

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
THURSDAY, JUNE 20, 2019**

**CALL TO ORDER:** Chair Connolly called the Bonner County Commissioners' hearing to order at 10:00 a.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

**PRESENT:** Commissioners Chair Jeff Connolly; Vice Chair Dan McDonald; and Steve Bradshaw

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Planner Ii Sam Ross; and Administrative Manager Jeannie Welter

**PUBLIC HEARING:**

**CONDITIONAL USE PERMIT:**

**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 CUP0002-19 – Grandview - PUD – Grandview Estates LLC** has requested a "large-scale residential" Planned Unit Development (PUD) consisting of 11 duplexes (22 units), private docks, and marina facility. The project parcel is approximately four (4) acres and is located off of Reeder Bay Road in Section 17, Township 61 North, Range 04 West, B.M. The Planning & Zoning Commission at the public hearing on May 16, 2019 recommended approval of this project 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:** Planner II Sam Ross presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Project Engineer Debbie Van Dyk, with Clearwater Engineering stated they are working with Department of Environmental Quality with regards to water issues. She spoke about the setbacks in relation to the placement of the structures. Architect Tim Boden stated they have designed the project to maximize open space. Ken Haggman stated he was tasked with designing the marina. He explained they designed it to minimize erosion and wave/wake disturbance.

**PUBLIC/AGENCY TESTIMONY:** Don Howel spoke on the record concerning the fence and property line.

**APPLICANT REBUTTAL:** Debbie Van Dyk stated she is not sure where the fence will go as she is in the process of designing the stormwater drainage.

After some further conversation regarding the fence it was decided the fence is not a significant issue as it relates to the overall project.

**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 CUP0002-19, a large scale residential Planned Unit Development consisting of 11 Duplexes (22 units), private docks, and a marina facility 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 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 conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

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

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**Background:**

**A. Site data:**

- a. Parcel Area: ±4.0 acres
- b. Zone: Recreation
- c. Use: Vacant
- d. Historic Uses: Commercial Resort (C618-97)

**B. Access:**

- a. Reeder Bay Road
  - i. Owner: Bonner County Road & Bridge
  - ii. Road Class: Local
  - iii. Surface Type: Paved

**C. Environmental factors:**

- a. Floodplain: D, AE
  - i. Per FEMA
- b. Vegetation: Few mature trees amongst gravelly, sandy soil
  - i. Aerial and narrative
- c. Wetlands: Priest Lake
  - i. Lake per USFWS NWI
- d. Slopes: Property slopes towards the lake at an average slope of 5%
  - i. <15% per USGS

**D. Services:**

- a. Water: Proposed water system developed and retained by the owner or dedicated to HOA.
- b. Sewer: Granite Reeder Water and Sewer
- c. Fire: West Priest Lake Fire Department
- d. Power: Northern Lights
- e. School: Bonner School District #83

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	REC	Recreation; vacant
North	Resort Community	REC	Rec/Residential; 0.1 ac – 5 ac
East	Resort Community	REC	Rec land w/ residential improvements
South	Lake	Lake	Priest Lake
West	Remote Ag/Forest	F-40	Nat. Forest

**F. Standards review**

Standard	Required	Provided
BCRC 12-251(E)	Type of PUD	Large Scale Residential
BCRC 12-252(A)	Uses Permitted in REC zone.	Duplexes are permissible in the REC zone.
BCRC 12-253.1(A)	Report consistent w/ BCRC 12-223	A narrative statement was provided.
BCRC 12-253.1(B)	Environmental Analysis	An analysis was provided.
BCRC 12-253.1(C)	Reserved	N/A
BCRC 12-253.1(D)	Preliminary plan	A preliminary/conceptual land use plan was provided. No phasing is proposed.
BCRC 12-253.1(E)	Trip generation and distribution letter	A trip generation and distribution letter was provided.
BCRC 12-253.2	Pre-application meeting	The applicant and rep both met with Staff on several occasions prior to submitting the application.
BCRC 12-254	A conditional use permit may be granted for a conceptual land use plan for a "large scale" PUD	The project conforms to the general provisions of a large scale PUD. Phasing is not proposed as the development would be completed within 2 years. No subdivision of the project site is proposed.
BCRC 12-255	A PUD shall be the same as a CUP	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 in accord with the general and specific objectives of the comprehensive plan and Title 12 and the

Standard	Required	Provided
		proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.
BCRC 12-256(A)	10% Common Open Space	56% is reserved for common open space. Space calculated as not to include streets, easements and home sites
BCRC 12-256(B)	HOA/Corporate Ownership	The PUD will have an HOA responsible for common area and facilities.
BCRC 12-256(C)	CC&R's	CC&R's required
BCRC 12-256(D)	Development Density	For 4 acres, 11.6 duplexes (174,240 sf /15,000 sf) are allowed. Eleven (11) are being proposed.
BCRC 12-256(G)	Design Standards	See applicant's analysis below.
BCRC 12-256(H)	Buffering/Clustering	No subdivision of land is proposed. No lots need clustered.
BCRC 12-257	Standards of Review (PUD's)	See findings of fact and conclusions of law.
BCRC 12-332	The required acreage for a duplex shall be 15,000 square feet where all urban services are provided	For 4 acres, 11.6 duplexes (174,240 sf /15,000 sf) are allowed. Eleven (11) are being proposed.
BCRC 12-335	Docks and marinas, community, upland accommodations (5)(6)(7) Sufficient land area is required... Special conditions may be prescribed differently... A traffic plan is required	The narrative statement submitted by the applicant address how the land will accommodate the proposed use. Special conditions are mitigated via conditions of approval and conditions of issuance. The applicants submitted a traffic plan with the submitted materials that conforms to these requirements.
BCRC 12-412	Minimum setbacks: Front: 25-feet Rear: 25-feet Side: 5-feet	See applicant's analysis below. The Unit B duplex furthest west, Units B1/B2, has its roofline shown at just over 1' from the property line. The adjacent Unit B duplex, Units B3/B4, has its roofline at 21.5' from the property line. See 'Sheet 2' of the submitted site plan.
BCRC 12-4.3	2 spaces/dwelling unit	2+ spaces/dwelling unit
BCRC 12-711	40-foot setback form ordinary high water mark. Exception: Walkway/ramp < 4' in width.	Dock access ramp = 10' in width. 10' shoreline pathway consisting of pervious pavers is proposed. See revised site plan.
BCRC 12-712	Fences or walls, excluding seawalls, taller than thirty six inches (36"), shall not be located closer than forty feet (40') from the shoreline.	Two structures, Units A1 and A2, will extend into the setback 2' each with an approximate 30" wall. A seawall, 18" above OHW is proposed. A retaining wall approx. 30" in height is proposed.

Standard	Required	Provided
BCRC 12-713	Maximum shoreland "impervious surface: 35%	Land within 200' of OHW = 113,180 sf 35% x 113,180 = 39,613 sf (allowable impervious area) Proposed Impervious within the shoreline setback = 49,064 sf (43%) Previous Impervious within the shoreline setback = 55,167 sf (49%) See 'Sheet 2' of the submitted site plan.
BCRC 12-714	Vegetation buffer management areas include all lands within forty feet (40') from shorelines.	Exceptions may be made for areas that contain no cultivatable soil, such as pebble beach areas or rock outcroppings. Shoreline property owners are encouraged to plant native vegetation where none exists, in areas that contain cultivatable soils.
BCRC 12-7.2	Stormwater, Grading, ERC plan.	Per BCRC 12-724.4, an optional preliminary grading/stormwater management and erosion control plan was submitted in lieu of the plans required at section 12-724.1 through 12-724.3.

• **BCRC 12-256(G)**

- Design Standards: Minimum development standards set forth in this title may be increased or decreased sufficient to accomplish design objectives in the utilization of natural or created amenities (i.e., topographic features, seasonal recreational uses, etc.), provided the development meets the intent of the standards. PUD subdivisions shall comply with the conservation subdivision provisions of section 12-633 of this title. (Ord. 512, 1-6-2010)
- Applicant:
  - BCRC 12-711 requires a shoreline setback of 40' for all structures. Two structures, Units A1 and A2, will extend into the setback 2' each with an approximate 30" wall. Due to topography, setbacks and utility easements, this area of the site is the most restrictive for development.
  - BCRC 12-711, also, allows for placement of walkways less than 4' in width within this setback. The project is proposing a 10' [access ramp] within this setback to accommodate the needs of the lot owners as they access the marina and beach. The central [access path] is outside of this setback.
  - [In the revised site plan], a seawall was added with a 10' path and 36" adjacent wall. Further review of the shoreline by the dock designer/builder, showed that reversing the marina entrance provided less wave action in this area. This in turn required

extending the access ramp to be parallel with the shoreline to provide access to the docks.

- BCRC 12-256 G allows for decreased design standards for PUDs if the intent of the standards is met. While the parallel path follows the shoreline, it will be constructed of pervious pavers. This will allow a firm surface without increasing the impervious area of the site. With the seawall acting as the protective boundary, the pathway is not designed as an obstruction.

• **BCRC 12-713**

- Maximum impervious surface within the 200' from the shoreline (OHW) = 35%.
- Land within 200' of OHW = 113,180 sf
- 35% x 113,180 = 39,613 sf (allowable impervious area)
- Proposed Impervious within the shoreline setback = 49,064 sf (43%)
- Previous Impervious within the shoreline setback = 55,167 sf (49%)

- The lot formation, together with the existing sewer main location/easement, leaves a minimal area to build within and not exceed the allowable 35%. As shown on the Previous Site Plan Map, portions of 2 condominiums and 6,133 sf of the lodge were within the 40' setback. This project is proposing the higher percentage of 43% be allowed.
- BCRC 12-412: States those density standards in the REC zone have a minimum lot size of 12,000 sf where all urban services are available.
- BCRC 12-332 (Residential Use Table 3-2, note 2) shows that an additional 3,000 sf can be added to the minimum for duplexes for a total of 15,000 sf. For 4 acres, 11.6 duplexes (174,240 sf/15,000sf) are allowed. Eleven (11) are being proposed.

• **BCRC 12-412: Density and Dimensional Standards; Recreation**

- Minimum front yard setback: 25-feet
- Minimum rear yard setback: 25-feet
- Minimum side yard setback: 5-feet

○ Applicant

- BCRC 12-412, also, provides dimensional standards within the REC district. Those standards are a minimum of a 25' front yard setback from the R.O.W. and a 5' side yard setback. Note #9, Table 4-2, states that "Front yard setbacks may be reduced where approved and indicated on the final plat of a conservation subdivision or PUD." BCRC 12-636 C refers to reductions in setbacks: "Front, side and/or rear yard setbacks may be reduced to accomplish design objectives for the development, provided other applicable standards in this title are met." The Unit B duplex furthest west, Units B1/B2, has its roofline shown at just over 1' from the property line. The adjacent Unit B duplex, Units B3/B4, has its roofline at 21.5' from the property line. All other units are

within the setbacks. The existing sewer main and its relative easement, limit building outside the easement and outside the 25' setback in the northern portion of this parcel. Side yard setbacks are twice the minimum at 10' wide.

- The approximately 24' wide Reeder Bay Road is located roughly at the center of the 100' R.O.W. The roadway has about a 10' wide shoulder sloping downhill at a 10% grade. The remaining 28' of R.O.W. slopes downward in the range of 26 – 46% with a general catch point about 10' from the property line. This area is heavily treed providing a great buffer. Previously, 3 cabins, a mobile home, a storage shop and maintenance shop all were within the 25' setback. The requested reduced setback greatly diminishes the number and amount of structures within this setback. The configuration of Reeder Bay Road within the 100' R.O.W. allows for flexibility of locating adjacent structures.
- This section of BCRC requires maximum lot coverage of 35%. The percentage of area to be occupied by covered structures is 26%. (45,055 sf/ (43,560 X4))

**G. Comprehensive Plan Land Use Designation:** The property is designated Resort Community. The comprehensive plan designation of Resort Community provides for urban-like densities for areas centered around the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

**H. Agency Review:** The application was routed to agencies for comment on April 18, 2019. The following agencies commented:

Idaho Department of Lands – April 22, 2019: "...IDL will not permit a swim buoy line or a private swim area for this project. The applicant has been told this, and as such, they updated their plans. The most recent updated encroachment plans that I have been given, show a 22 slip dock, two separate 2 boat slip "T" docks, and a swim dock. No swim buoy lines were mentioned..."

**I. Public Notice & Comments:** The following comments were received by the public:

- a. Maija M. Druffel – May 1, 2019: See file for written statement.

**J. Planning & Zoning Commission:**

- a. A public hearing was held on May 16, 2019
- b. Recommendation to the Board of County Commissioners: Approve

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## Findings of Fact

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1. Planned unit developments (PUD's) are permitted in all districts.

2. Duplexes are permitted in the Recreation zone.
3. The proposal involves the reservation common area totaling 56% where 10% is required.
4. No phasing of the development is required. The development can substantially be completed within 2 years from date of approval.
5. The streets and thoroughfares proposed are suitable and adequate to gather anticipated traffic and will not generate traffic in amounts that will overload the street network outside the planned unit development. Connections to public transportation systems were considered.
6. The development will include homeowners' association and/or corporate ownership in addition to covenants, conditions and restrictions sufficient to enforce development requirements and responsibilities of the homeowners' association and/or corporate ownership.
7. An access ramp, 10-feet in width, will extend into the 40-foot waterfront setback to provide access to the proposed dock.
8. A pathway, 10-feet in width, that parallels the shoreline and consists of pervious pavers, is necessary to accomplish design objectives in the utilization of natural or created amenities (i.e., topographic features, seasonal recreational uses, etc.). The development meets the intent of the standards.
9. The proposed retaining walls are necessary to accomplish design objectives in the utilization of natural or created amenities (i.e., topographic features, seasonal recreational uses, etc.). The development meets the intent of the standards.
10. 49% "impervious surface", as defined, has existed as a result of historical uses.
11. Units B1/B2 as shown on the site plan shall have a roofline no closer than 1' from the property line. The adjacent units, B3/B4, shall have a roofline no closer than 21.5' from the property line.
12. The existing sewer main and its relative easement, limit building outside the easement and outside the 25' setback in the northern portion of this parcel.
13. Previously, 3 cabins, a mobile home, a storage shop and maintenance shop all were within the 25' setback.

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## Conclusions of Law:

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**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. (See comprehensive plan for complete list of goals, objectives and policies)

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|-----------------------|-------------------------|------------------------------------|
| •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

This proposal was reviewed for compliance with the criteria and standards set forth in Title 12, Chapters 2, 4, and 7, Bonner County Revised Code.

#### Conclusion 3

Agency input given during the allotted review period indicates the proposal **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

#### Conclusion 4

The development **will** be a residential environment of sustained desirability and stability and **will** be in harmony with the character of the surrounding neighborhood and community.

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### **Conditions of approval:**

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

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- 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** 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-4** At the time of Building Location Permit, the applicant shall concurrently submit a grading/stormwater management plan that complies with the standards set forth in BCRC 12-7.2, et seq.

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-5** The applicant shall obtain approved building location permits from the Bonner County Planning Department prior to the construction of any structure on the subject site.
- A-6** The total shore-land impervious surface as defined in section 12-809, BCRC, shall not exceed 43%.
- A-7** Units B1/B2 as shown on the site plan shall have a roofline no closer than 1' from the property line. The adjacent units, B3/B4, shall have a roofline no closer than 21.5' from the property line.
- A-8** The access ramp and shoreline pathway shall not exceed 10-feet in width.
- A-9** The proposed water supply and distribution system shall be publicly or privately maintained pursuant to BCRC 12-821; "urban services".
- A-10** Any development within the Special Flood Hazard area shall comply with Bonner County Flood Plain Regulations and FEMA regulations.
- A-11** Except as otherwise provided in this title, no structure subject to the provisions of this title shall be erected, constructed, reconstructed, set, placed, installed, enlarged, extended, moved or converted on the project site without first procuring a building location permit from the Bonner County planning department prior to the start of construction.

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#### **Conditions to be met prior to issuance of the permit:**

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- B-1** The applicant shall provide, to the Planning Department, documentation confirming the formation and establishment of homeowners' association and/or corporate ownership, which shall be responsible for the development, use and permanent maintenance of all common activities and facilities.
- B-2** The applicant shall provide, to the Planning Department, articles of incorporation for the homeowners' association or corporate entity governing the PUD. Said articles shall be recorded with the final development plans. The covenants, conditions and restrictions (CC&R's) shall be sufficient to enforce development requirements and responsibilities of the homeowners' association and/or ownership. Said CC&R's shall include language effectively restricting

on-street parking, recreation vehicle parking, and boat and/or boat trailer parking/storage.

The Chair declared the hearing adjourned at 11:00 p.m.

Respectfully submitted, this 24<sup>th</sup> day of June, 2019,



Milton Ollerton, Planning Director