BONNER COUNTY PLANNING DEPARTMENT HEARING EXAMINER STAFF REPORT FOR MAY 21, 2025



Project Name: Bohanek – Shoreline Setback

File Number, Type: FILE #V0006-25

Request: The applicant is requesting a 40' shoreline setback where

75' is required for the purpose of constructing a garage

addition.

Legal Description: 12-57N-3W WINTERHAVEN LOT 1 1994 NASHUA 14 X 56 RP

Location: The project site is located off Puffin Road in Section 12,

Township 57 North, Range 3 West, Boise-Meridian.

Parcel Number: RP041710000010A

Parcel Size: 6.510-acres

Applicant/Property

Owner:

Alex Bohanek

Sandpoint, ID 83864

Project

Representative:

N/A

Application filed: February 25, 2025

Notice provided: Mail: April 2, 2025

Site Posting: May 12, 2025

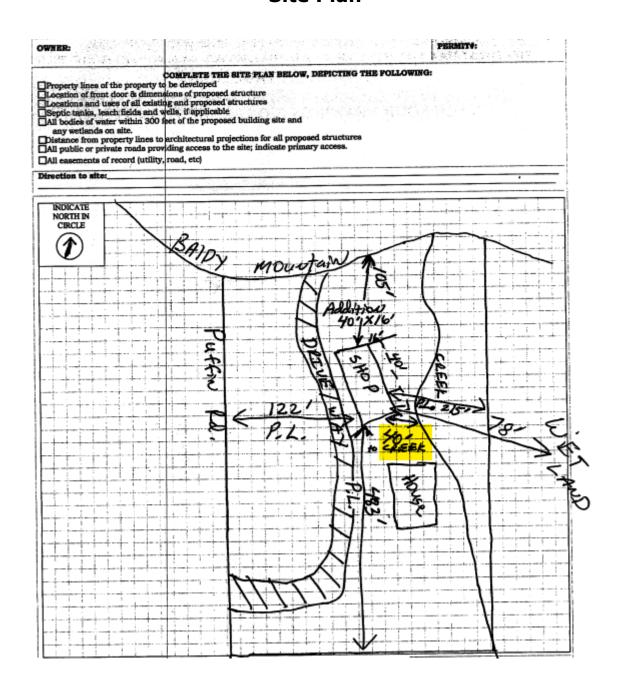
Published in newspaper: April 22, 2025

Appendix: Appendix A – Notice of Public Hearing Record of Mailing

Appendix B - Agency Comments

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Site Plan



Project summary:

The applicant is requesting a 40' shoreline setback to Turnipseed Creek where 75' is required for the purpose of constructing a garage addition. The 6.510-acre property is zoned Agricultural/Forestry 10 (A/f-10). The project site is located off Puffin Road in Section 12, Township 57 North, Range 3 West, Boise-Meridian.

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Applicable laws:

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

BCRC 12-222, Application, contents

BCRC 12-232, Variances, general provisions, application, standards, procedures

BCRC 12-234, Variance standards

BCRC 12-400, et seg., Development standards

BCRC 12-711: Shoreline Setbacks

BCRC 12-7.2, et seq., Grading/erosion/stormwater management

BCRC 12-800 et seq., Definitions

Background:

A. Site data:

Land Use: Residential Platted – Winterhaven Lot 1

Size: 6.510-acres

Zoning Designation: Agricultural/forestry 10 (A/f-10) Comp Plan Designation: Ag/Forest Land (10-20 AC)

B. Access:

Puffin Road, a 40-foot privately owned, and privately maintained easement.

C. Environmental factors:

Site does contain mapped slopes. (USGS)

Site does contain mapped wetlands. (USFWS)

Site does contain frontage on Turnipseed Creek.

Parcel is within SFHA Zone X per FIRM Panel Number 16017C0695E, Effective Date 11/18/2009.

D. Services:

• Water: Individual Well

• Sewage: Individual Septic

• Fire: West Side Fire District

• Power: Northern Lights

School District: Lake Pend Oreille School District #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC)	Ag/Forest 10 (A/F-10)	Residential, 6.51-acres
North	Ag/Forest Land (10-20 AC)	Ag/Forest 20 (A/F-20)	Residential, 32.63-acres
East	Ag/Forest Land (10-20 AC)	Ag/Forest 10 (A/F-10)	Residential, 5.013-acres

South	Ag/Forest Land (10-20 AC)	Ag/Forest 10 (A/F-10)	Residential, 5.30-acres
West	Ag/Forest Land (10-20 AC)	Ag/Forest 10 (A/F-10)	Two (2) Residential Lots, 5.10 and 7.863- acres

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that: [Insert specific findings addressing each of the standards.]

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

Applicant: "Addition to front of garage is not possible due to the driveway access."

Staff: According to GIS LiDAR data, the subject property features variable slopes ranging from 0% to over 30%. Turnipseed Creek bisects the northeastern portion of the lot, and in accordance with BCRC 12-711 A.2, a 75-foot setback is required on either side of the creek. This setback area encompasses approximately 1.5 acres of the lot, which may present challenges for development, particularly due to the creek's proximity to existing structures. Additionally, the property lies within SFHA Zone X, which does not necessitate floodplain development permitting.

(b) Special conditions and circumstances do not result from the actions of the applicant.

Applicant: "Existing garage was built and grandfathered in with addition ready to go with tails on eaves to extend. Previous owner intended to extend the garage but never got around to it. I needed the extra storage."

Staff: The applicant acquired the subject property on November 8, 2021, via Warranty Deed, Instrument No. 995486. Since the time of acquisition, there is no indication that the applicant has altered the lot's size, shape, or topography. According to Assessor records, the detached garage was constructed in 1994, prior to the applicant's ownership; as such, the applicant had no influence over its placement or its resulting proximity to Turnipseed Creek.

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

Applicant: "There are no fish in the seasonal creek. I have no other way to add onto the other side of the existing shop. It will not add any public health or safety issues by adding 16' to garage."

Staff: According to comments provided by the Idaho Department of Environmental Quality (DEQ), maintaining development setbacks from stream banks and lake

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shorelines is critical to protecting water quality. While an individual variance may have a limited immediate impact, the cumulative effect of development encroaching on these sensitive areas poses a significant threat to water quality. Therefore, established setbacks should be preserved whenever possible. No other agency or public comments were received suggesting that the proposal would be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.

G. Stormwater plan

Stormwater Management concerns were addressed during the Building Location Permit, BLP2025-0122, phase in accordance with BCRC 12-720. No further review is required for this project.

H. Agency Review

Agencies were notified of this project on April 2, 2025. A full list of the agencies notified can be found in the attached Appendix A.

The following agencies commented:

Idaho Department of Environmental Quality

The following agencies replied "No Comment":

Kootenai/Ponderay Sewer District

All other agencies did not reply.

Public Notice & Comments

At the time this Staff Report was written, no public comments have been received.

Staff Review Summary:

The applicant acquired the subject property on November 12, 2021, and there have been no apparent modifications to the lot's size, shape, or topography since that time. The existing detached garage, constructed in 1994, predates the applicant's ownership and its proximity to Turnipseed Creek was not under the applicant's control. While the Idaho Department of Environmental Quality emphasized the importance of maintaining setbacks from water bodies to protect water quality, particularly in the context of cumulative development impacts, no other agency or public comments were received indicating that the proposed action would negatively affect public health, safety, or welfare, or cause material harm to surrounding properties or improvements.

Planner's Initials: <u>KS</u> Date: <u>5/14/25</u> 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:

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HEARING EXAMINER

DECISION TO APPROVE: I hereby approve this project FILE V0006-25, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

Conclusion 1

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

Conclusion 2

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

Conclusion 3

The granting of the variance **is not** in conflict with the public interest in that it **will/will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further adopt the findings of fact and conclusions of law as written (or as amended) and direct planning staff to draft written findings and transmit to all interested parties. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

DECISION TO DENY: I hereby deny this project FILE V0006-25, based upon the following conclusions:

Conclusion 1

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

Conclusion 2

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

Conclusion 3

The granting of the variance **is/is not** in conflict with the public interest in that it **will/will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further adopt the findings of fact and conclusions of law as written (or as amended) and direct planning staff to draft written findings 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 variance is to:

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

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Findings of Fact

- 1. The project is located on Puffin Road, a privately owned and privately maintained easement.
- 2. The project is served by individual septic and individual well.
- 3. The project site is served by Northern Lights, and West Side Fire District.
- 4. The property is zoned Agricultural/Forestry 10 (A/f-10).
- 5. The property contains mapped slopes of 0-30%+(USGS).
- 6. The property contains frontage on Turnipseed Creek which has associated Freshwater Forested/Shrub Wetland. (NHD, NWI)
- 7. The property is identified as Winterhaven Lot 1 found in Book 9, Page 113, and Instrument #759264.
- 8. The applicant purchased the property on November 8, 2021, and recorded deed on November 12, 2021, under instrument #995486, Records of Bonner County.
- 9. The applicant has applied for a Building Location Permit on the existing garage addition, File #BLP2025-0122.

Conditions of approval:

- 1. Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
- **2.** This variance shall not supersede any deed restrictions.
- **3.** The applicant shall complete the associated Building Location Permit, File #BLP2025-0122.

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

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Appendix A - Notice of Public Record of Mailing

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RECORD OF MAILING

Page 1 of 1

File No.: V 0 0 0 6 - 2 5 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 **2nd** day of **April**, **2025**.

Mel. Julia

(fessica Montgomery

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

Appendix B – Agency Comments

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Janna Brown <janna.brown@bonnercountyid.gov>

[EXT SENDER] Re: Notice of Public Hearing - File V0006-25 -Creek Shoreline Setback

1 message

Alexandra Spraker <Alexandra.Spraker@deq.idaho.gov>
To: Bonner County Planning Department <planning@bonnercountyid.gov>

Thu, Apr 10, 2025 at 3:38 PM

Development setbacks from stream banks and lake shorelines are an important tool for protecting water quality. Riparian vegetation provides natural filtration of stormwater runoff and provides numerous other benefits to promote healthy surface water ecology. DEQ recognizes that there are sometimes unique circumstances that may justify reduced setbacks. While an individual variance likely has a relatively small impact on water quality, the cumulative impact of development in close proximity to shorelines and stream banks is a significant threat to water quality. DEQ advises local government planning departments to maintain established setbacks whenever possible. Exceptions should be considered carefully by the local jurisdiction and used only when absolutely necessary to accommodate unique circumstances.

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.

Sent: Wednesday, April 2, 2025 7:58 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

<b

Chief Tom Renzi <eplfdchief@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 Rvan Zandhuisen <RZandhuisen@idl.idaho.gov>: IDL - Pend Oreille Lake Supervisory <esjoquist@idl.idaho.gov>; dbrown@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 <i essica.grantham@lakeland272.org>; Lisa Rosa 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 <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 selkirk Fire Gavin Gilcrease selkirkaor.com; Selkirk Fire Gavin Gilcrease selkirkaor.com; Selkirkaor.com; Selkirkaor.com; Selkirkaor.com; Selkirkaor.com; Selkirkaor.com; Selkirkaor.com; Selkirkaor.com; Selkirkaor.com; Selkirkaor.com</a Selkirk Recreation District <selqar@mac.com>; Southside Water and Sewer <southsidewaterandsewer@ swsdidaho.org>; Spirit Lake Fire Dept. (Debbie Carpenter) < chief@spiritlakefire.com>; Superintendent No. 84 Becky Meyer

Secky.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 Cc: Jacob Gabell <jake.gabell@bonnercountyid.gov>; Alexander Feyen <alexander.feyen@bonnercountyid.gov>; Kyle Snider <kyle.snider@bonnercountyid.gov>

Subject: Notice of Public Hearing - File V0006-25 - Creek Shoreline Setback

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.

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,ature" data-smartmail="gmail_signature">



Janna Brown <janna.brown@bonnercountyid.gov>

File V0006-24 Variance

1 message

'Colleen Johnson' via Mail-Planning <planning@bonnercountyid.gov> Reply-To: Colleen Johnson <CJohnson@kootenaiponderaysewerdistrict.org> To: Bonner County Planning <planning@bonnercountyid.gov>

Fri, Apr 4, 2025 at 11:25 AM

Good Morning:

Attached is the District's response to the above named file.

NOTICE OF CHANGE IN HOURS: THE OFFICE WILL BE CLOSED ON FRIDAYS. WE WILL BE OPEN NORMAL HOURS MONDAY THRU THURSDAY.

Colleen Johnson

Business Office Manager

Kootenai-Ponderay Sewer District

208-263-0229 Fax - 208-265-5326 Mobile: 208-304-5820

511 Whiskey Jack Road Sandpoint, Idaho 83864

P.O. Box 562, Kootenai, ID 83840

"Dance with Life"



25_04_BC_FileV0006Variance.pdf

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 **2nd** day of **April 2025**.

(feroica Montgomery

Jessica Montgomery, Hearing Coordinator

This notice was mailed to political subdivisions, property owners within 300 feet of the subject property, the media, and the City of Dover on **Wednesday, April 2, 2025**.

NOTICE IS HEREBY GIVEN that the Bonner County Hearing Examiner will hold a public hearing at **1:30 pm** on **Wednesday, May 21, 2025** in the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, by Zoom teleconference, and YouTube Livestream to consider the following request:

File V0006-25- Variance – Creek Shoreline Setback. The applicant is requesting a 40' shoreline setback where 75' is required for the construction of a garage addition. The 6.510-acre property is zoned Agricultural/Forestry 10 (A/f-10). The project site is located off Baldy Mountain Road in Section 12, Township 57 North, Range 3 West, Boise-Meridian.

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 DO

NO COMMENT

Pootenai Fonderay Sewar District 4/4