

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
WEDNESDAY, NOVEMBER 28, 2018**

CALL TO ORDER: Chair Bailey called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Glen Bailey; Vice Chair Dan McDonald; and Jeff Connolly

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Floodplain Manager Jason Johnson; and Office Manager Jeannie Welter

PUBLIC HEARINGS:

CONDITIONAL USE PERMITS

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File CM1007-18 – Modification to PUD – Trestle Creek Investments is requesting to modify an approved planned unit development decreasing from nine residential lots to six residential lots with 3 lots dedicated to open space. The project will remove the proposed wastewater treatment lagoon and land application area to now include a community leach field. The new proposal will replace a hammerhead with a cul-de-sac requiring a stormwater management plan. The project is located off Hwy 200 on Idaho Country road, in a portion of Section 21, Township 57 North, Range 1 East. The Planning & Zoning Commission, at the public hearing on October 18, 2018, recommended approval of this file to the Board of County Commissioners.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Director Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Marty Taylor, Certified Land Use Planner with James A. Sewell & Associates gave a summary of the project.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

MOTION: Commissioner McDonald moved to approve this project FILE CM1007-17 for modification of a previously approved planned unit development including the proposed modifications and attached conceptual land use plan and preliminary plat finding that it is in accord with 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 McDonald further moved to adopt the following findings of fact, conclusions of law and conditions of approval. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. Commissioner Connolly seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Background:

A. Site data: The project encompasses 11.47 acres including submerged acres and approximately 8.86 upland acres. There are 6 planned residential lots consisting of 4.48 acres leaving a remaining 4.38 acres of open space.

- Lot size: All proposed lots are 0.45 acres to 0.80 acres
- Water: 2 wells providing water to all lots
- Sewer: Residential lots have individual septic systems and a community leach field.

B. Access: The site is accessed by Idaho Country Road a private easement stemming from US Highway 200. The road within the subdivision shall be built to a low volume road width and travelway as the trip generation report outlines minimal traffic. The surface of the travelway shall be hard surfaced meeting road requirements outlined in Title 12 Appendix A road standards manual.

C. Environmental factors: No slopes exceeding 30% grade exist on site, A wetland reconnaissance submitted by James A. Sewell and Associates confirms no wetland exist on site.

A portion of the parcel is encumbered by USACE flood easement and the entirety of the lot is in FEMA flood hazard zone AE. D-firm panel 0775E. All applicable Bonner County land use projects are routed through floodplain manager for compliance with FEMA standards.

According to the Soil Survey of Bonner County, soils on site consist of Bonner silt loam, poorly suited to cultivate crops. Associated with western hemlock, western red cedar fir and western white pine. (Natural Resource Element, BC Comprehensive Plan)

D. Services: Lots 1 through 6 will be serviced by individual septic systems and a common leach field.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Single lot
North	Resort Community	R-5	Mobile home park
East	Resort Community	R-5	BNSF
South	Resort Community	R-5	USFWS
West	NA	NA	Pend Oreille

F. Standards review

12-266: MODIFICATION OF TERMS AND CONDITIONS OF PERMIT APPROVAL

- A. The terms and conditions of the approval of any permit authorized or required in this title may be modified only by the Planning Director, commission and/or Board as established in this section. This section applies to modifications of approved permits, including, but not limited to, conditional use permits, special use permits, variances, preliminary plats, final plats, lot line adjustments and planned unit developments.

The Planned Unit Development and preliminary plats are recommended by the Planning Commission and approved by the Board.

- B. Application for a modification of terms and conditions of approval shall be made to the Planning Department, on forms provided by the department, and accompanied by the fee specified in section 12-265 of this subchapter.

The application to modify the previously approved permit was received, reviewed by the department and sent to agency review. The stormwater management plan and erosion control plan were reviewed by JUB Engineers, INC.

- C. A public hearing shall be scheduled and notice provided in accordance with the requirements for the original permit issuance. A public hearing has been noticed and scheduled in accord with the requirements for the original permit issuance. The hearing with the Planning Commission is October 4, 2018 and continued to October 18, 2018.

- D. The Planning Director, commission and/or Board shall consider the proposed modification in accordance with the requirements for the original permit application and shall confine the review to the proposed modification. The standards review for the specifics of the modification are as follows:

- 1) Modification of condition A-1 "The use shall be in accordance with the approved site plan." The applicant is proposing to modify the permit eliminating the proposed wastewater treatment lagoon and installing a community leach field. This change required the applicant modify the number of lots and the sizes of those lots on the plat.

Per the application, there are 8.86 unsubmerged acres available on the parcel. With providing only "urban water" the property is allowed a density of two acres per lot. Adding in the planned open space of 4.38 acres where the density bonus allows for 1:1 density for open space. With these considerations, there are 6 building lots available on this parcel. (Table 2-1 BCRC 12-256)

The conceptual land use plan and preliminary plat show the location of the proposed six lots and the open space identifying the community leach field and its reserve.

- 2) Modification of condition C-4 requires installation of temporary and permanent erosion control and stormwater measures as designed and approved. With the change of the lagoon to a community leach field, there is adequate room for a cul-de-sac. This change required modification to the stormwater plans. The condition will be modified that the stormwater and erosion controls shall be installed as approved by the County Engineer review, JUB Engineers, INC.
- 3) Modification of Preliminary Plat changing from 9 lots to 6 lots meeting the requirements of the changes listed above. With the above changes to the proposal, the density changes allowing only 6 residential lots on the property.

- E. The Planning Director, commission and/or Board shall render a decision in writing on the proposed modification within five (5) working days after consideration of the proposal, and the decision shall conform to the procedures, standards and requirements pertaining to the original permit. (Ord. 501, 11-18-2008)

G. Stormwater plan: A stormwater management plan was required pursuant to BCRC 12-2403(a). The plan by Ashley Williams, P.E. of Welch Comer, provides a stormwater management plan. The modified plan has been reviewed by JUB Engineers on behalf of Bonner County and found to "meet the intent of BCRC 12-7.2."

H. Agency Review: The application was routed to the following agencies for comment on August 6, 2018.

Panhandle Health	Bonner County Road and Bridge
Sam Owen Fire District	Avista
Bonner School District #84	Department of Fish and Game
Department of Environmental Quality	Department of Lands (Sandpoint)
Department of Water resources	BNSF
USACE (CDA,Newport)	Fish and Wildlife service
Bonner County Schools- Transportation	

The following agencies commented:

Bonner County Road and Bridge, email dated August 7, 2018

No comments – the development is on a private road access from Hwy 200 and does not impact the County road system.

Idaho Department of Environmental Quality, email dated August 30, 2018:

Faye Beller of DEQ provided comment on surface water quality and storm water control.

I. Public Notice & Comments

No public comments were received.

Findings of Fact

1. Bonner County revised code allows for modifications to a previously approved permit.
2. The modifications have been reviewed against the standards and appear to be consistent.
3. The open space provided is approximately 4.38 acres.
4. The number of lots provided with the bonus of open space are six.
5. The change to the stormwater and erosion control plans have been reviewed by JUB engineers.

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

Conclusion 1

The proposed planned unit development **is** in accord with the Bonner County comprehensive plan.

- | | | |
|-----------------------|-------------------------|------------------------------------|
| •Property Rights | •Population | •School Facilities, Transportation |
| •Economic Development | •Land Use | •Natural Resources |
| •Hazardous Areas | •Public Services | •Transportation |
| •Recreation | •Special Areas or Sites | •Housing |
| •Community Design | •Implementation | |

Conclusion 2

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

Conclusion 3

The proposed planned unit development or the first phase of it **can** be substantially completed within two (4) years from the date of approval.

Conclusion 4

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC 12-266 Modification of Terms and Conditions of Permit Approval; Title 12, Chapter 4; Title 12, Subchapter 2.5; environmental standards of Chapter 7, Title 12; storm water management criteria and standards set forth in Chapter 7, Title 12; and floodplain standards in Title 14, Bonner County Revised Code.

Conclusion 5

The proposed use **will not** adversely affect properties in the vicinity.

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File C1011-18 – Conditional Use Permit Recreation Facility – Paul & Jill Stiller

are requesting a conditional use permit for a recreation facility with an 18 basket disc golf course, on 40 acres. The project is in the Colburn area, Hwy 95 North to East on Colburn Culver, North 1 mile on Shepards Lane in a portion of Section 05, Township 58 North, Range 1 West B.M. The Planning & Zoning Commission approved of this at the public hearing on September 6, 2018. An appeal was received by the Planning department requesting this file be forwarded to the Board of County Commissioners for consideration.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Floodplain Manager Jason Johnson presented a PowerPoint summary of the project, appeal, and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project representative Clare Marley, Ruen-Yeager & Associates presented a PowerPoint presentation. Additionally, Ms. Marley submitted Exhibit C, a letter from Northside Fire District, into the Record which was read by Floodplain Manager Jason Johnson during his presentation. Ms. Marley stated this is a seasonal sport and not likely played in the winter. She stated the play is not hazardous. She stated the area is heavily vegetated which makes for an adequate noise buffer.

Course designer and applicant Paul Stiller stated he believes golf is a game of integrity that builds character, honesty, and discipline. He stated hole number four is up hill which slows the disc down. This course is designed as a tournament course. Mr. Still stated he has not been running the course as a business but rather he is testing the course and having individuals play the course to get their input. He presented photos of the property during the process of creating the course.

Clare Marley stated there are no CC&Rs on the property. She commented to other public comments previously received on the record.

Applicant legal counsel Brent Featherston, Featherston Law stated commissioner Bradish disclosed prior to hearing this file at the Planning & Zoning Commission hearing that he visited the course well before the file was submitted to the planning department. Commissioner Sabo stated she is acquainted with Jill Stiller as a work colleague but has no conflict with the project. He stated none of this contact qualifies as exparte contact. He stated the fact is this is a permitted use with minimal impact.

Ms. Marley spoke to the issue of parking stating there is plenty of room for parking.

Commissioner McDonald asked if they anticipate daily usage. Mr. Stiller stated as far as traffic he believes his fees and the fact the course is difficult it is going to deter many golfers.

Commissioner Connolly asked about parking and limiting the parking to 30 vehicles. Mr. Johnson clarified that more than 30 vehicles at a time would be outside of the conditional use permit.

PUBLIC/AGENCY TESTIMONY:

Jeff Cowley – in favor – applicant is considerate of the neighbors.

John Gaddess – in favor

Jill Stiller – in favor – course is designed to promote health and wellness.

Eric Nelson – in favor – read a letter into the record.

Jaymie Crafts – in favor

Gordon Crafts – in favor

Kendall Pool – in favor

Jason Hankins – appellant – exhibit D, photos of the course

Elizabeth Knight – opposed – exhibit B, letter

Stephen Norton – opposed – exhibit A, letter

William Wieland – in opposed

Attorney for the appellant John Finney explained the photos from exhibit D. He spoke about the number of parking spaces. Applicant is requesting a 75' setback, they would like some set hours of course play, days of operation, condition limiting dogs, conditions on alcohol and smoking on the course.

APPLICANT REBUTTAL: Clare Marley stated the pins on the site plan are not survey accurate and this information was conveyed to staff during the application process.

Paul Stiller spoke to actual distance from holes to property lines.

Ms. Marley stated she met with the Planning Director and it was decided that 72 parking spots were not required as this is not a regular golf course.

Mr. Fetherston commented regarding alcohol on the premises stating Mr. Stiller is not going to provide alcohol to anyone.

Clare Marley commented to the hours of operation suggestion stating the applicant is willing to operate within the hours of 6:00 a.m. to 9:00 p.m.

Commissioner McDonald asked about dogs on the course. Paul Stiller stated he is not a fan of dogs on the course.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

MOTION: Commissioner Connolly moved to approve this project, C1011-18, a Conditional Use Permit for an 18-basket disc golf course, on 40 acres, finding that it is in accord with 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 Connolly further moved to adopt the following findings of fact, conclusions of law and conditions of approval as amended adding condition 8, hours of operation no play starting on the course before 6:00 a.m. and no play after 9:00 p.m.. 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 McDonald seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Background:

A. Site data: The subject properties total ±40 acres. The parcels currently accommodate the primary residential use, all appurtenant structures, parking/circulation areas, and areas for open space.

B. Access: Access to the subject property is provided by Shepherds Lane; a gravel, local access roadway.

C. Environmental factors:

- Slope: > 30% on site, however a majority of the landscape is < 15%. Source: USGS
- Hydrography: Perennial Lake/Pond on site. Source: USGS NHD , BC GIS
- Wetlands: Freshwater Emergent Wetland/ Freshwater Pond surrounding the aforementioned hydro feature. Source: USFWS NWI
- Soils: Dufort Loam: 5% - 45% slope, Mission Silt Loam: 2%-12% slope, Odenson Silt Loam: 0%-2% slope. Source: NRCS
- Critical Wildlife Habitat: Moose Range, Elk Wintering Area, White-tailed deer Wintering Area. Source: BC GIS
- Floodplain: Flood Hazard Zone: 'X' - 0.2% annual chance flood hazard. Source: FEMA

D. Services:

- Water: Colburn Water Association supports the residential use, bottled drinking water for course guests will be provided.
- Sewage: Individual septic system (Portable toilet services to be provided)
- Power: Avista Utilities
- Fire: Northside Fire District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
North	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
East	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
South	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
West	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD

F. Standards for review:

12-222: Application Contents

Staff concluded that application contents were to the department's satisfaction. An application complete letter was sent May 9, 2018

A land capability report is not required per BCRC 12-222J.

Submitted application indicates no new impervious surface is being created and therefore no stormwater management plan is required per BCRC 12-720.3K

12-223: Conditional use permits, Standards for review of applications, Procedures.

In order to satisfy these criteria, a Planning and Zoning Commission hearing date was held on September 6, 2018. The Planning and Zoning Commission approved this proposal. This approval was appealed to the Bonner County Board of County Commissioners (BOCC) on October 3, 2018. This appeal hearing was held on Wednesday, November 28, 2018.

12-224: Public Hearing and Notices

Mailed: November 2, 2018
Site Posting: November 6, 2018
Published in newspaper: November 6, 2018

BCRC 12-333: Commercial Uses

Defined: Recreational facilities (2),(8), (17):

(2). Where access to the site is by road, the road shall be located within a recorded easement or public right of way, and constructed to provide adequate emergency vehicle access (including, but not limited to, fire, medical, and law enforcement), except where subject to the terms of an approved special use permit issued by a state or federal agency.

Staff conclude that this standard is met. Shepherds Lane is a county owned and maintained road.

(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.
See condition A-5.

(17): Sufficient land area is required to accommodate the proposed use, and the use and any appurtenant structures shall be so arranged on the land as to minimize any adverse effects on surrounding properties. The use shall not create particular hazards to adjacent properties.

A site visit confirms that this standard is met as the course is designed in a way that would direct recreators away from neighboring properties. In addition, visual impacts are mitigated through the existing vegetation buffers and out-of-bounds boundary lines.

BCRC 12-4.2 General and Performance standards for all uses

These proposed land use shall remain in compliance with the general standards in addition to the performance standards for all uses found therein.

BCRC 12-4.3 Parking Standards

BCRC 12-432: Minimum off street parking requirements:

Per Standard Industrial Classification Manual:
Golf courses (excluding clubhouses) (3) : 4 spaces/tee AND
1 space/tee for driving ranges; within 500 feet of the principal use.

Required: 72 spaces
Provided: 30 spaces

See Condition A-4.

BCRC 12-4.4, Sign Standards

Signage shall conform to the criteria set forth in this section.

BCRC 12-4.5 Design standards

Standards herein are not applicable. Proposed use shall not occur on a property paralleling or nearly paralleling a street.

BCRC 12-4.6 Landscaping and screening standards

Standards herein are applicable. The standard is met per BCRC 12-463:
"Applicants are encouraged to integrate the existing on site trees and native vegetation (if applicable) into the design of the site. Retention of the existing on site trees and native vegetation is preferred over new landscaped areas. Where existing trees or other native plant materials are proposed to be retained, the

landscape professional should provide supplemental plantings in the area where needed or provide confirmation that existing vegetation meets or exceeds objectives stated in section 12-460 in this chapter. Xeriscaping, or designs for drought tolerant vegetation and low water usage, are encouraged."

Stormwater plan: A stormwater management plan was not required pursuant to BCRC 12-720.3 (K).

Land capability report and environmental analysis: A land capability report was not required pursuant to BCRC 12-222J.

Agency Review: The application was routed to the following agencies for comment on May 9, 2018

Panhandle Health District Bonner County Road Dept. Bonner County Flood Plain Dept. Northern Lights Bonner School District #84 Avista Dept. of Fish and Game Dept. of Env. Quality Dept. of Transportation	Dept. of Water Resources Army Corps (Coeur d'Alene) Fish and Wildlife Service Forest Service Bonner County Schools – Transportation North Side Fire Department Pacific Gas Transmission Dept. of Lands (Sandpoint) Colburn Water Association
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Agency responses:

Bonner County Road and Bridge (BCR&B), letter dated May 14, 2018: Matt Mulder, PE & Staff Engineer for BCR&B stated that an encroachment permit could not be located within BCR&B's records for the existing driveway at 945 Shepherds Lane.

- A. The applicant shall file for a commercial encroachment permit from BCR&B Office.
- B. R&B staff will inspect the existing driveway and notify the Applicant if any improvements are needed in order to bring the existing driveway into compliance with current County standards for a commercial use. All identified work will need to be completed by the applicant in accordance with the Bonner County Road Standards Manual (BCRSM).

Colburn Water Association, letter dated May 11, 2018: Steve Wood, Secretary-Treasurer for CWA, stated that a Colburn Water membership entitles water to one residence only. Moreover, Colburn Water Association would not be able to provide water for a golf course.

Bonner County Floodplain, letter dated May 3, 2018: Jason Johnson, Floodplain Manager, stated that the subject property is not located in the special flood hazard zone. No Flood Development Permit is needed.

Idaho Dept. of Environmental Quality, letter dated June 6, 2018: Shawn Sweetapple, Air Quality Manager - CDA Region, stated (in summary) that precautions shall be taken to prevent dust from becoming airborne. The applicant

shall consider alternatives to open burning of debris. Development shall conform to IDAPA standards and the county should consider requiring smoke management actions if open burning occurs during the land clearing phase.

No Comment responses:

Idaho Dept of Lands; May 11, 2018
 US Forest Service; May 18, 2018
 Avista Utilities; May 29, 2018

Public Notice & Comments (Summarized)

The following comments were received during the public noticing and comment period. The original comments and letters are available to view by the governing body and general public as part of this project file record and review process.

Mickey and Mary Mahoney, letter dated July 11, 2018:

"As homeowners with land adjacent to the project, we request that you reject the application for CUP. We have concerns regarding increased vehicle traffic on Shepherd's Lane, fire risk/lack of adequate water, sanitation/waste, and invasion of privacy."

Charles Holm and Elizabeth Knight, letter dated July 12, 2018:

"We strongly encourage you to reject the application... CC&R's are imposed, traffic is a concern, sanitation is a concern, and fire is a grave concern."

Jason and Kimberly Hankins, letter dated July 10, 2018:

"As adjacent homeowners... we have concerns. Increased traffic, road use, fire danger, course design/safety, trespassing, and sanitation are all major concerns."

Stephen Norton, letter dated July 11, 2018:

"I am opposed to the course, and request that you reject the application. I have concerns in regards to traffic, fire, privacy, natural gas pipeline, wetlands, and environmental impacts."

Staff Response:

Most concerns revolved around main topics such as:

- Traffic/Road use and impacts
- Fire hazard
- Sanitation
- Privacy/Trespass
- Environmental impacts
- CC&R's

Traffic/Road use and impacts:

Per Bonner County Road and Bridge: "In regards to citizen concerns about the impacts to increased traffic on Shepherds Lane from the proposed disc golf course, it should be noted that if total traffic counts on the road exceeded 100 vehicles per day per lane, the road would meet the criteria for application of magnesium chloride application (road stabilization/dust abatement) by Bonner County. This

application would greatly reduce the amount of dust and preserve the quality of the road.”

Fire hazard:

Northside Fire Dept. was routed during the agency review period and did not provide the Planning Department with any comments during that time. This is an indication that the proposed use does not pose a significant fire hazard. Moreover, the use shall be operated in accordance with BCRC 12-421: Fire Hazards: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire prevention equipment. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential fire danger involved as specified in the international fire code as adopted by the state of Idaho (See also section 12-487 of this chapter). The applicant also proposes designated smoking areas to allow for responsible use of such products.

Sanitation:

Panhandle Health District was routed during the agency review period and did not provide a response. This indicates that the proposed use does not pose a significant hazard in regards to sanitation. 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. Condition A-5 has been added to address this.

Privacy/Trespass:

The proposed land use shall not occur on any property outside that of the applicant's shown in the aerial view. The proposal conforms to the criteria set forth in BCRC 12-460:

- A. To reduce the visual impacts of parking and storage areas on the street and adjacent properties.
- B. To enhance the character of commercial and multi-family areas.
- C. To provide visual screens and barriers as a transition between differing land uses.
- D. To promote the use of native and drought tolerant species appropriate for the region.
- E. To provide increased areas for permeable surfaces to allow for infiltration of surface water into groundwater resources, reduce the quantity of stormwater discharge and improve the quality of stormwater discharge. (Ord. 501, 11-18-2008)

The applicant also states that out-of-bounds will be clearly marked to keep recreators on the course property.

Environmental impacts:

IDEQ, USFS, USFWS, ID Fish & Game, US Army Corp of Engineers, PHD, and Bonner County Floodplain were all routed as part of the agency review process. Some of the above agencies commented, others did not. Having there been no agency with conditions or in objection to the proposed use, staff conclude that this proposal is in accordance with the Natural Resources Component of the Bonner County Comprehensive plan.

Covenants, Conditions & Restrictions (CC&Rs):

Bonner County Planning does not recognize, enforce, or regulate CC&R's. These are civil agreements between landowners and shall be pursued civilly.

Finney/Hankins Appeal Notice & Comments

The notice of appeal, dated Oct 3, 2018, makes several points that will be addressed below:

First, the Finney appeal letter outlines five (5) general grounds for appeal, which are quoted below:

The grounds for appeal include, and the issues on appeal include, but are not limited to, that the decision of the Commission was at a minimum one of the following:

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

This block of language appears to refer to old and no longer valid language, formerly contained in Bonner County Revised Code. The standards quoted above are no longer used in the appeal process. Appeals are currently heard under the standards of *BCRC 12-262.D: Procedures For Consideration Of Appeal*. Because the language above is not applicable to this appeal, it will not be addressed in this response.

Finney appeal letter:

The home sights are in close proximity to the common property line between the plat and the already in existence disc course on the subject property. The layout of the holes is such that the holes are immediately adjacent to the adjoining properties (specifically including Mr. and Mrs. Hankins' home)...

DEPARTMENT RESPONSE:

The Hankins purchased their property on December 11, 2009, per warranty deed recorded under instrument #815589. Ord. 501, was passed on November 18, 2008. This ordinance allowed Recreational Facilities conditionally in the F, A/F, R, S, REC, and AV zones, and permitted them outright in the C and RSC Zones. This means that Recreational Facilities were conditionally allowed on the subject parcel, adjacent to the Hankins, prior to the Hankins choice to purchase their land and home. Prior to the Hankins home purchase choice, Recreational Facilities, operating as businesses open to the public, including but not limited to commercial tent camping, commercial hunting, and commercial snowmobiling were all conditionally allowed. The published and publicly available Bonner County Revised Code, as it existed in 2009, was adequate notice to the Hankins that uses, such as the one in question here, could potentially occur next door to their home. The Hankins choose to purchase this property despite these facts.

Finney appeal letter:

...while maintaining a large "private area" with large buffers in the center of the subject property around an existing cabin and carport on the subject property.

DEPARTMENT RESPONSE:

The area referred to as a "private area" in the Finney appeal letter is actually the top of the hill on the parcel in question, an area that is mostly flat. As previously mentioned, the parcel in question allowed for the conditional siting of Commercial Recreational Facilities prior to the Hankins choosing to purchase their home. Commercial Recreational Facilities are designed for the recreational activity that is to be commercially provided. Hills and slopes make for more interesting, diverse and challenging disc golf experiences. The disc golf course has been designed with the use of disc golf in mind. Again, Commercial Recreational Facilities are conditionally allowed on the parcel in question. In choosing to conditionally allow this use, the BOCC, when approving the current version of the Bonner County Revised Code, must have known that Commercial Recreational Facilities would be designed in a manner so as to facilitate the recreational activity in question. Objecting to a disc golf course including slopes in its design is equivalent to objecting if a conventional golf course were to be designed with water traps and rolling hills; in both cases it would be expected that a recreational facility would be designed to include those features normally associated with the recreational activity in question. If it was inappropriate to allow for the design of commercially and athletically attractive Recreational Facilities on the parcel in question, then presumably Bonner County Revised Code would forbid Commercial Recreational Facilities on this parcel. It does not. The very act of the elected representatives of Bonner County choosing to allow for Commercial Recreational Facilities in this zone implies that such facilities should be expected to be designed for the commercial and recreational viability of the particular sport or recreational activity in question. Why would BCRC be written to allow for a particular use, and yet somehow also prevent reasonable design for that allowed use?

Finney appeal letter:

The layout does not minimize adverse effects to adjacent properties. The direction of travel for the basket for Hole No. 4 is directly toward Mr. and Mrs. Hankins' home.

DEPARTMENT RESPONSE:

This department has geo-referenced the scaled site plan submitted with this application into the County's Arc GIS and traced out the plan features to scale. These results were then reviewed in GIS, as well as exported to Google Earth Pro so that these scaled features could also be viewed in relation to the scaled, three-dimensional site topography in the area. These two analyses show that the direction of travel for the basket for Hole No. 4 is not directly toward Mr. and Mrs. Hankins' home.

The starting point of Basket No. 4 is directly north of the Hankins home. However, the direction of travel when playing Basket No. 4 is to the Southwest. The location of Basket No. 4 is to the Northwest of the Hankins home. When travelling downhill, toward Basket No. 4, players actually move away from the Hankins home, playing

along a line to the Southwest. Basket No. 4 is actually directly north of a point located about the halfway down the Hankins driveway.

Finney appeal letter:

The distance of travel from the tee to the basket for Hole No. 5 is directly parallel along Mr. and Mrs. Hankins' home. The layout on the subject property actually maximizes the adverse effects to adjacent properties by having objects (discs) thrown in close proximity to the common property line and directing most of the impact, both noise and visual, to the adjacent neighboring parcels and homes.

DEPARTMENT RESPONSE:

As previously mentioned, the parcel in question allowed for the conditional siting of Commercial Recreational Facilities prior to the Hankins choosing to purchase their home. Commercial Recreational Facilities are designed for the recreational activity that is to be commercially provided. Hills and slopes make for more interesting, diverse and challenging disc golf experiences. The disc golf course has been designed with the use of disc golf in mind. Again, Commercial Recreational Facilities are conditionally allowed on the parcel in question. In choosing to conditionally allow this use, the BOCC, when approving the current version of the Bonner County Revised Code, must have known that Commercial Recreational Facilities would be designed in a manner so as to facilitate the recreational activity in question. Objecting to a disc golf course including slopes in its design is equivalent to objecting if a conventional golf course were to be designed with water traps and rolling hills; in both cases it would be expected that a recreational facility would be designed to include those features normally associated with the recreational activity in question.

Based upon the Hankins choice to purchase within the zone they are in, the Hankins could potentially be exposed to both the noise and visual impacts of commercial tent camping, commercial hunting, commercial snowmobiling, and similar commercial activities, as outlined in BCRC. The Hankins were adequately noticed that such activities could potentially occur adjacent to them prior to their purchase of their property.

Finney appeal letter:

The Commission disregarded the specific facts and circumstances that make the access road inadequate for emergency vehicle access and for commercial use. While Shepard's Lane is a county road, it is not constructed to the present standards. It is an unpaved road with several narrow spots.

DEPARTMENT RESPONSE:

This application was routed for review to North Side Fire Department, the Bonner County Road & Bridge Department, Idaho Department of Lands, the U.S. Forest Service, and the Idaho Department of Transportation on May 9, 2018. All agencies had no comment, save for Bonner County Road & Bridge (BCRB). BCRB stated that the following on May 14, 2018 and on August 13, 2018:

In regards to citizen concerns about the impacts to increased traffic on Shepherds Lane from the proposed disk golf course, it should be noted that if total traffic

counts on the road exceeded 100 vehicles per day per lane, the road would meet the criteria for application of magnesium chloride application (road stabilization/dust abatement) by Bonner County. This application would greatly reduce the amount of dust and preserve the quality of the road.

The Applicant shall file for an commercial encroachment permit from Bonner County Road & Bridge Office. Road & Bridge staff will inspect the existing driveway and notify the Applicant if any improvements are needed in order to bring the existing driveway into compliance with current County standards for a commercial use. All identified work will need to be completed by the Applicant in accordance with the Bonner County Road Standards Manual (BCRSM).

Based on this process, concerns for life, health, safety, emergency access and road quality were specifically and adequately addressed by those agencies tasked with such reviews during this review and approval process.

Staff does recommend the addition of the following condition to the approval, to be numbered **A-7**, with recommended wording as follows:

A-7 Prior to occupancy/use, the landowners/applicants shall provide documentation confirming that all requirements and recommendations of Bonner County Road and Bridge have been fully addressed to the satisfaction of Bonner County Road and Bridge.

Finney appeal letter:

The Commission disregarded required parking, water, and sewer thresholds. The required parking space count is not met. There was no showing as required to demonstrate adequate water supplies and sewage disposal.

DEPARTMENT RESPONSE:

Parking, water and sewer thresholds were specifically and directly addressed in the review and approval process. Condition A-4 in the approval of this use specifically limits the vehicular occupancy of this facility to 30 vehicles at any given time, taking into specific account the amount of available parking on site. Condition A-5 in the approval of this use specifically requires that prior to occupancy/use, the landowners/applicants shall provide documentation confirming an adequate potable water supply and sewage disposal facility. This documentation must be obtained from Panhandle Health District and Colburn Water Association.

Findings of fact and Conclusions of Law

Findings of Fact

1. This project entails an 18 basket disc golf course, on 40 acres.
2. A disc golf course is defined as a recreational facility.
3. A recreation facility is a conditionally permissible use in the agriculture forestry zone -- subject to site-specific conditions and standards.
4. The proposed use will not create particular hazards to adjacent properties.
5. Special conditions have been mitigated via conditions of approval.

6. The site is accessed by Shepherds Lane, a gravel surfaced road, owned and maintained by Bonner County.
7. On site signage and retail shall be limited via conditions of approval.

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

Conclusion 1

The proposed planned unit development **is** in accord with the Bonner County comprehensive plan.

•Property Rights	•Population	•School Facilities, Transportation
•Economic Development	•Land Use	•Natural Resources
•Hazardous Areas	•Public Services	•Transportation
•Recreation	•Special Areas or Sites	•Housing
•Community Design	•Implementation	

Conclusion 2

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

Conclusion 3

This proposal was reviewed for compliance with the following criteria and standards:

- BCRC 12-220 et seq, conditional use permit criteria
- BCRC 12-333, Commercial Uses
- BCRC 12-4.2, General Standards
- BCRC 12-4.3, Parking Standards
- BCRC 12-4.4, Sign Standards

Conclusion 4

This proposal complies with the criteria and standards set forth in Conclusion 3.

Conclusion 5

The proposed use **will not** adversely affect properties in the vicinity.

Conditions of approval:

Required CUP conditions:

A-1 The use shall be in accordance with the approved site plan.

A-2 All county setbacks shall be met.

A-3 Conditional use permit approval shall expire if the permit has not been issued within two (2) years from the date of approval, or if issued, if the use has not commenced within two (2) years from the date of issuance. At any time prior to the expiration date of the conditional use permit, an applicant may make a written request to the planning director for a single extension of the conditional use permit for a period up to two (2) years. The commission at

any regular meeting, or board at any regular meeting, may consider the request for extension. The extension request must be approved or denied prior to the expiration date of the conditional use permit.

- A-4** Vehicular occupancy of the facility shall be limited to 30 vehicles at any given time.
- A-5** Prior to occupancy/use, the landowners/applicants shall provide documentation confirming an adequate potable water supply and sewage disposal facility. This documentation shall be obtained from Panhandle Health District and Colburn Water Association.
- A-6** No commercial uses will be permitted except those related to the sale or rental of equipment associated, or food or beverage sales.
- A-7** Prior to occupancy/use, the landowners/applicants shall provide documentation confirming that all requirements and recommendations of Bonner County Road and Bridge have been fully addressed to the satisfaction of Bonner County Road and Bridge.
- A-8** Hours of operation are 6:00 a.m. to 9:00 p.m.

VARIANCES

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File V502-18 – Variance Front & Rear Yard Setback – Troy Krumenacker is requesting a 9-foot front yard setback, and a 5-foot rear yard setback, where 25-feet is required for the reconstruction of a single family dwelling. The property is approximately 0.19 acres in size. The property is located off of Lakeshore Drive, in Section 3, Township 56 North, Range 2 West, B.M. The Planning & Zoning Commission approved of this at the public hearing on September 6, 2018. An appeal was received by the Planning department requesting this file be forwarded to the Board of County Commissioners for consideration.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Director Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Mr. Krumenacker stated he has been a builder in the area for... years. He is hoping to build a house on this lot maybe for his brother.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record in opposition of the project:

Toby McLaughlin
Mike Hathaway
Dan Stagland

APPLICANT REBUTTAL: Mr. Krumenacker stated the size of the house seemed efficient for the lot. The dwelling on the lots past my lot are all larger than 300 sq. feet.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

MOTION: Commissioner McDonald moved to approve this project FILE V502-18, which allows for a 12-foot front yard setback and a 5-foot rear yard setback where 25-feet is required. I find that it **is** in accord with the Bonner County Revised Code as enumerated in the following conclusions of law. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner McDonald further moved to adopt the following findings of fact and conclusions of law as written. 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. Commissioner Connolly seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Background:

A. Site data: The subject parcel is vacant.

B. Access: Access is provided by Waterview Lane, an ingress-egress easement, developed with a gravel surfaced travelway of varying widths.

C. Environmental factors:

Floodplain: X, AE map designation (project not within special flood hazard area, but said area is on site)

The site does not contain mapped wetlands. Source: USFWS NWI

The site does not contain slope 15% and greater. Source: USGS

D. Property Services: Water and sewer services are provided by Southside Water and Sewer District. The site lies within the Selkirk Fire District, and the Lake Pend Oreille School District (#84). Power is provided by Northern Lights.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Zoning	Current Land Use & Density
Site	SUB	0.19 acre parcel, Vacant, Urban
North	SUB	5.65 acre parcel, SFD, Urban
East	SUB	5.65 acre parcel, SFD, Urban
South	SUB	0.21 acre parcel, SFD, Urban
West	SUB	Lake Pend Oreille

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:"

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

Applicant:

"The lot is so small that it does not allow room to build a modest home. In addition, the western portion of the lot is floodplain - and the same setbacks apply.."

Staff: Lot size minimum in the Suburban Zone where all urban services are available is 10,000 square feet. The subject parcel is approximately 8276.4 square feet and was described first in August, 1984 (per Assessor's records). This is below the minimum and thus staff concur that the parcel is excessively small. As single family dwellings are a permitted use in the Suburban Zone, and the subject parcel is a non-conforming lot of record, staff concur that the lot size is a condition over which the applicant does not have control.

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

Applicant:

"The proposed cabin (748 sq ft [revised]) replaces a cabin that was demolished approximately 16 years ago. I simply purchased the lot, and did not created the problem."

Staff: Staff agrees that the applicants did not create the special condition as the applicant did not create the lot.

- 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. (Ord. 559, 1-4-2017)**

Applicant:

"Approval of the variance would allow a build in similar size and appearance of the existing cabins located on the adjacent lots."

Staff: Conflict of public interest is mitigated through the planning department's agency review process and by public notification. During the agency review period County, State and Federal regulatory agencies were notified of the project and were permitted to comment. As noted in section **I.** below, there were agencies that responded to this request for application review. As their comments and concerns are addressed in the conditions of approval, staff feel that this standard is met.

G. Stormwater plan

BCRC 12-720.2 identifies the need for the applicant to provide a stormwater plan. The applicant submitted a stormwater plan that was satisfactory to planning department. Said plan identifies the effects that the proposed dwelling will have on the surrounding area in regards to stormwater runoff.

H. Land capability report

BCRC 12-222(J) identifies the need for the applicant to provide a land capability report. The provided land capability report is satisfactory for the proposed development and is consistent with the standards set forth in BCRC 12-222(J).

I. Parking

BCRC 12-432, identifies the minimum off street parking requirements.

Required: residential, single-family requires a minimum of 2 spaces per dwelling unit on the same lot as the dwelling unit. Parking spaces shall be no less than two hundred(200) square feet in area. A minimum of 400 square feet for parking shall be provided on the subject parcel.

Provided: Applicant provided a 34x12 area for parking. This area totals 408 square feet and large enough to serve two vehicles.

J. Agency review

The application was routed to the follow agencies for comment on May 31, 2018:

Panhandle Health District
Bonner County Road Dept.
Selkirk Fire District
Northern Lights Utility Company
School District #84
Dept. of Fish and Game
Dept. of Env. Quality
Dept. of Lands (Sandpoint)
Dept. of Lands, Nav. Waters
Dept. of Water Resources
Army Corps (Newport)
Natural Resource Conservation Service
Fish and Wildlife Service
Southside Water & Sewer

Comments:

6/05/18

"Project not within SFHA. FDP not required."

-Bonner County Floodplain

7/10/18

"Road & Bridge has no comments. The property is on Waterview Lane, which is a private road."

-Bonner County Road & Bridge

The following agencies replied with "NO COMMENT":

Idaho Department of Lands
Southside Water & Sewer
Panhandle Health District

All other agencies provided no response.

Public Notice & Comments (Summarized)

The following comments were received during the public noticing and comment period. The original comments and letters are available to view by the governing body and general public as part of this project file record and review process.

Dave Harman, email dated July 19, 2018

"...I am opposed to Variance Application as applied for. The variance request is too extreme for the size of the lot..."

Tim & Vicki Cahill, email dated July 20, 2018

"...We have concerns with the proposed setback variances, and home construction application...We are opposed to the setback variance filed..."

Patti and Eric Brakken, email dated July 24, 2018

Easement use,

Mike Hathaway, email dated July 24, 2018

"...I have concerns with this project..."

Meghan and David Yeats, email dated July 26, 2018

"...Concerns for the increased density and possible overuse of this quiet family recreational community.

Stanley Birnbaum, Berg, McLaughlin & Nelson, representing Dan Staglund, email dated July 26, 2018

"Economic infeasibility does not satisfy the requirements of subsections A & B of Code Section 12-234..."

Specific Public Concerns:

The following comments are based on an in depth analysis of comments submitted by landowners that neighbor the subject parcel. Most of their concerns were recurring themes and were addressed individually based on subject matter.

"...The structure that was historically located on that property was 320 sq ft and was demolished in 2002..."

Staff: The subject parcel is a lot of record and is permitted one (1) single family residence. Moreover, BCRC does not specify the specifications in which a dwelling can be built in regards to dimensions.

"...The subject parcel is located on a recreational easement..."

Staff: While that may be the case, the legal description of the subject parcel (T-108) meets the definition of a non-conforming lot of record (BCRC 12-342) and is afforded all uses set forth in BCRC. Easements for the purposes of recreation are viewed by Bonner County Planning Dept. as civil agreements between landowners.

"...We are concerned with the proposed setback from Waterview Lane..."

Staff: Project was routed to Selkirk Fire & EMS and no response was provided. This indicates that the proposal does not pose an issue in regards to Fire and EMS services.

"...We are concerned with the proposed setback from the road as well as road usage..."

Staff: Other properties in the same zone and vicinity are currently developed with a similar setback from Waterview Lane. Historical photos show that the structure that always existed on the subject parcel had a similar setback. This indicates that the proposed setback should not alter ingress or egress.

The potential for an increase in the use of Waterview Lane for access to the subject site is not significant as Bonner County Trip Generation Statistics indicate the potential for 0.77 vehicle trips per hour during AM hours and 1.02 vehicle trips per hour during PM hours. This observed increase would not warrant the need for a access method beyond a low-volume private road.

"...We are concerned with the setbacks from existing structures..."

Staff: Proposed setbacks from existing structures are similar to what is intended in the Suburban Zone. Typical side yard setbacks in this zone are 5-feet.

"...We are concerned with the lack of parking and snow storage on the subject property..."

Staff: Parking requirements for a single family dwelling are a minimum of 2 spaces no less than 200 sq ft in size.

The proposed variance would allow for 408 sq ft of off street parking. This standard is met based on the site plan. Snow storage is addressed through the large amounts

of open space between the proposed structure and the water. It will be stored in a manner similar to other neighboring lots and parcels in the same zone and vicinity.

Appeal Notice and Comments

Appeal filed October 9, 2018 by Toby McLaughlin, Berg, McLaughlin & Nelson on behalf of Dan Staglund.

Front Yard Definition and Setback

BCRC 12-825 Front YARD, FRONT: A yard extending across the full width of the lot along a street. Where the lot fronts on two (2) intersecting streets, the yard fronting on the street providing primary vehicular access to the principal use shall be deemed the front yard. A lot fronting on two (2) nonintersecting streets shall be deemed to have two (2) front yards. The front yard of a lot or parcel that has no street frontage shall be determined by the planning director or designee at the time of permitting, based upon access to the property.

BCRC 12-819 Street: The term "street" shall not mean a private easement or travelway that provides access to two (2) or fewer single-family residential lots or parcels beyond the subject lot or parcel.

In the map below, where Waterview Lane first touches the Krumenacker parcel is considered by the Planning Department to be the front yard. The definition above states "The yard fronting on the street providing primary vehicular access to the principle use shall be deemed the front yard." By the definition of a street, the street ends at the beginning of the Krumenacker parcel. This is due to the fact that beyond the Krumenacker parcel, this easement provides legal access to only two (2) properties. It may cross three (3) parcels, however, only provides access to two (2) properties, therefore the front yard is at the beginning of the Krumenacker parcel.

Per the addressing, there are only 2 properties accessed beyond the Krumenacker parcel. The addresses are listed:

Staglund	26 Waterview Lane
Staglund Trust	102 Waterview Lane
Krumenacker	Not Addressed Waterview Lane
Brakken Trust	120 Waterview Lane
Harman Trust	130 Waterview Lane

Based on this analysis, the front yard to the parcel is where the easement first intersects with the property identifying the southern lot line of the lot as the front yard and the northern lot line as the rear yard. This means that the east and west lot lines are side yards.

According to BCRC 12-412, there is no side yard setback requirement for an easement of any type. Based on the front yard analysis provided above, there is no setback requirement from the easement as it passes through the parcel.

Legality of Lot or Parcel

Staff determined the parcel was first described in the Assessor's Office on August 29, 1984. This parcel is a legal nonconforming lot of record (BCRC 12-342) and is allowed all permitted uses in the Suburban zone as of November 18, 2008.

Correct Location of Waterview Lane easement.

The Planning Commission originally heard this variance request on August 2, 2018. The Planning Commission continued the item to September 6, 2018 and requested the applicant provide a drawing showing the easements on the property. The applicant produced the map shown above meeting the request of the commission.

Codes, Covenants and Restrictions

According to the appellant, the deed contained language "substantially similar" to the language provided. The County does not enforce deed restrictions. These are between property owners and the County does not make its decisions on "substantially similar" language.

Conclusions of Law:

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

This proposal was reviewed for compliance with the criteria and standards set forth at 12-233 and 12-234, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

Conclusion 1

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

Conclusion 2

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

Conclusion 3

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

Findings of Fact

1. The proposed structure is 748 sq ft in size.
2. Neighboring properties are similarly developed in nonconforming setbacks.
3. Neighboring properties feature similar sub-zone lot size dimensions.

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4. The proposed structure will allow 2 off-street parking spaces on the subject lot.
5. The proposed structure will allow for on-site snow storage.
6. The proposed structure has been developed with stormwater management.
7. The subject parcel is capable of being developed in a manner consistent with the proposed site plan.
8. The proposed structure will not deny access to any lot, parcel or residence.
9. BCRC 12-825 defines the front yard setback as the main vehicular access to the property and at the determination of the Director.
10. BCRC 12-819 defines a street as NOT providing access to two or fewer properties.
11. Access to the Staglund property is provided before the Krumenacker property as the address is 26 Waterview Lane.
12. Counties do not enforce deed restrictions between property owners.
13. The parcel was first assessed by the Assessor's Office August 29, 1984.

Conditions of approval:

Standard permit conditions:

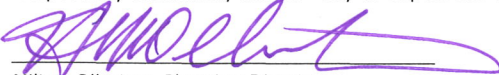
- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

Site-specific permit conditions:

- B-1** Prior to construction, the applicant shall obtain a Building Location Permit in addition to a Stormwater/Erosion Control Permit from Bonner County Planning Department.

The Chair declared the hearing adjourned at 4:36 p.m.

Respectfully submitted, this 16th day of September 2019,


Milton Ollerton, Planning Director