 Idaho 568, 572 (2001); *Canal/Norcrest/Columbus Action Comm. v. City of Boise*, 136 Idaho 666, 670 (2001). *Evans*, 139 Idaho at 77.

IV. DISCUSSION

A. Petitioners have shown prejudice to a substantial right.

As a threshold matter, the Board does not contest that the Petitioners claim prejudice to a substantial right. “The party challenging the decision of the Board must not only demonstrate that the Board erred in a manner specified by I.C. § 67-5279(3) but must also show that its substantial rights have been prejudiced.” *Hawkins v. Bonneville County Board of Commissioners*, 151 Idaho 228, 232 (2011); *Krempasky v. Nez Perce County Planning and Zoning*, 150 Idaho 231, 235 (2010). In order to show prejudice to a substantial right under *Hawkins*, a petitioner “must still show, not merely allege, real or potential prejudice to his or her substantial rights.” *Hawkins*, 155 Idaho at 233. In other words, “[t]he petitioner opposing a permit must be in jeopardy of suffering substantial harm if the project goes forward, such as a reduction in the opponent’s land value or interference with his or her use or ownership of the land.” *Id.* Thus, a showing that “the County substantively misapplied its own ordinance” is not enough to prejudice the substantial rights of a petitioner that opposes a variance. *Id.* In the present case, at the July 19, 2023, hearing, the Board conceded that the Petition in this matter sets forth sufficient grounds for a showing of prejudice to the Petitioners’ substantial rights. In light of the stipulations and the presentations made by the Petitioners, the Court finds that the Petitioners have shown prejudice to a substantial right.

B. Petitioners have shown that the Board’s written Findings of Fact and Conclusions of Law are insufficient under I.C. § 67-6535 as to the applicable County ordinance.

Petitioners argue the Board analyzed the CUP under the incorrect code section. The Bonner County Revised Code recognizes two different types of RV uses: Residential use and Recreational/Commercial use. BCRC 12-332(9) governs the residential use of RV units, and states:

Building Location Permit regulations do not apply to non-commercial temporary, intermittent or occasional use of recreational vehicle. When a recreational vehicle is used in the same manner as a single family dwelling or an

accessory dwelling unit, such use is limited to a maximum of 2 recreational vehicle dwelling units per parcel, and the conditions of BCRC 12-496 apply.

BCRC 12-496 states, in pertinent part:

A. Dwelling Unit, Recreational Vehicle.

1. Limited to one (1) per lot or parcel for lots or parcels less than one (1) acre in size, or limited to two (2) per lot or parcel for lots, or parcels greater than one (1) acre in size without respect to density.

The commercial use of RV units is permitted under Table 3-3 found in BCRC 12-333. BCRC 12-333(8) contains the following requirements for such uses: “[a]dequate water supplies for drinking and fire suppression, as well as approval of sewage disposal sites and methods by the Panhandle health district and/or the state of Idaho, must be demonstrated as appropriate.”

Petitioners argue the CUP should have been analyzed under BCRC 12-332(9), as the application states that the project is a full-time residential RV site designed to “provide transitional housing for those migrating to north Idaho and provide a low income housing option for current residents who are combating rising housing prices in the area.” If analyzed under BCRC 12-332(9), approval would not have been possible due to the number of units the applicant seeks to have on the 4.7-acre property.

The Board responds that its analysis of the application under BCRC 12-333(8) was appropriate and that the Court must defer to the County’s interpretation of its own zoning code so long as that interpretation is neither arbitrary nor capricious. The Board argues residential use of an RV under BCRC 12-332(9) is permitted as a matter of right in most all zones but is limited to two RVs per parcel. However, the Board argues an RV park, which is commercial in nature, is governed by BCRC 12-333. The Board argues the Petitioners are mistaken in their reliance on BCRC 12-332(9) as the controlling code in this matter.

Idaho Code § 67-6535(2) places the following requirements on the Board in approving or denying land use applications:

The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that

explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.

In *Jasso v. Camas County* (151 Idaho 790 (2011)) the Idaho Supreme Court found “I.C. § 67-6535 requires more than conclusory statements from which a decision-maker’s resolution of disputed facts and legal reasoning may be inferred. It is not the role of the reviewing court to scour the record for evidence which may support the decision-maker’s implied findings and legal conclusions.” *Id.* at 795. “What is needed for adequate judicial review is a clear statement of what, specifically, the decisionmaking [sic] body believes, after hearing and considering all the evidence, to be the relevant and important facts upon which its decision is based. Conclusions are not sufficient.” *Id.* at 796 (quoting *South of Sunnyside Neighborhood League v. Board of Commissioners*, 280 Or. 3, 569 P.2d 1063, 1076-77 (1977)).

In *Jasso*, the county board of commissioners approved a preliminary subdivision plat over the objection of Jasso and other landowners. At a public hearing on the matter, the landowners raised concerns regarding the subdivision’s lack of access to a public roadway, possible violations of existing ordinances and the fact that the application did not address flood mitigation. *Id.* at 792. The board in *Jasso* issued findings of fact and conclusions of law approving the plat on conditions that addressed the landowner’s concerns relating to the public roadway and possible ordinance violations. The board’s findings and conclusions did not address the issues of the floodplain. On petition for judicial review, Jasso argued that the board’s findings and conclusions did not satisfy the requirements of I.C. § 67-535. *Id.* at 793. The district court found that “the [b]oard’s decision was arbitrary and capricious because its findings and conclusions were inadequate under I.C. § 67-535 and violated Jasso’s and Gorrings’ substantial right to due process.” *Id.* The district court vacated the board’s findings and conclusions and remanded the matter back to the board for further proceedings. On appeal, the Idaho Supreme Court affirmed the district court’s ruling, stating:

In order to satisfy I.C. § 67-535, a local decision-maker must articulate in writing both (1) the facts found and conclusions reached and (2) the rationale underlying those findings and conclusions.

The requirement of meaningful administrative findings serves important functions, including facilitating judicial review, avoiding judicial usurpation of administrative functions, assuring more careful administrative consideration, *helping parties plan their cases for rehearing and judicial review and keeping within their jurisdiction.*

Id. at 794 (internal citations and quotation marks omitted).

Jasso also cited other Idaho Supreme Court cases that held local decision-makers to the standards required in I.C. § 67-535. *See Crown Point Development, Inc. v. City of Sun Valley*, 144 Idaho 72, 77-78 (2007) (holding as inadequate the findings of the city council as merely recitations of portions of the record rather than determinations of the facts disputed by the parties); *Workman Family Partnership v. City of Twin Falls*, 104 Idaho 32, 38 (1982) (holding that the city council's findings of fact were basically conclusions and did not reveal the underlying facts or policies considered by the council or insight into the council's decision). The *Jasso* court stated that "[t]hese cases demonstrate that the reasoned statement must plainly state the resolution of factual disputes, identify the evidence supporting that factual determination, and explain the basis for legal conclusions, including identification of the pertinent laws and/or regulations upon which the legal conclusions rest." *Jasso*, 151 Idaho at 794. Since *Jasso*, the Idaho Supreme Court has reinforced the importance of a reasoned statement in *North West Neighborhood Association v. City of Boise*. 172 Idaho 607, 535 P.3d 583 (2023).

In its order in case number CV09-22-1674, this Court found that the Board's written Findings of Fact and Conclusions of Law contained no analysis of its contention that the CUP was properly analyzed under BCRC 12-333. This Court found,

[t]he statements of the Board contained within its written decision are merely conclusory recitations of information contained within the application and do not contain a 'reasoned statement' as to the relevant and important facts upon which their decision was based. As the court stated in the hearing on July 19, 2023, the Board issued a "bare bones" finding. At a minimum, the Board's

written decision should have addressed its reasoning in determining that the CUP was analyzed under the appropriate code section.

Mem. Decision and Order on Petition for Review at 11, *Keep Bonner Cnty. Rural*, No. CV09-22-1674. Later, it found,

that the findings issued by the Board failed to provide the requisite reasoned statement that plainly states the resolution of factual disputes, identifies the evidence supporting that factual determination, and “explains the basis for legal conclusions, including identification of the pertinent laws and/or regulations upon which the legal conclusions rest.”

Id. at 11 (quoting *Jasso*, 151 Idaho at 794). Finally, it found that “Conclusions are not sufficient.” *Id.* at 11 (quoting *Jasso*, 151 Idaho at 796).

After the Court vacated the Board’s decision on these grounds, the Board again approved the Applicant’s plan. Those Findings of Fact and Conclusions of Law read as follows:

1. The Rural Zoning District allows for conditional use permits for RV Parks. The property is within the Rural District and is currently zoned Rural-5.
2. The site is approximately 4.17 acres in area.
3. The project proposes to install 20 RV units on the parcel.
4. The applicant has applied for a Conditional Use Permit for an RV Park per BCRC 12-333 and BCRC 12-497 as a commercial use.

Per BCRC 12-331, in the case of a question as to the inclusion or exclusion of a particular proposed use in a particular use category, the Planning Director shall have the authority to make the final determination based on the characteristics of the operation of the proposed use. Per the proposed use, the Planning Director determined that the requested use befits in the category of an RV Park as described in BCRC 12-333, Commercial Use Table. BCRC 12-333 and BCRC 12- 497 place no limitation on the duration of stay in RV Parks.

The Board recognizes and affirms the planning director’s determination that the use requested in the application is for an RV park and was correctly reviewed against the standards of BCRC 12-333 and 12-497. BCRC 12-332 and 12-496

apply to a residential use and thus these standards are not applicable to this proposal.

The Board's legislative intent of adopting BCRC 12-497 in the year 2019 was to incorporate the use of RV Parks/ Campgrounds as a commercial use in Bonner County. The use of RV Parks was not intended to be considered a residential use and limited to two (2) Recreational Vehicle Dwelling Units on the property per BCRC 12-332(9).

5. The proposal meets the required standards of BCRC 12-333, notes (8). The proposal is within the Spirit Lake Fire District. The International Fire Code and State Fire Code do not have statutes that address fires in RV Parks. The Insurance Service Office and National Fire Protection Association only contain recommendations for RV Parks fires.

Adequate fire protection is the availability of resources at the time of a fire. The ability to call other fire districts for back up fire suppression. The fire district maintains water tenders which are capable of delivering water to sites to achieve the recommended 250 gpm. All residents in the area of service of the fire district are provided fire protection equally.

In addition, the applicant's Building Location Permit for the RV Park, BLP2022-1243, was reviewed and approved for fire protection by the fire district on 12/16/2022 with a comment of "***no cisterns or fire suppression systems are required for this construction project***".

Generally, rural fire districts do not use on site water cisterns which have been dedicated for fire suppression because the cisterns are not well maintained. The cisterns may contain debris such as rocks and frogs which may damage firefighting equipment and therefore may not be used for fire suppression by the fire districts in case of a fire on-site.

The property has multiple ingress and egress onto multiple roads for multiple fire agencies to provide adequate fire trucks to provide supplies. Spirit Lake Fire districts has mutual aid agreements with the neighboring fire districts which may respond in case of fires on the subject property.

Fire protection is adequate based on the absence of state statutes for RV Parks, the capabilities of the local fire districts, and the limitations imposed by non-maintained on site water storage.

6. The proposal meets the required standards of BCRC 12-333 note (21) and BCRC 12-497.

7. The property is accessed off Clagstone Road and Al's Welding Road. Both roads are Bonner County owned and maintained gravel right of ways.

8. Electricity is provided by Inland Power.

9. The site has an individual well.

10. A speculative site evaluation has been done for the proposed septic system.

R. 222-23.

The Board has again failed to find facts supporting its decision whether BCRC 12-332(9) or BCRC 12-333 apply. Instead, the Board includes conclusory statements indicating that "the requested use befits in the category of an RV Park. . ." and that "BCRC 12-332 and 12-496 apply to a residential use and thus these standards are not applicable to this proposal."

R. 222. *The only relevant facts were a statement of the utilities, location, size, and project proposal (installing 20 RV units). The Board also invoked the legislative history of its commercial RV park code. The Board did not explain how these, or any other facts, determine whether the proposed use is commercial (BCRC 12-333) or residential (BCRC 12-332(9)).*

The Board argues it did not need to make that distinction: "the Planning Director was not obligated to make some kind of affirmative finding on that point [(whether BCRC 12-333 or BCRC 12-332(9) apply)] before concluding that the application seeks permission to operate an RV Park." Resp't's Br. 13. The underlying fact presented in conjunction with this argument is that "the application is for an RV park. . ." R. 222.

The Applicant does not have the authority to determine which ordinance applies. Which ordinance applies depends on the circumstances being presented by the application. Although it is true that the Board delegates responsibilities to the planning director (BCRC 12-331), this delegation does not relieve the Board of its statutory duty. What circumstances did the planning director find existed by which he or she determined BCRC 12-333, and not BCRC 12-332(9), applied? The Board did not recite or adopt any facts upon which the planning director relied. It only recognized and affirmed the planning director's determination.

R. at 222. The planning director's determination is, by definition, conclusory. The Board's adoption of that determination is also conclusory.

Under *Jasso*, the Board is required to "plainly state the resolution of factual disputes, identify the evidence supporting that factual determination, and explain the basis for legal conclusions, including identification of the pertinent laws and/or regulations upon which the legal conclusions rest." 151 Idaho at 794. Petitioners raised issues of fact, to wit: the project is to provide "affordable housing;" and "low income housing." R. at 5-6. Why do these uses fit under a commercial statute rather than the residential statute? The Board failed to resolve these issues of fact with its own findings of fact. It is not the responsibility of the reviewing court to "scour the record" for evidence which supports the Board's position.

The Board also neglected to provide a reasoned statement. This case is similar to *North West Neighborhood Association* which held: "To put it simply, we cannot evaluate the process by which the Council reached its decision or the soundness of its legal reasoning because the reason for decision failed to satisfy the requirements of section 67-6535(2)." 172 Idaho at 616.

This court finds that the lack of sufficient findings prejudices the Petitioners' due process rights to judicial review. Among the "important functions" of meaningful administrative findings is facilitating judicial review and helping parties plan their cases. The Board has not given this Court sufficient findings or reasoning to review. Therefore, this court vacates the Board's approval of the CUP and remands the matter back for further agency proceedings.

Because the Board failed to establish through findings of fact or a reasoned statement which ordinance is applicable, this Court will not decide whether the Board's analysis of fire suppression under BCRC 12-333(8) was sufficient.

C. Petitioners are not entitled to attorney fees against the Board under I.C. § 12-117.

Petitioners seek an award of attorney fees under Idaho Code § 12-117. This court "shall award the prevailing party reasonable attorney's fees, witness fees and other reasonable expenses, if it finds that the nonprevailing party acted without a reasonable basis in fact or law." "The dual purpose of I.C. § 12-117 is to (1) deter groundless or arbitrary agency action;

and (2) to provide ‘a remedy for persons who have borne an unfair and unjustified financial burden attempting to correct mistakes agencies should never have made.’ *Fuchs v. Idaho State Police, Alcohol Beverage Control*, 153 Idaho 114, 117 (2012).

In this matter, while the court finds that the Board failed to issue sufficient written findings, the Court does not find that the Board acted without a reasonable basis in fact or law. The Board made a reasonable and substantial attempt to comply with this Court’s previous order. While the Board again failed to reach its burden, its failure was not without substantial improvement upon its prior decision. This Court cannot conclude the Board acted without a reasonable basis in fact or law. Therefore, the court declines to make an award of attorney’s fees to either party.

V. CONCLUSION

For the above stated reasons, the Board’s decision to grant CUP0030-21 is vacated and remanded back to the agency for further proceedings.

IT IS HERBY ORDERED, the Bonner County Board of Commissioner’s decision to grant conditional use permit CUP0030-21 is vacated and remanded for further agency proceedings.

DATED: November 15, 2024



Honorable Ross Pittman
District Court Judge #709

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent on 11/15/2024 4:25:25 PM via _____
the following:

William S. Wilson — email: prosefile@bonnercounty.id.gov
Attorney for Respondent

Norman M. Semanko — email: nsemanko@parsonbehle.com
Attorney for Petitioners

MICHAEL W. ROSEDALE
JENNIFER LOCKE
CLERK OF THE DISTRICT COURT

By: *Heather Ross*
Deputy Clerk



Bonner County

Board of Commissioners

Luke Omodt

Steve Bradshaw

Asia Williams

November 6, 2023

Keep Bonner County Rural
P.O. Box 1984
Sandpoint, ID 83864

Subj: **File CUP0030-21 – Conditional Use Permit – Idaho Land LLC – RV Park – Remand**

Encl (1): Approved Site Plan

To whom it may concern,

The Bonner County Commissioners at the October 30, 2023, public hearing approved of the referenced application.

Commissioner Bradshaw moved to approve this project, FILE CUP0030-21, requesting a conditional use permit for an RV Park, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following Conclusions of Law:

Conclusion 1: The proposed conditional use permit **is** in accordance with the general and specific objectives of the Bonner County comprehensive plan.

Conclusion 2: This proposal **was** reviewed for compliance with the criteria and standards set forth at Chapter 4, Subchapter 4.9 and Chapter 3, Subchapter 3.3 of the Bonner County Revised Code, Title 12.

Conclusion 3: The proposed use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

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

Commissioner Omodt seconded the motion.

Commissioner Omodt made a motion to amend the Conditions of Approval adding Condition A-13: The applicant is required to have a backup power source for the pumphouse.

Commissioner Bradshaw seconded the motion.

Roll Call Vote:

Commissioner Omodt	AYE
Commissioner Bradshaw	AYE

Findings of Fact:

1. The Rural Zoning District allows for conditional use permits for RV Parks. The property is within the Rural District and is currently zoned Rural-5.
2. The site is approximately 4.17 acres in area.
3. The project proposes to install 20 RV units on the parcel.
4. The applicant has applied for a Conditional Use Permit for an RV Park per BCRC 12-333 and BCRC 12-497 as a commercial use.

Per BCRC 12-331, in the case of a question as to the inclusion or exclusion of a particular proposed use in a particular use category, the Planning Director shall have the authority to make the final determination based on the characteristics of the operation of the proposed use. Per the proposed use, the Planning Director determined that the requested use befits in the category of an RV Park as described in BCRC 12-333, Commercial Use Table. BCRC 12-333 and BCRC 12-497 place no limitation on the duration of stay in RV Parks.

The Board recognizes and affirms the planning director's determination that the use requested in the application is for an RV park and was correctly reviewed against the standards of BCRC 12-333 and 12-497. BCRC 12-332 and 12-496 apply to a residential use and thus these standards are not applicable to this proposal.

The Board's legislative intent of adopting BCRC 12-497 in the year 2019 was to incorporate the use of RV Parks/ Campgrounds as a commercial use in Bonner County. The use of RV Parks was not intended to be considered a residential use and limited to two (2) Recreational Vehicle Dwelling Units on the property per BCRC 12-332(9).

5. The proposal meets the required standards of BCRC 12-333, notes (8). The proposal is within the Spirit Lake Fire District. The International Fire Code and State Fire Code do not have statutes that address fires in RV Parks. The Insurance Service Office and National Fire Protection Association only contain recommendations for RV Parks fires.

Adequate fire protection is the availability of resources at the time of a fire. The ability to call other fire districts for back up fire suppression. The fire district maintains water tenders which are capable of delivering water to sites to achieve the recommended 250 gpm. All residents in the area of service of the fire district are provided fire protection equally.

In addition, the applicant's Building Location Permit for the RV Park, BLP2022-1243, was reviewed and approved for fire protection by the fire district on 12/16/2022 with a comment of *"no cisterns or fire suppression systems are required for this construction project"*.

Generally, rural fire districts do not use on site water cisterns which have been dedicated for fire suppression because the cisterns are not well maintained. The cisterns may contain debris such as rocks and frogs which may damage firefighting equipment and therefore may not be used for fire suppression by the fire districts in case of a fire on-site.

The property has multiple ingress and egress onto multiple roads for multiple fire agencies to provide adequate fire trucks to provide supplies. Spirit Lake Fire districts has mutual aid agreements with the neighboring fire districts which may respond in case of fires on the subject property.

Fire protection is adequate based on the absence of state statutes for RV Parks, the capabilities of the local fire districts, and the limitations imposed by non-maintained on site water storage.

6. The proposal meets the required standards of BCRC 12-333 note (21) and BCRC 12-497.
7. The property is accessed off Clagstone Road and Al's Welding Road. Both roads are Bonner County owned and maintained gravel right of ways.
8. Electricity is provided by Inland Power.
9. The site has an individual well.
10. A speculative site evaluation has been done for the proposed septic system.

Conditions of Approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.

- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
- A-6** Prior to issuance of a building location permit, the owner of the proposed multi-family structure shall obtain an address for the dwelling from Bonner County that meets the provisions of Bonner County Revised Code, Title 13. (For multi-family CUPs)
- A-7** A landscaping plan showing compliance with this section will be required with the Building Location Permit.
- A-8** The project will be designed to the standards in BCRC 12-497 A. 1800 square feet per space.
- A-9** Proper signage indicating directional traffic in and out of the park.
- A-10** Water rights to be approved and permitted by the Idaho Department of Water Resources.
- A-11** Approval of septic system from Panhandle Health District.
- A-12** Site plan submitted & adopted on June 2, 2022 and signed by the Chair.
- A-13** The applicant shall install a backup power source for the water pump house.

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

Please contact the Bonner County Planning Department if you have any questions.

Sincerely,



Luke Omodt, Chair
Board of County Commission

c: Stephen Doty, Idaho Land LLC



1 inch on map equals 40 feet.

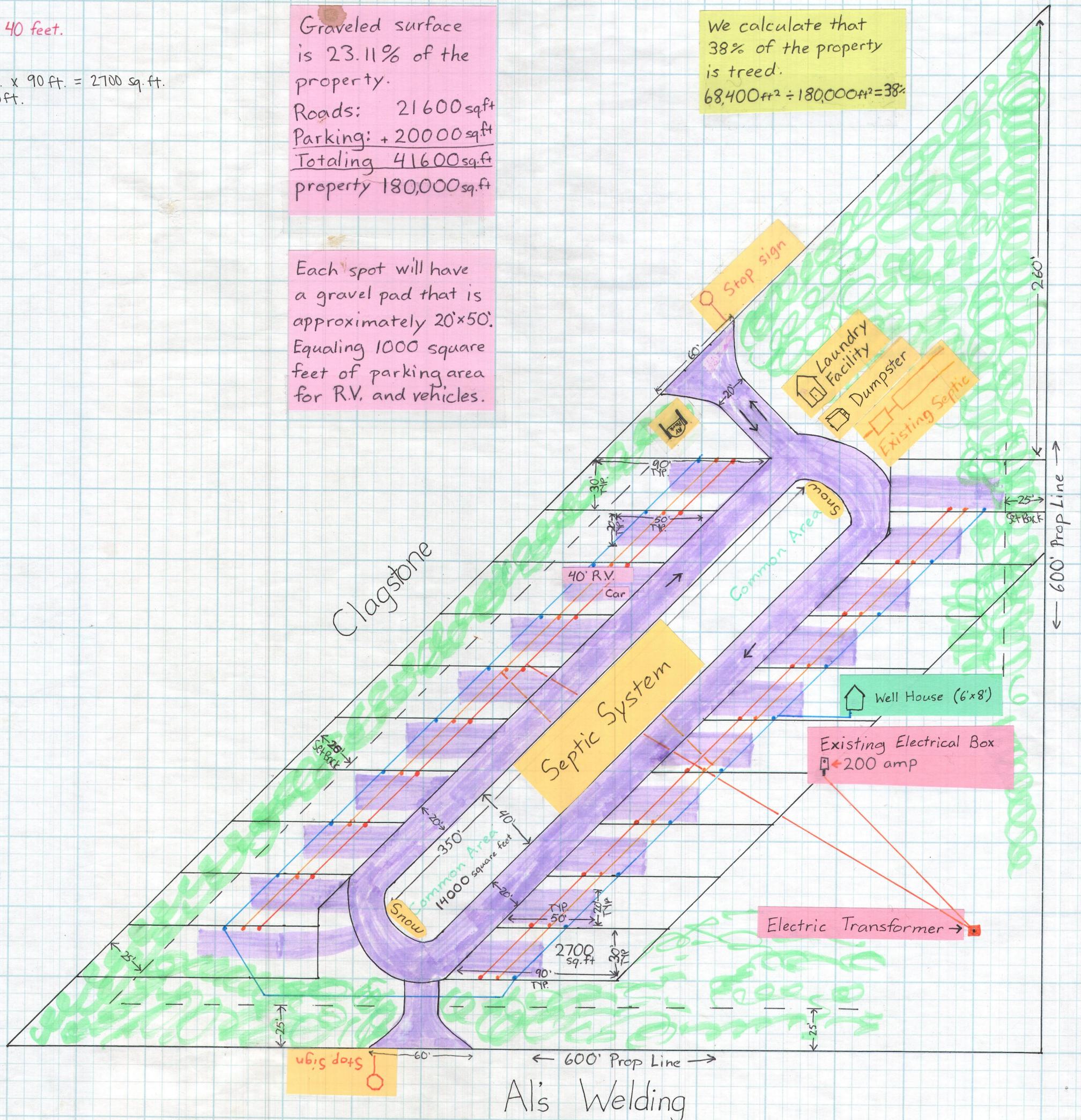
Property is 4.17 acres
 Space Dimensions: 30 ft. x 90 ft. = 2700 sq. ft.
 Distance Between RV's: 20 ft.

- Water
- Electric
- Septic
- Trees
- Gravel

Graveled surface is 23.11% of the property.
 Roads: 21600 sq.ft
 Parking: + 20000 sq.ft
 Totaling 41600 sq.ft
 property 180,000 sq.ft

We calculate that 38% of the property is treed.
 $68,400 \text{ ft}^2 \div 180,000 \text{ ft}^2 = 38\%$

Each spot will have a gravel pad that is approximately 20'x50'.
 Equaling 1000 square feet of parking area for R.V. and vehicles.



RECEIVED
 JUN 2 2022
 Bonner County
 Planning Department

RECEIVED
 FEB 01 2022
 Bonner County
 Planning Department

Al's Welding

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

<p>KEEP BONNER COUNTY RURAL; PENNY KAY LAMB; JOSHUA KEITH EMMETT; PRISCILLA EILEEN EMMETT; DENNIS ARTHUR WALKER; and JEANETTE WALKER</p> <p style="text-align: center;"><i>Petitioners,</i></p> <p>v.</p> <p>BONNER COUNTY, a political subdivision of the State of Idaho, acting through the BONNER COUNTY BOARD OF COMMISSIONERS,</p> <p style="text-align: center;"><i>Respondent,</i></p>	<p style="text-align: center;">CASE NO. CV09-22-1674</p> <p style="text-align: center;">MEMORANDUM DECISION AND ORDER ON PETITION FOR REVIEW</p>
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Petitioners Keep Bonner County Rural, Penny Kay Lamb, Joshua Keith Emmett, Priscilla Eileen Emmett, Dennis Arthur Walker and Jeanette Walker (“Petitioners”) filed a Petition for Judicial Review of the Bonner County Board of Commissioners’ (“Board”) decision granting a conditional use permit (“CUP”) to Idaho Land LLC on December 9, 2022. On March 24, 2023, Petitioners filed their Opening Brief that alleged the Board’s decision to grant the CUP was in violation of the relevant provisions of the Bonner County Revised Code and applicable statutory provisions; that the findings of fact contained in the Board’s decision were not supported by substantial evidence; that the Board’s conclusion of law was erroneous; that the Board’s decision was arbitrary, capricious and an abuse of discretion, and; that the Petitioners’ fundamental rights had been violated by the Board’s decision. On April 19, 2023, the Board filed Respondent’s Brief that argued the Board’s decision should be upheld because the Board correctly interpreted and applied the applicable zoning code to its decision to approve the CUP and that substantial evidence

existed in the Record and Transcripts to support the Findings of Fact and Conclusions of Law. On May 10, 2023, the Petitioners filed their Reply Brief. On July 19, 2023, this Petition for Judicial Review came on for hearing before the Honorable Judge Cynthia Meyer. Petitioners were represented by Norman Semanko of Parsons, Behle & Latimer. Respondent was represented by Deputy Prosecuting Attorney William Steven Wilson. For the reasons discussed below, the Board's decision to grant the variance is vacated and remanded for further proceedings before the Board.

FACTUAL AND PROCEDURAL HISTORY

On February 2, 2022, Idaho Land LLC ("Applicant") submitted Application No. CUP0030-21 to the Bonner County Planning Department seeking a Conditional Use Permit ("CUP") for an RV Park containing 20 residential Recreational Vehicles with full utility hookups. *R.* at p. 1. The proposed site for the park is a 4.17-acre parcel in the rural residential 5-acre zone of Bonner County. *R.* at 2. The application states that the use for the subject property is "year round RV living" for "RV residents." *R.* at pp. 2-3, 6. The Applicant states that the project "is to provide affordable housing" and "a low income housing option for current residents who are combating rising housing prices in the area." *R.* at pp. 5-6. Water is to be supplied to RV residents by an individual well. *R.* at p. 5. Applicant proposed to have fire protection for the RV residents provided by the Spirit Lake Fire Protection District. *R.* at p. 6. Bonner County Planning Department Staff confirmed that fire protection services are provided in the area by the Spirit Lake Fire Protection District. *R.* at pp. 95, 103. Numerous residences are located in close proximity to the proposed RV dwelling units, including single family homes on surrounding land. *R.* at pp. 2 and 95.

At a public hearing on May 5, 2022, the Board stated that the CUP was analyzed under Bonner County Revised Code ("BCRC") 12-333, which governs the commercial use of RV units.

May 5, 2022 Tr. at p. 8, ll. 21-23. A member of the Bonner County Planning Staff read aloud comments from county agencies regarding the CUP, including a comment from the Spirit Lake Fire Protect District, which stated that “there is no adequate water supply for firefighting in this remote area.” *Id.* at p. 11, ll. 10-19. Members of the community raised concerns that the CUP should have been analyzed under BCRC 12-332, which governs the residential use of RV units in Bonner County, and under which the CUP could not have been approved.¹ *May 5, 2022 Tr.* at pp. 34-38. The Board received comments from surrounding property owners which “expressed concerns about impact[s] to roads, wells, sewage disposal, noise, general safety, fire and garbage.” *R.* at p. 106. Petitioners in this matter submitted comments specifically expressing concerns to the injury that approval of the CUP would have on them individually. *R.* at pp. 117, 130, 147, 182, 201, 207-208, 217; *May 5, 2022 Tr.* at pp. 58, 63-66; *August 24, 2022 Tr.* at p. 37.

At a public hearing held on August 24, 2022, counsel for the Petitioners again raised concerns that the CUP should have been analyzed under BCRC 12-332 instead of 12-333. *August 24, 2022 Tr.* at pp. 26-28. Further, counsel for the Petitioners argued that even if BCRC 12-333 did apply, the code required adequate water supply for drinking and fire suppression. Petitioners’ counsel argued that there was no written finding that addressed the adequacy of water for fire suppression. *Id.* at pp. 28-36. In addressing this concern, one Board member stated that “the proposed RV Park is within a fire district, which makes it adequate.” *Id.* at p. 46, ll. 10-11. The Board approved the application in a written decision August 24, 2022. The Petitioners timely

¹ BCRC 12-332(9) states that when a recreational vehicle is used in the same manner as a single family dwelling or an accessory dwelling unit, such use is limited to a maximum of 2 recreational vehicle dwelling units per parcel, and the conditions of BCRC 12-496 apply.

BCRC 12-496 limits recreational vehicles used as a dwelling unit to one (1) per lot or parcel for lots or parcels less than one (1) acre in size, or to two (2) per lot or parcel for lots, or parcels greater than one (1) acre in size without respect to density.

requested reconsideration of the approval, pursuant to Idaho Code § 67-6535 and the Bonner County Revised Code. The Board failed to act on the request for reconsideration within 60 days, thereby denying the request by operation of law. I.C. § 67-6535(2)(b).

The Petitioners filed a Petition for Judicial Review of the Board's decision on December 9, 2022, and an Opening Brief on March 24, 2023. Petitioners argued that the Board's decision was not supported by substantial evidence as required under Idaho Code § 67-5279(3)(d), the Board's written findings of fact and conclusions of law were insufficient under Idaho Code § 67-6535(2) and their substantial rights were prejudiced by the decision. Petitioners requested attorney fees under Idaho Code § 12-117 on the basis that the Board's decision was without a reasonable basis in fact or law. *Petitioners' Opening Brief* at 5-10.

STANDARD OF REVIEW

“The Local Land Use Planning Act (LLUPA) allows an affected person to seek judicial review of an approval or denial of a land use application, as provided for in the Idaho Administrative Procedure Act (IDAPA).” *917 Lusk, LLC v. City of Boise*, 158 Idaho 12, 14, 343 P.3d 41, 43 (2015); I.C. § 67-6521(1)(d). “For the purposes of judicial review of LLUPA decisions, a local agency making a land use decision, such as the Board of Commissioners, is treated as a government agency under IDAPA.” *In re Variance ZV2011-2*, 156 Idaho 491, 494, 328 P.3d 471, 474 (2014).

It is well established that “[t]he applicable statutory framework for reviewing agency action is found in I.C. § 67-5279.” *In re Variance*, 156 Idaho at 494, 328 P.3d at 474. Under Idaho Code § 67-5279:

The reviewing court must vacate and remand for further agency action if the agency's findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) not supported by substantial evidence on the record as a whole; or
- (e) arbitrary, capricious, or an abuse of discretion.

Jasso v. Camas Cnty., 151 Idaho 790, 793, 264 P.3d 897, 900 (2011) (internal citations omitted).

The “agency action shall be affirmed unless substantial rights of the appellant have been prejudiced.” Idaho Code § 67-5279(4).

Generally, “planning and zoning decisions are entitled to a strong presumption of validity; this includes the board’s application and interpretation of their own zoning ordinances.” *In re Variance ZV2011-2*, 156 Idaho at 494, 328 P.3d at 474. When acting in an appellate capacity, the district court “will not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact and will defer to the agency’s findings unless they are clearly erroneous.” *Krempasky v. Nez Perce County Planning and Zoning*, 150 Idaho 231, 235, 245 P.3d 983, 987 (2010).

DISCUSSION

I. The Board waived any claim that the Petitioners failed to establish prejudice to a substantial right.

As a threshold matter, the Board does not contest that the Petitioners’ claim evidences a prejudice to their substantial right. “The party challenging the decision of the Board must not only demonstrate that the Board erred in a manner specified by I.C. § 67-5279(3) but must also show that its substantial rights have been prejudiced.” *Hawkins v. Bonneville County Board of Commissioners*, 151 Idaho 228, 232, 254 P.3d 1224, 1228 (2011); *Krempasky v. Nez Perce County Planning and Zoning*, 150 Idaho 231, 235, 245 P.3d 983, 987 (2010). In order to show prejudice to a substantial right under *Hawkins*, a petitioner “must still show, not merely allege, real or

potential prejudice to his or her substantial rights.” *Id.* at 233, 254 P.3d at 1229. In other words, “[t]he petitioner opposing a permit must be in jeopardy of suffering substantial harm if the project goes forward, such as a reduction in the opponent’s land value or interference with his or her use or ownership of the land.” *Id.* Thus, a showing that “the County substantively misapplied its own ordinance” is not enough to prejudice the substantial rights of a petitioner that opposes a variance. *Id.* In the present case, at the July 19, 2023 hearing, the Board conceded that the Petition in this matter sets forth sufficient grounds for a showing of prejudice to the Petitioners’ substantial rights. As such, the court need not address this issue.

II. Petitioners have shown that the Board’s written Findings of Fact and Conclusions of Law are insufficient under I.C. § 67-6535.

Petitioners argue that the Board’s written decision contains no analysis, explanation or conclusion as to whether the proposed use for the RVs is residential or commercial and that the Board failed to address the individual concerns raised regarding the issue of fire suppression.

Petitioners further argue that the Board analyzed the CUP under the incorrect code section. The BCRC recognizes two different types of RV uses: Residential use and Recreational/Commercial use. BCRC 12-332(9) governs the residential use of RV units, and states:

Building Location Permit regulations do not apply to non-commercial temporary, intermittent or occasional use of recreational vehicle. When a recreational vehicle is used in the same manner as a single family dwelling or an accessory dwelling unit, such use is limited to a maximum of 2 recreational vehicle dwelling units per parcel, and the conditions of BCRC 12-496 apply.

BCRC 12-496 states, in pertinent part:

- A. Dwelling Unit, Recreational Vehicle.
 - 1. Limited to one (1) per lot or parcel for lots or parcels less than one (1) acre in size, or limited to two (2) per lot or parcel for lots, or parcels greater than one (1) acre in size without respect to density.

The commercial use of RV units is addressed in BCRC 12-333(8), and states that “[a]dequate water supplies for drinking and fire suppression, as well as approval of sewage disposal sites and methods by the Panhandle health district and/or the state of Idaho, must be demonstrated as appropriate.”

Petitioners argued that the CUP should have been analyzed under BCRC 12-332(9), as the application clearly states that the project is a full time residential RV site designed to “provide transitional housing for those migrating to north Idaho and provide a low income housing option for current residents who are combating rising housing prices in the area.” If analyzed under BCRC 12-332(9), approval would not have been possible due to the number of units the applicant seeks to have on the 4.7 acre property.

The Board responds that its analysis of the application under BCRC 12-333(8) was appropriate and that the court must defer to the County’s interpretation of its own zoning code so long as that interpretation is neither arbitrary nor capricious. The Board argues that residential use of an RV under BCRC 12-333(8) is permitted as a matter of right in most all zones but is limited to two RV’s per parcel and that the other use, an RV park which is commercial in nature, is governed under BCRC 12-333(8). The Board argues that the Petitioners are mistaken in their reliance on BCRC 12-333(8) as the controlling code in this matter.

Further, the Petitioners argue that the Board failed to address the individual concerns raised regarding the issue of fire suppression, as required in BCRC 12-333(8). Petitioners cite the court to Idaho Code § 67-6535(2)(a), which states:

(2) The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.

(a) Failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of same, on appeal.

The Board responds that there is substantial evidence in the Record and transcripts to support the finding that the CUP provided adequate fire suppression as required under BCRC § 12-333(8). The Board argues that the issue of fire suppression received “rigorous scrutiny” at all levels of the review process and that the Board concluded that adequate measures existed. The Board cites to portions of the transcript in which the topic of fire suppression, the properties’ compliance with ingress and egress for fire equipment, thinning of trees as suggested by the Chief of the Fire District and the fact that the property subject to the CUP was serviced by the Spirit Lake Fire District.

Petitioners respond that the portions of the transcript relied upon by the Board do not address adequate water supplies for fire suppression as required under BCRC § 12-333(8).

Jasso v. Camas Cnty., 151 Idaho 790, 264 P.3d 897 (2011), is a seminal case addressing the requirement of Idaho Code § 67–6535 as it relates to the issuance of written findings of fact and conclusions of law. The *Jasso* court stated that “I.C. § 67–6535 requires more than conclusory statements from which a decision-maker’s resolution of disputed facts and legal reasoning may be inferred. It is not the role of the reviewing court to scour the record for evidence which may support the decision-maker’s implied findings and legal conclusions.” *Id.*, 151 Idaho at 795, 264 P.3d at 902 (emphasis added). “What is needed for adequate judicial review is a clear statement of what, specifically, the decisionmaking [sic] body believes, after hearing and considering all the evidence, to be the relevant and important facts upon which its decision is based. Conclusions are not sufficient.” *Id.*, 151 Idaho at 796, 264 P.3d at 903 (quoting *South of Sunnyside Neighborhood League v. Board of Commissioners*, 280 Or. 3, 569 P.2d 1063, 1076–77 (1977)). In *Jasso*, the

county board of commissioners approved a preliminary subdivision plat over the objection of Jasso and other land owners. At a public hearing on the matter, the landowners raised concerns regarding the subdivision's lack of access to a public roadway, possible violations of existing ordinances and the fact that the application did not address flood mitigation. *Id.*, 151 Idaho at 792, 264 P.3d at 899. The board in *Jasso* issued findings of fact and conclusion of law approving the plat on conditions that addressed the landowner's concerns relating to the public roadway and possible ordinance violations. The board's findings and conclusions did not address the issues of the floodplain. On petition for judicial review, Jasso argued that the board's findings and conclusions did not satisfy the requirements of I.C. § 67-6535. *Id.*, 151 Idaho at 793, 264 P.3d at 900. The district court found that "the [b]oard's decision was arbitrary and capricious because its findings and conclusions were inadequate under I.C. § 67-6535 and violated Jasso's and Gorringes' substantial right to due process." *Id.* The district court vacated the board's findings and conclusions and remanded the matter back to the board for further proceedings. On appeal, the Idaho Supreme Court affirmed the district court's ruling, stating:

In order to satisfy I.C. § 67-6535, a local decision-maker must articulate in writing both (1) the facts found and conclusions reached and (2) the rationale underlying those findings and conclusions.

The requirement of meaningful administrative findings serves important functions, including facilitating judicial review, avoiding judicial usurpation of administrative functions, assuring more careful administrative consideration, helping parties plan their cases for rehearing and judicial review and keeping within their jurisdiction."

Id., 151 Idaho at 794, 264 P.3d at 901 (internal citations and quotation marks omitted). The *Jasso* court cited to other Idaho Supreme Court cases that held local decision-makers to the standards required in I.C. § 67-6535. See *Crown Point Development, Inc. v. City of Sun Valley*, 144 Idaho 72, 77-78, 156 P.3d 573, 578-79 (2007) (holding as inadequate the findings of the city council as merely recitations of portions of the record rather than determinations of the facts

disputed by the parties); *Workman Family Partnership v. City of Twin Falls*, 104 Idaho 32, 38, 655 P.2d 926, 931 (1982) (holding that the city council's findings of fact were basically conclusions and did not reveal the underlying facts or policies considered by the council or insight into the council's decision). The *Jasso* court stated that “[t]hese cases demonstrate that the reasoned statement must plainly state the resolution of factual disputes, identify the evidence supporting that factual determination, and explain the basis for legal conclusions, including identification of the pertinent laws and/or regulations upon which the legal conclusions rest.” *Jasso*, 151 Idaho at 794, 264 P.3d at 901.

In this matter, the Board’s Findings of Fact and Conclusions of Law read as follows:

Findings of Fact:

1. The property is zoned Rural-5. Where RV parks are conditionally allowed in this zone upon having meant [sic] the required standards per BCRC 12-497.
2. The property is accessed off Clagstone Road and Al’s Welding Road. Both roads are Bonner County owner [sic] and maintained gravel travel surfaces.
3. The property has been reviewed against the required standards of BCRC 12-497 with conditions added to ensure full compliance with Bonner County Revised Code.
4. Fire protection is provided Spirit Lake Fire District.
5. Electricity is provided by Inland Power.
6. The site has an individual well.
7. A speculative site evaluation has been done for the proposed septic system.
8. The proposal is for 20-unit RV Park.
9. The site is 4.17 acres.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposed conditional use permit is in accord with the Bonner County comprehensive plan.

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

The proposed use will not create a hazard or will not be dangerous to persons on or adjacent to the property.

The court finds that the Board's written Findings of Fact and Conclusions of Law contain no analysis of its contention that the CUP was properly analyzed under BCRC 12-333, nor does the written statement address, in any meaningful way, the Petitioners' stated concerns as to fire suppression. The statements of the Board contained within its written decision are merely conclusory recitations of information contained within the application and do not contained a "reasoned statement" as to the relevant and important facts upon which their decision was based. As the court stated in the hearing on July 19, 2023, the Board issued a "bare bones" finding. At a minimum, the Board's written decision should have addressed its reasoning in determining that the CUP was analyzed under the appropriate code section and its reasoning as to why the property's location within a fire protection district satisfied the requirement under BCRC 12-333 regarding "adequate" water supply for fire suppression. The court was informed in the July 19, 2023 hearing that the written Findings of Fact and Conclusions of Law are generated by the Board's staff and are "pretty uniform." However, this court finds that the findings issued by the Board failed to provide the requisite reasoned statement that plainly states the resolution of factual disputes, identifies the evidence supporting that factual determination, and "explains the basis for legal conclusions, including identification of the pertinent laws and/or regulations upon which the legal conclusions rest." *Jasso*, 151 Idaho at 794, 264 P.3d at 901. "Conclusions are not sufficient." *Id.*, 151 Idaho at 796, 264 P.3d at 903 (internal quotation omitted). Under *Jasso*, the Board's written findings of fact and conclusions of law are insufficient to meet the requirements of I.C. § 67-6535. The approval or denial of any application authorized under LLUPA "shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision..." I.C. § 67-6535(2). Failure to identify the nature of compliance with relevant decision criteria shall be

grounds for invalidation of an approved permit on appeal. I.C. § 67–6535(2)(a). Therefore, pursuant to Idaho law, this court vacates the Board’s approval of the CUP and remands the matter for further agency proceedings.

III. The Board’s failure to issue sufficient Findings of Fact and Conclusions of Law prejudiced the Petitioners’ due process rights.

“A finding of fact is a determination of a fact by the court [or agency], which fact is averred by one party and denied by the other and this determination must be founded on the evidence in the case.” *Crown Point Dev., Inc.* 144 Idaho at 77, 156 P.3d at 578. In this matter, the written findings of the Board are not determinative of any facts or issues, but as stated earlier, are merely conclusory statements which lack any affirmative statement as to how the Board reached those conclusions. Without Findings of Fact and Conclusions of Law sufficient to meet the requirements of I.C. § 67–6535, this court does not possess the necessary information for a meaningful review of the Board’s approval of the CUP. *Jasso*, 151 Idaho at 797, 264 P.3d at 904. It is not the responsibility of the reviewing court to “scour the record” for evidence which supports the Board’s position. This court finds that the lack of sufficient Findings of Fact and Conclusions of Law prejudices the Petitioners’ due process rights to judicial review. Therefore, this court vacates the Board’s approval of the CUP and remands the matter back for further agency proceedings.

IV. Petitioners are not entitled to attorney fees against the Board under I.C. § 12-117.

Petitioners seek an award of attorney fees under Idaho Code § 12-117. Under the statute, this court “shall award the prevailing party reasonable attorney's fees, witness fees and other reasonable expenses, if it finds that the nonprevailing party acted without a reasonable basis in fact or law.” “The dual purpose of I.C. § 12–117 is to (1) deter groundless or arbitrary agency action; and (2) to provide ‘a remedy for persons who have borne an unfair and unjustified financial burden

attempting to correct mistakes agencies should never have made.” *Fuchs v. Idaho State Police, Alcohol Beverage Control*, 153 Idaho 114, 117, 279 P.3d 100, 103 (2012).

In this matter, while the court finds that the Board failed to issue sufficient written findings due to an apparent misunderstanding of its responsibilities under Idaho law, the court does not find that the Board acted without a reasonable basis in fact or law. Therefore, the court declines to make an award of attorney’s fees to either party.

CONCLUSION

For the above stated reasons, the Board’s decision to grant CUP0030-21 is vacated and remanded back to the agency for further proceeding.

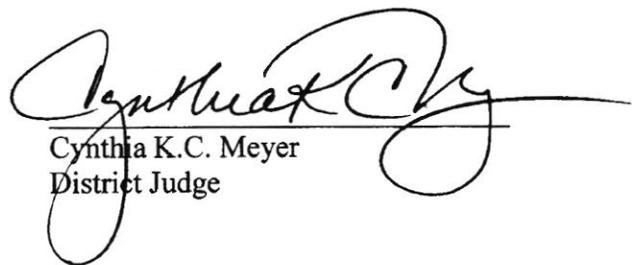
ORDER

Based on the foregoing and good cause appearing therefore,

IT IS HERBY ORDERED, the Bonner County Board of Commissioner’s decision to grant conditional use permit CUP0030-21 is vacated and remanded for further agency proceedings.

DATED: *August 17, 2023*

BY THE COURT:


Cynthia K.C. Meyer
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of August 2023, I caused to be served a true and correct copy of the foregoing document as addressed to:

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Michael W. Rosedale
Clerk of the Court

JG

Deputy Clerk



Bonner County

Board of Commissioners

Jeff Connolly

Daniel McDonald

Steve Bradshaw

September 1, 2022

Idaho Land LLC
P.O. Box 591
Hayden, ID. 83835

Subj: File CUP0030-21 – Conditional Use Permit - Idaho Land LLC-RV Park

Dear Mr. Doty,

The Bonner County Commissioners at the August 24, 2022 public hearing approved of the referenced application with conditions.

MOTION TO APPROVE: Commissioner Bradshaw moved to approve this project, FILE CUP0030-21, requesting a conditional use permit for an RV Park, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during the hearing) and directed planning staff to draft written findings and conclusions to reflect this motion, have Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

Commissioner Connolly seconded the motion.

Roll Call Vote

Commissioner McDonald	AYE
Commissioner Connolly	AYE
Commissioner Bradshaw	AYE

VOTED upon and the Chair declared the motion carried, unanimously.

Findings of Fact

1. The property is zoned Rural-5. Where RV parks are conditionally allowed in this zone upon having meant the required standards per BCRC 12-497.
2. The property is accessed off Clagstone Road and Al's Welding Road. Both roads are Bonner County owner and maintained gravel travel surfaces.

3. The property has been reviewed against the required standards of BCRC 12-497 with conditions added to ensure full compliance with Bonner County Revised Code.
4. Fire protection is provided Spirit Lake Fire District.
5. Electricity is provided by Inland Power.
6. The site has an individual well.
7. A speculative site evaluation has been done for the proposed septic system.
8. The proposal is for 20-unit RV park.
9. The site is 4.17 acres.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposed conditional use permit **is** in accord with the Bonner County comprehensive plan.

- | | | |
|------------------------------------|-------------------------|---------------------|
| •Property Rights
Transportation | •Population | •School Facilities, |
| •Economic Development | •Land Use | •Natural Resources |
| •Hazardous Areas | •Public Services | •Transportation |
| •Recreation | •Special Areas or Sites | •Housing |
| •Community Design | •Implementation | |

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

The proposed use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

Conditions of approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
- A-6** Prior to issuance of a building location permit, the owner of the proposed multi-family structure shall obtain an address for the dwelling from Bonner County that meets the provisions of Bonner County Revised Code, Title 13. (For multi-family CUPs)
- A-7** A landscaping plan showing compliance with this section will be required with the Building Location Permit.
- A-8** The project will be designed to the standards in BCRC 12-497 A. 1800 square feet per space.
- A-9** Proper signage indicating directional traffic in and out of the park.

A-10 Water rights to be approved and permitted by the Idaho Department of Water Resources.

A-11 Approval of septic system from Panhandle Health District.

A-12 Site plan submitted & adopted on June 2, 2022 and signed by the Chair.

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

Please contact the Bonner County Planning Department if you have any questions.

Sincerely,



Dan McDonald, Chair
Board of County Commission



Bonner County Planning Department

"Protecting property rights and enhancing property value"

1500 Highway 2, Suite 208, Sandpoint, Idaho 83864

Phone (208) 265-1458 - Fax (866) 537-4935

Email: planning@bonnercountyid.gov - Web site: www.bonnercountyid.gov

Idaho Land, LLC.
P.O. Box 591
Hayden, ID. 83835

June 6, 2022

Subj: CUP0030-21 – Conditional Use Permit - Idaho Land LLC-RV Park

Encl: (1) File CUP0030-21 Zoning Commission Approved Site Plan

Dear Mr. Doty,

The Bonner County Zoning Commission at the June 2, 2022, public hearing approved the referenced application with conditions. The ordinance and standards used in evaluating the application and the reasons for approving the application are as follows:

MOTION TO APPROVE: Commissioner Webster moved to approve this project FILE CUP0030-21 for a 20-unit RV Park, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Webster further moved to adopt the findings of fact and conclusions of law 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. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Webster added the following conditions of approval:

1. Proper signage indicating directional traffic in and out of the park.
2. Water rights to be approved and permitted by the Idaho Department of Water Resources.
3. Approval of septic system from Panhandle Health District.
4. Site plan submitted & adopted on June 2, 2022 and signed by the Chair.

Commissioner Linscott seconded the Motion.

Roll Call Vote:

Commissioner Kingsland AYE
Commissioner Wakeley AYE
Commissioner Webster AYE
Commissioner Linscott AYE
Commissioner Marble AYE

VOTED upon and the Chair declared the motion carried, unanimously.

Findings of Fact

1. The property is zoned Rural-5. Where RV parks are conditionally allowed in this zone upon having meant the required standards per BCRC 12-497.
2. The property is accessed off Clagstone Road and Al's Welding Road. Both roads are Bonner County owner and maintained gravel travel surfaces.
3. The property has been reviewed against the required standards of BCRC 12-497 with conditions added to ensure full compliance with Bonner County Revised Code.
4. Fire protection is provided Spirit Lake Fire District.
5. Electricity is provided by Inland Power.
6. The site has an individual well.
7. A speculative site evaluation has been done for the proposed septic system.
8. The proposal is for 20-unit RV park.
9. The site is 4.17 acres.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposed conditional use permit **is** in accord with the Bonner County comprehensive plan.

- | | | |
|------------------------------------|-------------------------|---------------------|
| •Property Rights
Transportation | •Population | •School Facilities, |
| •Economic Development | •Land Use | •Natural Resources |
| •Hazardous Areas | •Public Services | •Transportation |
| •Recreation | •Special Areas or Sites | •Housing |
| •Community Design | •Implementation | |

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

The proposed use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

Conditions of approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.

- A-6** Prior to issuance of a building location permit, the owner of the proposed multi-family structure shall obtain an address for the dwelling from Bonner County that meets the provisions of Bonner County Revised Code, Title 13. (For multi-family CUPs)
- A-7** A landscaping plan showing compliance with this section will be required with the Building Location Permit.
- A-8** The project will be designed to the standards in BCRC 12-497 A. 1800 square feet per space.

Bonner County Revised Code, Section 12-262, provides an opportunity for affected persons to appeal Zoning Commission decisions with the Planning Director within 28 days after the final written decision of the Planning and Zoning Commission has been issued. Any such appeal must be submitted in accordance with the referenced code section no later than **5:00 p.m., July 5, 2022. AN APPEAL SHALL BE ACCOMPANIED BY A \$325.00 FILING FEE. THE FEES ARE PAYABLE TO THE BONNER COUNTY PLANNING DEPARTMENT.**

NOTE: 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 the Planning Department if you have any questions.

Sincerely,



Jacob Marble, Chair
Zoning Commission

c: Stephen Doty, Project Representative



1 inch on map equals 40 feet.

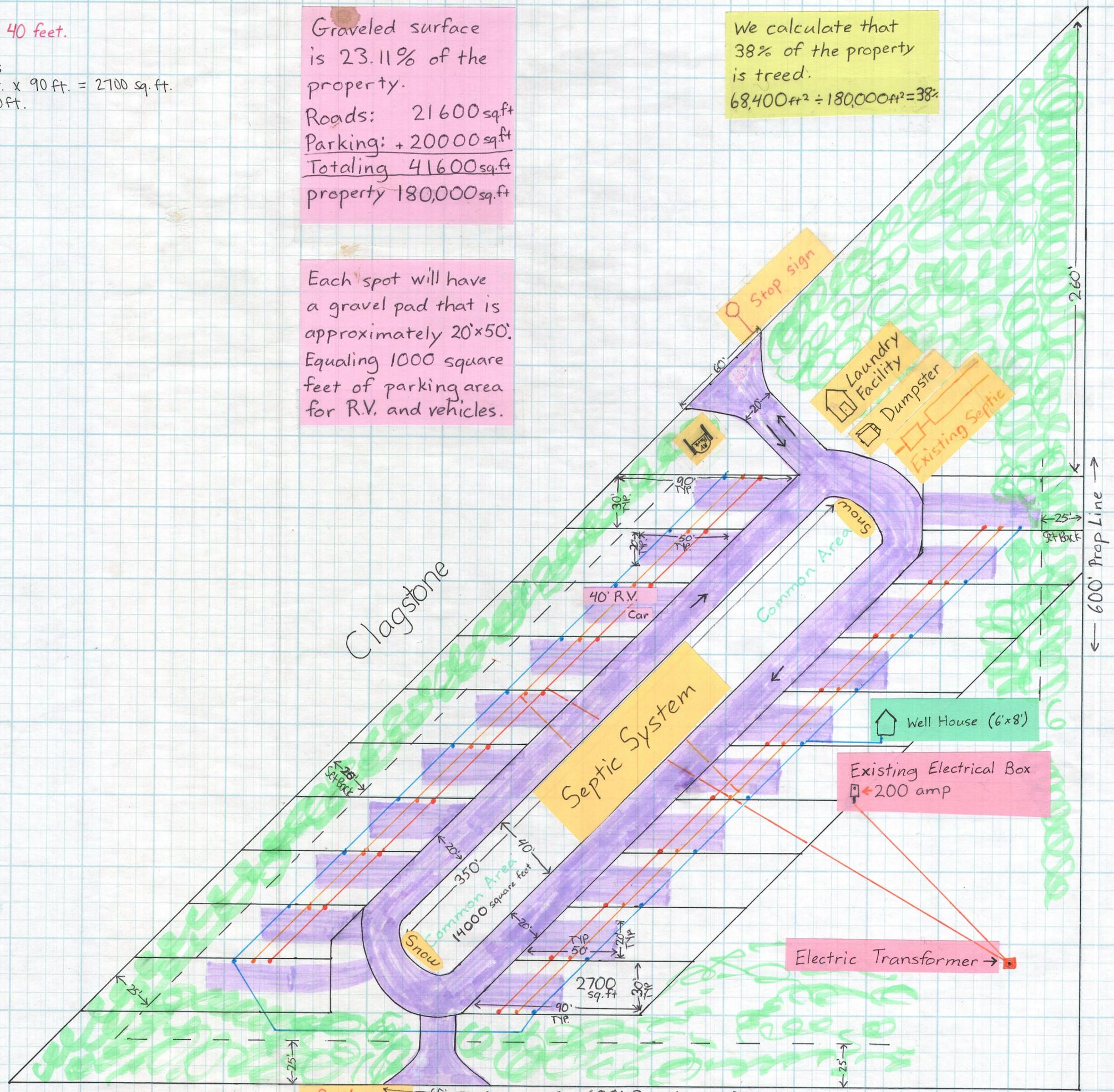
Property is 4.17 acres
 Space Dimensions: 30 ft. x 90 ft. = 2700 sq. ft.
 Distance Between RV's: 20 ft.

- Water
- Electric
- Septic
- Trees
- Gravel

Graveled surface is 23.11% of the property.
 Roads: 21600 sq.ft
 Parking: + 20000 sq.ft
 Totaling 41600 sq.ft
 property 180,000 sq.ft

We calculate that 38% of the property is treed.
 $68,400 \text{ ft}^2 \div 180,000 \text{ ft}^2 = 38\%$

Each spot will have a gravel pad that is approximately 20'x50'.
 Equaling 1000 square feet of parking area for R.V. and vehicles.



RECEIVED
 JUN 2 2022
 Bonner County
 Planning Department

RECEIVED
 FEB 01 2022
 Bonner County
 Planning Department

Al's Welding