

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
JANUARY 13, 2021**

CALL TO ORDER: Chair Bradshaw called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

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

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planner II Halee Sabourin; Planner II Tessa Vogel; Administrative Manager Jeannie Welter; and Administrative Assistant III Elizabeth Jensen

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 CUP0006-20 – Conditional Use Permit – The Idaho North Lake PUD-Valliant Idaho, LLC is requesting a conditional use permit for a large-scale, mixed use, planned unit development (PUD) for five (5) residential lots, one (1) utility lot, one (1) recreational lot, one (1) open space lot of 2.89 acres, one (1) access lot, and one (1) submerged lot. This large-scale, mixed use, PUD is proposed to consist of commercial, residential, and recreational uses. The property is zoned Recreation. The project is located off N. Park Rd. and Highway 200 in Section 16/17, Township 57 North, Range 1 East, Boise-Meridian. The Planning & Zoning Commission at the public hearing on December 17, 2020, 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: Planner II Tessa Vogel presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Martin Taylor, James A. Sewell & Associates, Project Representative stated this project was formally approved in 2007 for a PUD.

He gave a brief summary of how the project meets code. Mr. Taylor addressed some agency comments. Since the Planning and Zoning meeting several concerns were addressed including increased parking and adding a 10,000 gallon tank for the fire department to draw from. The addition of parking spaces were added to the site plan after the Planning and Zoning meeting. Mr. Taylor noted that condition A-4 should state 4 years.

PUBLIC/AGENCY TESTIMONY:

The following individuals spoke on the record:

Chris Popov
Reg Crawford
Steve Holt
Whitney Palmer
Fire Chief Stuart Eigler
Jay Markharian

APPLICANT REBUTTAL: Martin Taylor, James A. Sewell & Associates, Project Representative responded to public comments.

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

MOTION TO APPROVE: Commissioner Connolly moved to approve this project FILE CUP0006-20, a conditional use permit for a large-scale mixed use planned unit development, 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 Connolly further moved to adopt the following findings of fact and conclusions of law as findings of fact as written and amended for Finding of fact 28, amended to provide 51 parking spaces were 54 is required and Condition A-4, amended from 2 years to 4 years. 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:

- Mixed Use
- Platted and Unplatted
- Size: 24.4 gross acre/8.94 net acres
- Zone: Recreation
- Land Use: Resort Community and Rural Residential

B. Access:

- **North Park Road**
 - i. Road Class: Local
 - ii. County Maintained: No
 - iii. Privately Owned
- **State Highway 200**
 - i. Road Class: Highway
 - ii. County Maintained: No
 - iii. Idaho Transportation Department Owned

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain a river/stream/frontage on lake
- Per Bonner County CFM and Planner Jason Johnson: *RP57N01E166160A – This parcel is within SFHA Zone X and Zone AE, per FIRM panel 16017C0775E, effective date 11/18/2009. The vast majority of this parcel is within SFHA Zone AE. RP03174000020A – This parcel is within SFHA Zone AE, per FIRM panel 160170775E, effective date 11/18/2009. RP03174000010A – This parcel is within SFHA Zone AE, per FIRM panel 1617C0775E, effective date 11/18/2009.*

D. Services:

- Water: Proposed public water system
- Sewage: Proposed community leach field
- Fire: Sam Owen Fire District
- Power: Avista Utilities

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community & Rural Residential	Recreation	Vacant
North	Resort Community	Rural-5 & Rural-10	US Army Corps of Engineers land and rural residence (RP57N01E165741A)
East	Resort Community & Rural Residential	Rural-5	US Army Corps of Engineers Trestle Creek Recreation Area
South	Resort Community & Rural Residential	Rural-5, Recreation & Rural Service Center	Railroad and Highway 200 right-of-ways
West	Lake Pend Oreille		

F. Standards review

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the

proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property

The following sections of BCRC have been met by the applicant with no variations.

- **BCRC 12-2.2, et seq.: Conditional Use Permits**
 - o A conditional use permit is required for a planned until development and preliminary plat.
- **BCRC 12-251(C): Planned Unit Development Classification and Minimums; A "large scale mixed use" PUD consisting of commercial, industrial, residential or recreational uses and having a minimum gross land area of twenty (20) acres.**
 - o The proposed PUD has a total of 24.4 gross acres and will include commercial, residential, and recreational uses.
- **BCRC 12-252(B): Uses Permitted within Planned Unit Developments; Limited commercial and related recreational activities and facilities which are designed primarily to accommodate the needs of residents within a "mixed use" PUD described in section 12-251 of this subchapter may be permitted in any district, except for Industrial. Commercial recreation areas, such as ski resorts, golf courses or marinas, where permitted or conditionally permitted in applicable districts, may include related commercial uses to accommodate the general public as well as residents within the PUD when included and approved as part of the PUD development plan.**
 - o The site is zoned Recreation and the zone's allowed commercial (boat storage and repair services), recreational (community dock and pavilion), and residential (single family residences) uses proposed are all included within the PUD.
- **BCRC 12-256(A-E): Design Standards for Planned Unit Developments**
 - o **A. Common Open Space – 10% of total gross acreage required**
 - 11.84% provided and exclusive of all road and utilities that would otherwise detract therefrom, and consists of critical White-tailed deer habitat and riparian habitat.
 - o **B. Owner's Association – A homeowner's association and/or corporation ownership required**
 - A homeowners' association will be formed.
 - o **C. Covenants, Article of Incorporation – Recorded with the final plat of any PUD subdivision or final development plans required.**
 - The homeowners' association to be formed to enforce private road system maintenance, stormwater management and erosion control, water and sewer systems, and open space/common area management.
 - o **D. Development Density – The unit density of a PUD containing residential uses shall not exceed the density of the zone district in which it is located, except for density bonuses.**

• **BCRC 12-432: Minimum Off Street Parking Requirements**

Residential Uses – Residential, single-family	
Required	Proposed
2 spaces/dwelling unit On the same lot as the dwelling unit	The 25' front yard setback will be met, leaving room for 2 spaces/lot which will have 1 dwelling unit each.
Public Uses – Assembly buildings (pavilion)	
Required	Proposed
1 space/100 gross square feet of floor area Within 500' of the principle use	Variation (see below) - 51 spaces are provided, with about 7 of those spaces being further than 500' from the pavilion.
Public Uses – Community docks and marinas	
Required	Proposed
0.5 space/boat slip 25% of parking spaces shall be arranged as tandem spaces not less than 10' be 40'	Variation (see below) - Users of the dock facilities own property at The Idaho Club and will access the facility primarily by boat. Therefore, upland parking is unnecessary for dock users.

- **BCRC 12-621: Lot Design;** All proposed lots which are three hundred feet (300') or less in width shall maintain a depth to width ratio of not greater than three to one (3:1); and lots which are more than three hundred feet (300') in width shall maintain a depth to width ratio of not greater than four to one (4:1). All proposed lots one hundred feet (100') or less in width shall be designed so that the angle of intersection of the side lot lines with the fronting road is between eighty five (85) and ninety five degrees (95°), for a distance of not less than fifty feet (50') from the point of intersection. Submerged lands are exempt from the requirements herein.
 - The submerged, recreational, access, utility, and residential lots all had depth to width ratios of less than 4:1, well within the standard requirement.
 - The angle of intersections proposed fall between ±95° to ±113° but the lots will maintain angles of intersection adequate to accommodate 90° driveway entrances off of the proposed access road.
- **BCRC 12-622: Submerged Lands;** Lands below the applicable natural or ordinary water mark, or the applicable artificial high water mark, of any lake, river, stream, channel or other body of public water shall not be counted in the calculations for determining the maximum density for a subdivision.
 - The submerged lands have not been included in the calculations for determining the maximum density for the proposed subdivision.
- **BCRC 12-623(C): Services and Utilities;** Sewage disposal method for all building sites, as approved by the Panhandle health district and/or the state of Idaho, may be provided.
 - A community leach field is proposed.

- **BCRC 12-623(D): Services and Utilities;** All proposed lots shall be designed by the applicant to provide a fire protection plan for the proposed lots to provide, at a minimum, an assessment of fire risk and plans to reduce the risk, and provisions for defensible space, where material capable of allowing a fire to spread unchecked will be treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur, and for at least one of the following from this section.
 - The subdivision will be developed with a 10,000 gallon water storage tank accessed with a dry hydrant per BCRC 12-623(D)(4).
 - The final plat will also contain the following defensible space note: "In areas adjacent to structures, fuel modification provisions apply for the purpose of establishing and maintaining defensible space. Based on the moderate urban-wildlife interface area rating on the subject property, a fuel modification distance of not less than 30 feet will be maintained. Lot owners will be responsible for modifying or removing non-fire resistive vegetation on each lot. Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Dead wood and litter shall be removed annually from trees. Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native plant growth to any structure (International Urban-Wildland Interface Code, Section 603)."
- **BCRC12-624(C): Roads and Access;** Legal access shall be provided to each proposed lot, which shall be developed for ingress and egress, providing for ready access meeting the standards in subsection B of this section.
 - All proposed lots have ingress and egress access provided.
 - See variation proposed for subsection B of this section below.
- **BCRC 12-626(A): Environmental Features;** The subdivision shall be designed around identified natural hazards (highly erosive soils on steep slopes, landslide areas, rock falls, areas of subsidence, floodplains) to protect building sites and roads from damage from such hazards.
 - Per the application – Because a portion of the project is located within the mapped floodplain, all development within the mapped flood hazard area will be in accordance with the county's flood damage prevention ordinance.
- **BCRC 12-626(B): Environmental Features;** The subdivision shall meet the requirements of chapter 7, "Environmental Standards", of this title.
 - A variation to the 40' wetland setback is proposed to allow for a zero wetland setback while all other environmental setbacks will be complied with, including the shoreline setback requirements.
 - The site has been approved for shoreline improvements, including wetland fill (USACOE Permit NWW-2007-01218).

- For BCRC 12-713 and 12-714, a ±60' wide vegetated, open space buffer with grasses, shrubs and trees is included between the recreation and residential lots and Lake Pend Oreille. This buffer will serve to preserve both the quality and quantity of Bonner County water resources (BCRC 12-701(A)), and to reduce erosion and sedimentation into waterways (BCRC 12-701(B)). Accordingly an impervious surface of 70% is proposed.
 - Per the application – Some site grading will be associated with road construction. A stormwater management and erosion control plan was submitted, confirming that on-site soils are suitable for stormwater treatment.
 - Per the application – The proposed open space includes White-tailed deer wintering area and riparian habitat and will remain as such.
 - Per the application – The property does not contain any mapped floodway but a portion of the project is located within the mapped floodplain and any development within the mapped flood hazard area will be in accordance with Bonner County's flood damage prevention ordinance.
- **BCRC 12-626(C)(1): Environmental Features; New lots or parcels on sites in the forestry, agricultural/forestry, rural and other zoning districts where all urban services are not available, shall maintain an average width (as measured parallel to the shoreline) of at least two hundred feet (200') for all portions of the lot or parcel within one hundred feet (100') of the shoreline. The total depth of the lot (as measured from the shoreline to the opposite end of the lot or parcel) must be deep enough to allow development to meet applicable vegetation conservation and building setback requirements per subchapter 7.1 in this title.**
 - The only waterfront lot is the proposed open space lot which will have no development allowed within it and has an average width of at least two hundred feet (200') for all portions of the lot within one hundred feet (100') of the shoreline.
 - **BCRC 12-633(A): Standards and Guidelines for All Conservation Subdivisions; Uses: all principal and accessory uses authorized in the applicable zoning districts shall be allowed in the conservation subdivision. Uses not authorized by chapter 3 of this title will not be permitted in conservation subdivisions.**
 - Proposed uses include single family residences, boat storage and servicing, recreational uses and related open spaces. These are all permitted uses in chapter 3 of title 12.
 - **BCRC 12-633(B): Standards and Guidelines for All Conservation Subdivisions; Development Standards: Development standards in chapter 4 of this title for the applicable zoning district shall apply to all lots in a conservation subdivision, except where otherwise noted in this chapter.**
 - The project is in accordance with these various standards, except for the noted proposed variations stated below.
 - **BCRC 12-633(C): Standards and Guidelines for All Conservation Subdivisions; Design Standards: Conservation subdivisions are subject to subchapter 6.2 of this title, design standards, except where otherwise noted.**
 - The project has been designed in accordance with these standards, subject to the proposed variations noted below.
 - **BCRC 12-633(D)(3): Standards and Guidelines for All Conservation Subdivisions; Lots may be smaller than the minimum sizes in subsections D1 [2.5 acres] and D2 [1 acre] of this section, provided water and sewage disposal provisions are provided within common areas via utility easements.**
 - Per the application – Proposed lots when density averaged, and with the density bonus, comply with the 2 acre lot size minimum when served by "urban water." The project will be served by a community sewer system and a public water system. The site will be accessed by a hard surfaced, 22' wide "low volume local" private road consisting of a 20' wide travelway and 22' wide roadway developed within a minimum 30' wide easement. The community drain field will be located on the utility lot as well.
 - **BCRC 12-633(E): Standards and Guidelines for All Conservation Subdivisions; Suitable Land: Cluster lots are encouraged to be located on land most suitable for residential development.**
 - Per the application – Because a portion of the project is located within the mapped floodplain, all development within the mapped flood hazard area will be in accordance with the county's flood damage prevention ordinance.
 - **BCRC 12-633(F): Standards and Guidelines for All Conservation Subdivisions; Further Subdivision of Cluster Lots: Cluster lots in a conservation subdivision may not be further subdivided except where in compliance with this title. However, notes on the final plat approved by the board may include other restrictions on future subdivision of the lots.**
 - Per the application – Further division of the proposed clustered lots is not anticipated.
 - **BCRC 12-633(G): Standards and Guidelines for All Conservation Subdivisions; Wells. Sewage Disposal Facilities Within Common Open Space: Individual and/or common wells and sewage disposal facilities may be provided within designated common open space areas to allow for maximum efficiency of cluster lot design and minimize potential negative impacts to the environment. Applicable easements for the facilities shall be shown on the final plat.**
 - Per the application – The Proposed open space will remain riparian habitat and deer winter range along the lake shore and along the North Branch of Trestle Creek by maintaining and managing existing vegetation, forage and cover.

- **BCRC 12-633(H): Standards and Guidelines for All Conservation Subdivisions; Preservation of Common Open Space:** *Common open space shall be preserved as permanent open space, except where otherwise noted in this title, and subject to standards BCRC 12-633(H)(1-3).*
 - The submitted open space management plan makes note of and includes the requirements of BCRC 12-633(H)(1-3).
- **BCRC 12-633(K)(1): Standards and Guidelines for All Conservation Subdivisions; Buffering, Clustering:** *Clustered lots shall be accessed by interior road systems. To the maximum extent possible, cluster lots shall be located so that common open space provides a buffer between the cluster lots and adjacent properties and/or right of way. When this is not possible, the development shall be designed to provide at a minimum one of the following: (1) Cluster lots that abut surrounding properties or right of way shall be at least seventy five percent (75%) of the minimum lot size standard for the subject parcel.*
 - Per the application – Where urban water services are available, the minimum lot size is 2 acres (BCRC 12-412). The only lot that abuts adjoining property is the utility lot. This lot contains over two acres.
- **BCRC 12-636(A): Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Minimum Lot Size:** *There is no minimum lot size for cluster lots, provided the subdivision meets the density requirements specified in this title. However, cluster lots shall be sized sufficiently to meet applicable setbacks and other requirements in this title, unless otherwise noted herein.*
 - The proposed project meets these requirements, subject to the variations described below.
- **BCRC 12-636(C): Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Reduction 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.*
 - All setbacks required in BCRC will be met except for the proposed variation for the rear yard setback to be reduced to have a zero setback where 5' is required and the proposed variation for the wetland setback to also be reduced to have a zero foot (0') setback where 40' is required.
- **BCRC 12-636(D): Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Multiple Dwelling Units:** *Multiple dwelling units may be included on individual lots, provided the subdivision meets applicable density requirements and other requirements in this title.*
 - One dwelling unit per residential lot is proposed with a total of five (5) dwelling units.
- **BCRC 12-636(E): Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Common Open Space:** *Applicants are encouraged to set aside at least twenty percent (20%) of the land as common*

open space, or recreational facilities for the residents and other requirements in this title.

- 2.89 acres or 11.84% of open common space for the gross acreage of 24.4 acres is proposed (32.33% for the net acreage of 8.94 net acres) and meets the required 10% of common space for planned unit developments.

The following sections of BCRC have been met by the applicant with variations.

- **BCRC 12-256(G): Design Standards for Planned Unit Developments; Design Standards – The PUD will include the following variations from design standards of Title 12.**
 - **BCRC 12-333, note 33:** *- Maximum square footage for ministorage, boat storage, and rental warehouse facilities on a single lot or parcel shall be 10,000 square feet for the rural service center and recreation district required.*
 - Per the application – The project involves two lots and one parcel. In lieu of developing one, 10,000 SF building on each property, three buildings not to exceed a combined total of 30,000 SF will be developed on the utility lot. Clustering the buildings on this lot provides greater efficiency, while protecting Trestle Creek and Lake Pend Oreille by separating these uses from these bodies of water.
 - **BCRC 12-412: 2 acre lot size minimum when served by "urban water."**
 - Per the application – The proposed residential lots contain less than the 2 acre conventional lot size minimum in the Recreation zone where "urban water" is provided. However, PUDs provide an opportunity to "density average" lot sizes. As such, inclusive of the allowable density bonus, this project includes an average density of one lot per 2 acres. Further, because of the limited number of lots proposed, in lieu of constructing a hard surfaced, 28' wide "standard local" public road, a hard surfaced, 22' wide "low volume local" private road is proposed.
 - **BCRC 12-412, note 4:** *Minimum lot size where "urban water" is available shall be 2 acres but, clustering lots via a conservation subdivision is encouraged to allow for the opportunity to develop at greater density if and when urban services become available.*
 - See requirement and variation from this standard previously stated.
 - Per BCRC 12-636(A) there is no minimum lot size for cluster lots, provided the subdivision meets the density requirements specified in the title. However, cluster lots shall be sized sufficiently to meet applicable setbacks and other requirements in this title, unless otherwise noted herein.

- **BCRC 12-412: Lot coverage requiring 35%**
 - Per the application – In order to maintain clustered housing and provide maximum open space, 70 percent (70%) lot coverage is proposed.
- **BCRC 12-412: Minimum rear yard setback required is 5’.**
 - Per the application – Because the rear lots lines of the proposed residential and recreational lots border open space, a zero rear yard setback is proposed. A 25’ front yard and 5’ side yard setbacks will be maintained for these lots.
- **BCRC 12-432, note 5: Minimum off-street parking requirements for community docks and marinas is 0.5 space/boat slip of which 25 percent of parking spaces arranged as tandem spaces not less than 10’ by 40’ is required.**
 - Per the application - Users of the dock facilities own property at The Idaho Club and will access the facility primarily by boat. Therefore, upland parking is unnecessary for dock users.
- **BCRC 12-432, note 3: Minimum off-street parking requirements for assembly buildings is 1 space per 100 gross square feet of floor area within 500’ of principal use required.**
 - Per the application – Because most dock users will access the pavilion by boat, the conventional “assembly building” parking standard requiring 50 spaces for a 5,000 SF pavilion is not applicable. In lieu thereof, 35 spaces are provided, with about 7 of those spaces being further than 500’ from the pavilion.
- **BCRC 12-621: All lots that are 100’ or less in width shall be designed so that the angle of intersection of the side lot lines with the fronting road is between 85 degrees and 95 degrees for a distance of not less than 50’ from the point of intersection.**
 - Per the application – Angles of intersection of ±95 degrees to ±113 degrees are proposed. However, each lot maintains angles of intersection adequate to accommodate 90 degree driveway entrances off of the proposed access road.
- **BCRC 12-624(B): Road networks shall be designed and constructed to private road standards set forth in appendix A of this title, except as otherwise noted herein. Road networks shall be designed to provide for a continuous transportation system to adjacent properties, where topographical conditions warrant.**
 - In lieu of a 28’ wide “standard local” paved public road, North Park Road will be improved to “low volume local” private road standards consisting of a 20’ wide travelway and a 22’ wide paved roadway developed within a minimum 30’ wide easement where located on the applicant’s property. Adjacent to and outside of the railroad right-of-way, a turnout on the east and west side of the railroad crossing will be constructed to a minimum width of 26’ and a minimum length of 40’.
- **BCRC 12-624(D): All proposed lots less than five (5) acres gross shall have direct frontage on, and direct access to, a public right of way. Cluster lots less than five (5) acres gross in a conservation subdivision**

within the rural, agricultural/forestry and forestry districts are exempt from this requirement. Right of way offered for dedication in any zoning district shall be developed with a road constructed to the standards set forth in title 2 of this code. Such road may be maintained privately or by a public highway agency. Exceptions to the direct frontage and access requirements to allow for private frontage or interior roads may be granted in the commercial, industrial, or rural service center districts provided such access meets the applicable private road standards of this title.

- Per the application – Each lot will directly front on, and will directly access, a private easement versus public right-of-way. This easement will be developed with a hard surfaced “low volume private road” accessing the recreational and residential lots.
- **BCRC 12-713: Maximum “impervious surface” allowed within the “shore land” areas shall be 35%.**
 - Per the application – A ±60’ wide vegetated, open space buffer is included between the recreational and residential lots and Lake Pend Oreille. This buffer will serve to preserve both the quality and quantity of Bonner County water resources (BCRC 12-701(a)), and to reduce erosion and sedimentation into waterways (BCRC 12-701(b)). Accordingly, an impervious surface of 70% is proposed.
- **BCRC 12-733(B): 40’ setback to wetlands required.**
 - Per the application – The site has been approved for shoreline improvements, including wetland fill (USACOE Permit NWW-2007-01218). Accordingly, a zero wetland setback is proposed.

The following sections of BCRC were not met by the applicant.

- **BCRC 12-4.5, et seq.: Design Standards**
 - The design standard plans for the commercial buildings for the boat storage and repair services and the public building for the pavilion were not submitted at the time of this application and will be required to be submitted to the Bonner County Planning Department for review prior to the issuance of this file.
- **BCRC 12-4.6, et seq.: Landscaping and Screening Standards**
 - The landscaping and screening plan(s) were not submitted at the time of this application and will be required to be submitted to the Bonner County Planning Department for review prior to the issuance of this file.
- **BCRC 12-486(B-1): Standards for Rental Warehouses, Ministorage, Boat Storage**
 - The specific standards for the proposed boat storage, as required for BCRC 12-486 (B-1) was not submitted at the time of this application and will be required to be submitted to the Bonner County Planning Department for review prior to the issuance of this file.

- BCRC 12-623(B): Services and Utilities; Lots to be served by a new public drinking water system: Division of environmental quality written approval of an engineering report prepared by an Idaho licensed professional engineer demonstrating that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision.
 - A community system is proposed in the form of a public water system. No documentation was provided.
- BCRC 12-624(A): Roads and Access; All new roads created for subdivisions shall be designated by unique road names, unless such roads are determined to be and are designed to be extensions of existing roads.
 - A unique road name shall be required for the proposed 22' wide access road that gives access to the recreation lot and five (5) residential lots. No unique road name is shown on the preliminary plat for this road.

The following sections of BCRC were not applicable or the proposal was exempt.

- BCRC 12-256(F): Requirements for Public Amenities
 - N/A as none are proposed.
- BCRC 12-486(A): Standards for Rental Warehouses, Ministorage, Boat Storage; Uses are prohibited within one hundred feet (100') of a state highway or designated arterial in the commercial or rural service center district.
 - N/A as the project is within the Recreation district.
- BCRC 12-623(A): Services and Utilities; Where proposed lots are smaller than one acre in area, exclusive of any ingress or egress easements, all "urban services", as defined in section 12-821 of this title, shall be provided. Lots in conservation subdivisions shall be exempt from this requirement, provided all other requirements of this title are met.
 - The proposed lots are within a conservation land division, making them exempt from the requirement of BCRC 12-623(A) as all other requirements of this title have been met or have had a variation to their requirements proposed.
- BCRC 12-625(A-B): Trails and Parks
 - N/A as no trails or parks are proposed but there is an open space lot of 2.89 acres proposed.
- BCRC 12-633(I) Standards and Guidelines for All Conservation Subdivisions; Unavailable urban services.
 - N/A as urban water is proposed.
- BCRC 12-633(J): Standards and Guidelines for All Conservation Subdivisions; Conservation lot as alternative.
 - N/A as no conservation lot as an alternative is proposed.

- BCRC 12-636(B): Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Development reserve lots.
 - N/A as no reserve lot are proposed.

G. Comprehensive Plan Land Use Designation

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.

The comprehensive plan designation of **Rural Residential** provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

- Property Rights: The issue of property rights is a "two-way street" and the property rights of the applicant, adjoining landowners and future generations shall be considered, as well as the short-term consequences of decisions.
 - **Applicant:** The project has been designed consistent with planned unit development and conservation subdivision standards. As such, the project protects not only the applicant's rights, but also those of the public's.
- Population: Multi-generational, multi-economic diversity shall be encouraged within Bonner County.
 - **Applicant:** The plat will result in five additional home sites. Accordingly, subdivision buildout could add to the county's population.
- School Facilities & Transportation: Full consideration shall be given to the county's ability to provide quality education to the current and future students of Bonner County.
 - **Applicant:** Should the subdivision be occupied by school aged children, the Hope Elementary School is situated about 5 miles from the project.
- Economic Development: Bonner County shall encourage economic diversity for the financial health of the community and maintenance of its rural atmosphere.
 - **Applicant:** The project will provide economic development associated with subdivision housing starts and boat storage.
- Land Use: Bonner County intends to balance and integrate its land use policies and proposed land use map with components of the comprehensive plan to encourage the community to grow while retaining its rural character and protecting its unique natural resources.
 - **Applicant:** The project is consistent with land use objectives by complying with allowable densities and standards for the upland accommodations (pavilion) and boat storage and repair.
- Natural Resources: Bonner County places a high value on its natural resources and amenities and desires to protect these features that make the county a unique place to live, work and play. The county recognizes that natural resources, such as pure water, clean air and diverse wildlife, are important to preserve and once lost, they may not be recovered. Bonner County will strive to manage its natural resources to attain the greatest long term public benefit.

- **Applicant:** The project sets aside as open space riparian habitat and deer winter range.
- **Hazardous Areas:** *Bonner County desires to protect its community from the loss of lives and property and to reduce public and private financial losses due to flood, fire, mass wasting, avalanches and excessive slopes by setting standards for development within hazard areas and discouraging development in high hazard areas.*
 - **Applicant:** Any development within the mapped flood hazard area will be in accordance with the county's flood damage prevention ordinance.
- **Public Services, Facilities & Utilities:** *Future development shall provide adequate services and should not adversely impact the services or utilities of present-day users.*
 - **Applicant:** All public services are in place (power and highway access).
- **Transportation:** *Bonner County intends to provide a transportation system that is safe, uncongested, and well maintained.*
 - **Applicant:** The proposed access within the subdivision will be built to Bonner County "low volume private road" standards with a paved surface versus gravel (20' wide travelway with 1' shoulders).
- **Recreation:** *Public and private recreational opportunities are recognized as a major county asset to be protected and encouraged.*
 - **Applicant:** The project has been designed to provide lake front access via a proposed open space common area and community moorage. This amenity will provide recreational opportunities for lot owners and pavilion users.
- **Special Areas/Sites:** *Bonner County will attempt to protect special archeological and historical sites and unique visual and ecological features of the region.*
 - **Applicant:** The site was developed with the former Idaho Country Resort, an RV and mobile home park.
- **Housing:** *Bonner County recognizes diverse housing needs are to be addressed to provide adequate shelter for all, regardless of age, income or physical abilities.*
 - **Applicant:** The project will provide five additional housing units.
- **Community Design:** *Bonner County's goal is to maintain a variety of lifestyles and a rural character in the future development of Bonner County.*
 - **Applicant:** With the allowed density bonus, proposed residential lots comply with the average density of 2 acres per lot when served by "urban water."

H. Stormwater plan

A stormwater management plan was required pursuant to BCRC 12-7.2. The submitted plan was prepared by Brandon Staglund, P.E. of James A. Sewell & Associates, LLC. The plan states that *with the proper implementation of the best management practices described in this report, the subject property is capable of supporting the proposed site development without substantial risk of soil erosion or sedimentation of surface waters. The site is capable of storing, treating, and conveying stormwater using the best management practices described in this report.*

The stormwater management plan was routed for review to Bonner County engineer Spencer Ferguson, P.E. who on December 02, 2020 stated, *"The stormwater, grading, and erosion control plan has been reviewed with respect to meeting the requirements of the Bonner County Revised Code Section 12-724, and has been found to be in compliance. The grading and stormwater management plan is therefore approved."*

I. Agency Review

The following agencies were routed for comment on **November 17, 2020.**

Avista Utilities: no response

Bonner County Road & Bridge Department: no response

Burlington Northern Santa Fe Railroad: no response

Idaho Department of Environmental Quality: Standard environmental comment letter submitted.

Idaho Department of Fish & Game: Voiced concerns over the 70% impervious surface and 0' wetland setback proposed along with the rural development that has caused problems with wildlife in the past. IDFG also provided suggestions on the best practices to live with wildlife in rural areas with development.

Idaho Department of Water Resources: no response

Idaho Transportation Department (Dist. 1): no response

Montana Rail Link: MRL voiced concerns over 1) the property being purchased before securing the appropriate agreements with the railroad, 2) the requirement of each property owner being required to have their own, separate permit with the railroad and to provide the required insurance as MRL declines to issue private crossing permits to homeowners' associations, 3) crossing safety issues – poor line of sight, potential for overflow parking due to the number of boat slips, and potential increase in vehicle collisions, 4) the impact on neighbors from tree removal for better line of sight (loss of sound barrier), and 5) that no application has been made to negotiate an easement or remit for the roadway that crosses over the corner of MRL fee property parcel RP57N01E166476A. MRL also states that *"If a Road Authority is interested in pursuing a public roadway and public crossing at this location, MRL would be willing to consider such a proposal. MRL's denial of the existing private road crossing application stands."*

Sam Owen Fire District: The fire district requested that an additional 10,000 gallon water storage tank be provided on the utility lot in addition to the proposed water tank, noted that the 20' roadway along the residential lots is insufficient for fire vehicle turnaround, wanted to know what the snow management plan for the PUD was, if there will be access to the docks via a paved walkway and where it would be located, if there will be fire hose boxes, and make note that if the parking is not adequate that vehicles could park alongside the road and be in the way of the fire vehicles attempting to access the lots.

U.S. Army Corps of Engineers: no response

U.S. Fish & Wildlife Service: no response

U.S. Forest Service: no response

Idaho Department of Lands (Sandpoint & Navigable Waters): no response

J. Public Notice & Comments

Property owners within 300' of the subject properties were notified for comment on November 17, 2020. No comments were received at the time of the completion of this staff report.

Findings of Fact

1. Planned Unit Developments (PUDs) are permitted in all districts.
2. The subject properties are located within the Recreation district and have a comprehensive land use designation of Resort Community and Rural Residential.
3. The site was developed with the former Idaho Country Resort, an RV and mobile home park.
4. The residential lots will range in size between 13,788 - 18,195 SF, the access lot will be 1.60 acres, the recreational lot will be 18,958 SF, the utility lot will be 2.12 acres, the open space lot will be 2.89 acres, and the submerged lot will be 15.42 acres.
5. Access is provided off Highway 200 across an established railroad crossing to a private road.
6. Single family dwellings, boat storage and services, and community docks/marinas and upland accommodations are permitted within the Recreation district both outright and with a Conditional Use Permit (CUP).
7. The proposal involves reserving 11.84% of common area as open space where 10% is required.
8. No phasing of the development is proposed as the development can be completed within the allowed four (4) years (BCRC 12-258(C)) from the approval date.
9. The travelways and roads proposed are suitable and adequate to allow for the anticipated traffic and will no generate traffic in amounts that will overload the street network outside the PUD (State Highway 200).
10. The development will include homeowner's association and/or corporate ownership in addition to covenants, conditions and restrictions that are sufficient to enforce development requirements and responsibilities of the homeowner's association and/or corporate ownership.
11. The site will be served by a community leach field, a public water system, Sam Owen Fire District, and Avista Utilities.
12. BCRC 12-623(C) is no longer required per Bonner County Ordinance #607 (Instrument #961425).
13. The site will be developed with five (5) residential lots; one (1) utility lot for the community leach field, boat storage and repair services; one (1) recreational lot for the pavilion providing upland accommodations for community dock users; one (1) open space lot for the common area; one (1) access lot; and one (1) submerged lot.
14. A density bonus based on the additional open space (10% is required but 11.84% is provided) is permitted to allow for a total of five (5) residential units.
15. Three (3) 10,000 SF boat storage buildings are allowed as the project includes three (3) properties, allowing one (1) 10,000 SF boat storage building on each property. All three (3) boat storage buildings will be clustered on the single utility lot to provide greater efficiency and to protect the natural bodies of water on site and will not exceed a combined total of 30,000 SF.
16. The lot size minimum in the Recreation district where urban water is available is 2 acres. PUDs allow for density average lot sizes. Including the allowable density bonus, the project includes an average density of one (1) lot per 2 acres.
17. All setbacks will be maintained except where variations occur which include a zero foot (0') setback for the rear yard where 5' is required and a zero foot (0') setback for wetlands where 40' is required.
18. The users of the dock facilities will own property at The Idaho Club and will access the facility primarily by boat, making upland parking not applicable.
19. As most dock users will access the pavilion by boat, the standard assembly building parking requirement of 50 spaces for a 5,000 SF pavilion is not applicable, but instead there will be 35 space provided, with 7 of those spaces being further than 500' from the pavilion.
20. Angles of intersection of $\pm 95^\circ$ to $\pm 113^\circ$ and that are adequate to accommodate 90° driveway entrances off of the proposed access road will be permitted.
21. In lieu of the standard 28' wide "standard local" paved public road, North Park Road will be improved to "low volume local" road standards that will consist of a 20' wide travelway and a 22' wide paved roadway developed within a minimum 30' wide easement where located on the applicant's property. Each lot will directly front on, and will directly access the private easement.
22. A turnout on the east and west side the railroad but adjacent to and outside of the railroad right-of-way, will be constructed to a minimum width of 26' and a minimum length of 40'.
23. 70% impervious surface within the shore land areas and for lot coverage will be permitted where 35% was allowed.

24.A stormwater management plan was completed for this project and approved by Bonner County Engineer Spencer Ferguson, P.E. on December 02, 2020.

25.A management plan for the oversight of the open space area was submitted.

26.The fire hazard rating is moderate.

27.Per the trip generation letter, the AM peak vehicles per hour is 2.9 and the PM peak vehicles per hour is 3.6.

28.There will be 51 marina parking spaces where 27 spaces are required for a 54 slip marina. Should the marina be constructed with 105 slips as approved by the IDL, [U.S. Army] Corps and Bonner County, 51 will be provided where 54 are required.

Conclusions of Law:

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

Conclusion 1

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

- | | | |
|-----------------------|-------------------------|------------------------------------|
| •Property Rights | •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 at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

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

Conditions of Approval:

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

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

A-2 The Conditional Use Permit shall not supersede deed restrictions.

A-3 All setbacks per the approved planned unit development shall be met.

A-4 The Conditional Use Permit shall expire if not issued within four (4) calendar years from the date of approval, or once issued, if the use has not commenced within four (4) 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 four (4) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.

A-5 The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved and shall abide by the approved stormwater plan prior to the final inspection.

A-6 Prior to the final plat recording of the proposed preliminary plat, per BCRC 12-623(B)(3) State of Idaho written approval of an engineering report prepared by an Idaho licensed professional engineer demonstrating that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision shall be submitted to the Bonner County Planning Department for review and approval.

A-7 The following language shall be included on the final plat prior to recording; *"In areas adjacent to structures, fuel modification provisions apply for the purpose of establishing and maintaining defensible space. Based on the moderate urban-wildlife interface area rating on the subject property, a fuel modification distance of not less than 30 feet will be maintained. Lot owners will be responsible for modifying or removing non-fire resistive vegetation on each lot. Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Deed wood and litter shall be removed annually from trees. Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native plant growth to any structure (International Urban-Wildland Interface Code, Section 603)."*

A-8 Any development within the floodplain shall be developed in accordance with the Bonner County flood damage prevention ordinance.

A-9 Per BCRC 12-624(A), a unique road name for the proposed 22' wide access road shall be provided on the final plat.

Conditions to be met prior to issuance of the permit:

- B-1** Design plans fulfilling requirements found in BCRC 12-4.5 et seq. shall be submitted to the Bonner County Planning Department for review and approval.
- B-2** Landscaping and screening plans fulfilling requirements found in BCRC 12-4.6 et seq. shall be submitted to the Bonner County Planning Department for review and approval.
- B-3** Boat storage plans fulfilling requirements B through I of BCRC 12-486 shall be submitted to the Bonner County Planning Department for review and approval.

File MOD0004-20 – Modification of a Planned Unit Development - Valiant, LLC

is requesting a modification of terms to file C832-05 to allow for the removal of 59,503 SF of the 69,696 SF of dedicated open space to be divided into six lots on a 1.60 acre lot (Golden Tee Estates, Block 2, Lot 21A). The property is zoned Recreation. The project is located off Jim Brown Way in Section 31, Township 58 North, Range 1 East, Boise-Meridian. The Planning & Zoning Commission at the public hearing on December 3, 2020, 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: Planner II Tessa Vogel presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. An amendment to Condition A-4 needs to be amended from 2 years to 4 years.

APPLICANT PRESENTATION: Martin Taylor, James A. Sewell & Associates, Project Representative gave a brief summary of the project and stated the plan will exceed code requirements for open space. Mr. Taylor addressed public comments that were submitted prior to the hearing.

PUBLIC/AGENCY TESTIMONY:

The following individuals spoke on the record:
Jay Markharian
Fred Baker

APPLICANT REBUTTAL: Martin Taylor, James A. Sewell & Associates, Project Representative responded to public comments.

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

MOTION TO APPROVE: Commissioner Connolly moved to approve this project FILE MOD0004-20, a modification of terms to file C832-05 to allow for the removal of

59,503 SF of the 69,696 SF of dedicated open space to be divided into six lots on a 1.60 acre lot, 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 Connolly further moved to adopt the following findings of fact and conclusions of law as written and amended during this hearing for Condition A-4 for to be changed from 2 years to 4 years. 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:

- Open Space
- Lot 21A, Block 2 of Golden Tee Estates
- Size: 1.60 acres
- Zone: Recreation
- Land Use: Resort Community (<=2.5 AC)

B. Access:

- Jim Brown Way
 - i. Road Class: Local
 - ii. County Maintained: No
 - iii. Road Owner: Private

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Parcel is within SFHA Shaded Zone X, per FIRM panel 16017C0735E, effective date 11/18/2009. No further floodplain review is required on this proposal.

D. Services:

- Water: TIC, LLC Utilities
- Sewage: TIC, LLC Utilities
- Fire: Northside Fire District
- Power: Avista Utilities (natural gas) & Northern Lights, Inc. (electricity)

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Currently common open space; will be common open space and six (6) lots.

Compass	Comp Plan	Zoning	Current Land Use & Density
North	Resort Community	Recreation	Residential
East	Resort Community	Recreation	Common open space
South	Resort Community	Recreation	Residential
West	Resort Community	Recreation	Residential

Block 2 of Golden Tee Estates to be divided into six (6) lots consistent with the terms and conditions of the PUD. The remaining common open space will be 10,193 SF or roughly 14.6% of original Lot 21A.

F. Standards review

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property

• **BCRC 12-256: Design Standards for Planned Unit Developments; Common Open Space**

- o *At least ten percent (10%) of the gross land area of a residential PUD shall be reserved as common open space, exclusive of streets, parking areas, and utility easements and other improvements which would detract from the function of the "common open space", as defined below. The required common open space must fall into one or more of the following categories:*
 1. *Wildlife habitat or wildlife corridors, as identified by the Idaho department of fish and game or U.S. fish and wildlife service. These areas might be stream corridors, waterways subject to artificial high water marks, as defined, which shall not exceed fifty percent (50%) of the total required common open space, waterways, wetlands, grasslands, stands of mature timber, areas with snags, wintering areas, nesting and roosting sites, waterfront areas and travel corridors between habitat blocks and sources of food and water.*
 2. *Areas with native vegetation, including native grassland, unique vegetative communities as identified by the Idaho conservation data center.*
 3. *Recreational areas, including trails, sports courts and wildlife viewing areas, and other similar recreational uses.*
 4. *Historic or culturally significant areas as determined by the Idaho state historical society.*
 5. *Areas within a scenic byway.*
 6. *Actively managed pasture, farm or timbered land in the A/F and rural districts. Accessory agricultural structures are allowed within the common open space.*
- o The only modification to file C832-05, the original conditional use permit for a large-scale planned unit development (PUD), that the applicant is requesting is to remove 59,503 SF from the 69,696 SF that is Lot 21A,

G. Comprehensive Plan Land Use Designation

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. Stormwater plan

A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

I. Agency Review

On **November 03, 2020** the following agencies were routed for comment.

- Avista Utilities: no response
- Bonner County Road & Bridge Department: no response
- Idaho Department of Environmental Quality: *DEQ has no comments for project MOD0004-20.*
- Idaho Department of Lands – Sandpoint: no response
- Idaho Department of Water Resources: no response
- Northern Lights, Inc.: no response
- Northside Fire District: no response
- Panhandle Health District: no response
- TIC, LLC Utilities: no response
- U.S. Army Corp of Engineers: no response

J. Public Notice & Comments

On **November 03, 2020** neighbors within 300' of the subject property were routed for comment.

Summary of Comments from Public Comments Received

- Residents purchased homes at the Idaho Club because of the open spaces for recreation within the property boundaries.
- Open space is dedicated for a reason and should not be eliminated for the enrichment of financial accounts of a corporation.
- There is little area within the Idaho Club community besides the streets and golf course which is restricted to golfers.
- It is important for the welfare of the residents that what is available and platted as open space be kept as such, especially the open space that is suitable for recreation.
- Changing the dedicated open space into 6, ¼ acre home lots would greatly detract from the initial vision, feel and purpose of the Idaho Club.
- The original plat of open wildlife access, with tasteful development, community atmosphere centered around the golf course would be greatly altered.

- Crowding in 6 new homes devalues the open aesthetic look and feel that bring people to the Idaho Club.
- A suggestion would be to do 3 or 4 lots, keeping the strands of trees and groom the remaining open area into a neighborhood gathering spot. This would allow development to expand without the overcrowding which would be much more desirable.
- Jim Brown Way, where the modification is requested, has been a problem for vehicle excessive speed in that section. Adding homes along that section will add to the risks for children and families riding bikes and walking.

Staff Response to Public Comments Received

While property owners within the Idaho Club may have purchased homes there in part because of the open space, the removal of the 0.2% open space to create the proposed lots does not remove all of the open space within The Idaho Club. Per BCRC 12-266 *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 which applies to planned unit developments.* The applicant applied for the modification which was review by staff who recommended approval, was heard by the Planning & Zoning Commission who also recommended approval the Board, and is now being heard by the Board of County Commissioners for a final decision. 10% open space is required when creating a PUD and are required to be either 1) wildlife habitat or corridors, 2) areas with native vegetation, 3) recreational areas, 4) historic or culturally significant areas, 5) areas within a scenic byway, or 6) an actively managed pasture, farm or timbered land (#6 is allowed in the A/F and Rural districts only) per BCRC 12-256. Dedicated open space is not required to be usable recreational space for the public or residents of the PUD. Wildlife will still have approximately 196 acres to use that borders the project site. Also, the proposed 6 lots meet the requirements of the original PUD for their design standards as they will range in size from 7,578 SF to 15,203 SF, which is similar in size to other established properties within the Idaho Club. Jim Brown Way will see an increase of vehicles per hour between 2.9 during morning peak times to 3.6 during evening peak times. Issues of speeding over the posted speed limit in that area is an issue to be dealt with by the Homeowner’s Association. If there are no posted speed limit signs within the development, it would be a good idea to have them posted.

Findings of Fact

1. The subject lot is Lot 21A, Block 2 of Golden Tee Estates, a common open space lot.
2. The lot is zoned Recreation and has a land use designation of Community Resort.
3. Lot 21A is accessed off Jim Brown Way, a private road.
4. 59,503 SF of the 69,696 SF of Lot 21A is being removed to be subdivided into six (6) lots.

5. The proposed six (6) lots will range in size from 0.174 acres (7,578 SF) to 0.349 acres (15,203 SF) with a common open space lot of 10,193 SF remaining.
6. The PUD from file C832-05 allows for a reduced lot size minimum per Condition A-7(3).
7. The lot is served by TIC, LLC Utilities for water and sewer, Northside Fire District, Avista Utilities (natural gas) and Northern Lights, Inc. (electricity).
8. The original PUD, C832-05, was approved with conditions by the Bonner County Planning & Zoning Commission at the March 09, 2006 public hearing and by the Board of County Commissioners at the April 12, 2006 public meeting.
9. Short plat SS0004-20 was approved on November 18, 2020 with the condition that file MOD0004-20 shall be approved and issued prior to the final plat recording of file SS0004-20.

Conclusions of Law:

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

Conclusion 1

The proposed conditional use permit is in accord with the Bonner County comprehensive plan. (See attached comprehensive plan goals, objectives and policies)

- | | | |
|-----------------------|-------------------------|------------------------------------|
| •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 at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

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

Conditions of Approval:

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

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within four (4) calendar years from the date of approval, or once issued, if the use has not commenced within four (4) 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 four (4) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5** All terms and conditions of file C832-05 shall be complied with EXCEPT for those modified or removed by file MOD0004-20.

CHANGE IN AGENDA:

Commissioner Connolly moved to hear file VS0005-20 at the end of the hearing and move file CC00130-20 up on the agenda to be heard next. Commissioner McDonald seconded the motion.

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

CERTIFICATE OF COMPLIANCE

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 CC0013-20 – Certificate of Compliance – Tia & Mark Hermiston are requesting a Certificate of Compliance for (1) 8 acre parcel and one (1) 10 acre parcel. The properties are described as tracts of land located in Section 23, Township 56 North, Range 2 East, Boise Meridian, Idaho. On Wednesday, December 30, 2020, the Planning Department received a letter of appeal requesting this administrative file be forwarded to the Bonner County Commissions 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: Planner II Tessa Vogel presented a PowerPoint summary of the project and previously circulated staff report.

APPLICANT PRESENTATION: Applicant Tia Hermiston that she was informed by the Assessor's office she was able to record the deed as two parcels in 2018 and she was just trying to do her due diligence with applying for the Certificate of Compliance.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION TO OVERTURN: Commissioner Connolly moved to **overturn** the administrative decision issued on December 30, 2020 on a Certificate of Compliance FILE CC0013-20, finding that this administrative decision is in accord with the Bonner County Revised Code 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 find the parcels in question in Instrument #928931 are legal and conforming under Bonner County Revised Code. 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:

- a. Use: Residential
- b. Unplatted
- c. Size: 8 acres (RP56N02E234965A) and 10 acres (RP56N02E235100A)
- d. Zone: Rural-5
- e. Comprehensive Plan Designation: Rural Residential
- f. Area of City Impact: Clark Fork

B. Access

- a. Crummy Road
 - i. Road Class: Local
 - ii. Road Owner: Private
 - iii. County Maintained: No

C. Services

- a. Individual Septic
- b. Individual Well
- c. Not within a fire district

The subject property has not been reviewed by Bonner County for:

- 1) Sewage disposal suitability or availability
- 2) Domestic water availability
- 3) Legal, developed access
- 4) Recorded surveys
- 5) Setback limitations
- 6) Impervious surface standards and limitations

Parcel History:

An opportunity for landowners to determine whether a parcel was created in compliance with zoning and subdivision codes in effect at the time of the parcel creation is provided at Section 12-616, BCRC. A chain of title, as required by this section, has been provided by **North Idaho Title** dated **December 11, 2020**. Based on the chain of title the following is a history of the parcel's creation:

Warranty Deed recorded December 08, 2004 as Instrument #665798

Quitclaim Deed recorded July 15, 2009 as Instrument #776020

Quitclaim Deed recorded July 20, 2009 as Instrument #776300

Quitclaim Deed recorded October 04, 2018 as Instrument #928931

Deed Analysis:

Instrument #665798 – December 08, 2004, Warranty Deed

Nicholas Ferris & Sabrina M. Ferris, husband and wife convey unto Mark Hermiston and Tia Hermiston, husband and wife.

Instrument #776020 – July 15, 2009, Quitclaim Deed

Mark Hermiston, husband of vestee convey unto Tia Hermiston, a married woman.

Instrument #776300 – July 20, 2009, Quitclaim Deed

Tia Hermiston, a married woman convey unto Mark Hermiston and Tia Hermiston, husband and wife, as community property with right of survivorship.

Instrument #928931 – October 04, 2018, Quitclaim Deed

Tia Hermiston, a married woman and Mark Hermiston and Tia Hermiston, husband and wife as community property with right of survivorship convey unto Mark Hermiston and Tia Hermiston, husband and wife, as community property with right of survivorship.

Nicholas & Sabrina Ferris conveyed the Northwest quarter of the Northeast quarter of the Southwest quarter of Section 23, Township 56 North, Range 2 East, Boise Meridian, Bonner County, Idaho EXCEPT the East 132.0 feet thereof AND the Southwest quarter of the Northeast quarter of the Southwest quarter in Section 23, Township 56 North, Range 2 East, Boise Meridian, Bonner County, Idaho unto Mark & Tia Hermiston (Inst. #665798). The legal description in the Warranty Deed under Inst. #665798 describes one (1) parcel. In Quitclaim Deeds under Inst. #776020 and #776300 the Hermiston's quitclaimed the same legal description as found in the Warranty Deed under Inst. #665798 which describes one (1) parcel to one another. The Hermiston's then separated their single parcel into two (2) parcels, one (1) 8 acre parcel and one (1) 10 acre parcel through the Quitclaim Deed under Inst. #928931 where the legal description of the Northwest quarter of the Northeast quarter of the Southwest quarter of Section 23, Township 56 North, Range 2 East, Boise Meridian, Bonner County, Idaho EXCEPT the East 132.0 feet thereof is described as **Parcel One** and the legal description of the Southwest quarter of the Northeast quarter of the Southwest quarter in said Section 23, Township 56 North, Range 2 East, Boise Meridian, Bonner County, Idaho, together with easements described is described as **Parcel Two**. The Quitclaim Deed under Inst. #928931 also notes that *the purpose of the Quitclaim Deed is to create two separate parcels*. The single parcel described in the Warranty Deed under Inst. #665798 and the Quitclaim Deeds under Inst. #776020 and #776300 was illegally split in 2018 through the Quitclaim Deed under Inst. #928931. To bring parcels RP56N02E234965A & RP56N02E235100A into compliance with the Bonner County Revised Code in effect at the time the division of land occurred, they will be required to go through a land division process with the Bonner County Planning Department, to allow for the legal separation of the parcels.

ROAD VACATION

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 VS0005-20 – Title 50 Road Vacation – Vacate a Portion of Ellis Drive Platted Easement - Kaleb Beerman & Aubrie Meyer are requesting the vacation of a portion of Ellis Drive, a platted, private ingress/egress and utilities easement. The property is zoned Rural-5. The project is located off Ellis Drive in Section 10, Township 59 North, Range 1 West, Boise-Meridian.

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 Halee Sabourin presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Kaleb Beerman stated the reason for this request is because they are not wanting to cut down a large amount of trees.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION TO APPROVE: Commissioner Connolly moved to approve this petition, FILE VS0005-20 requesting vacate a portion of Ellis Drive, a platted, private ingress/egress and utilities easement, finding that it is in accord with Idaho Code §50 as enumerated in the foregoing 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, conditions of approval, and adopt Resolution 2021-02. The action that could be taken to obtain the vacation 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:

- 10 acres (two 5-acre parcels)
- Hydrologic Features: None.
- Flood Hazard Zone: None. Entire property is within SFHA Zone X, per FIRM Panel 16017C0505E, Effective Date 11/18/2009
- Wetlands: none mapped
- Slope: Virtually the entire property is less than 15% slope per USGS.

B. Access:

- Ellis Drive
 - Private
 - Privately maintained
 - Platted
 - 40' wide

C. Standards review

The project has been reviewed for conformance with Idaho Code §50-1306A, Vacation of Plats - Procedure, Idaho Code §50-1317, and Easements – Vacation of, Idaho Code §50-1325. The following facts relate to the standards of review:

- The petition to vacate a platted area complies with all State procedures set forth in IC §50-1306A and IC §50-1317.

- Abandonment would impede or deprive any property of legal access, but will be remedied per the required conditions.

D. Agency Review

The application was routed to agencies for comment on December 8, 2020. The following agencies commented:

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Army Corps (Coeur d'Alene)
North Side Fire District	Bonner County Schools – Transportation
Avista	Northern Lights Inc.
Inland Power and Light	

Road & Bridge – Matt Mulder, December 17, 2020

"Has no comments as Ellis Dr is a private easement."

The following replied "No Comment."

Inland Power and Light

E. Public Notice & Comments

No public comment was received.

Conclusions of Law:

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

Conclusion 1

This proposal was reviewed for compliance with the vacation criteria and standards set forth at Idaho Code, Plats and Vacations, Section 50-1317, Vacation of plats - procedures; 50-1318, In absence of opposition; 50-1319, In presence of opposition; 50-1321, Necessity for consent.

Conclusion 2

Bonner County **has not** received objections to the petition or application to vacate the described platted area.

Conclusion 3

The abandonment of the easement **is** in the public interest.

Conclusion 4

The landowner or landowners abutting said right-of-way **do** have access to his, her or their property from some other public street, public right-of-way or private road.

Conclusion 5

The easement **has not** been opened or used by the public for a period of five years.

Conditions of approval:

1. The vacation of the above-described right-of-way shall be effective upon the recording of a resolution by the Bonner County Commissioners granting the vacation.
2. Title to the vacated roadway shall be vested as follows:.....[Idaho Code 50-311, as per 50-1320, provides the land shall "revert to the owner of the adjacent real estate, one-half on each side thereof, or as the city council (*or commissioners*) deems in the best interest of the adjoining properties, but the right of way, easements and franchise rights of any lot owners or public utility shall not be impaired thereby." Additionally, right-of-way which is abandoned within a given subdivision must be vested to landowners within the subdivision and may not be granted to lands in other subdivisions or unplatted lands.]
3. The costs for legal advertisements and recording fees shall be borne by the applicant and shall be paid prior to the recording of the resolution vacating the easement.
4. Either a Lot Line Adjustment or a Minor Notational Change is required to ensure each affected lot maintains legal access.

The Chair declared the hearing adjourned at 4:03 p.m.

Respectfully submitted, this 13th day of January, 2021



Milton Ollerton, Planning Director