

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
MARCH 21, 2019**

CALL TO ORDER: Vice Chair Bailey called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Vice Chair Brian Bailey; Taylor Bradish; Trevor Kempton; Sheryl Reeve; Suzanne Glasoe; and Matt Linscott

ABSENT: Chair Don Davis

ALSO PRESENT: Planning Director Milton Ollerton; Floodplain Manager Jason Johnson; Planner II Sam Ross; Administrative Assistant II Emily Aerni; and Administrative Manager Jeannie Welter

CONSENT AGENDA:

APPROVAL OF MINUTES: The Vice Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: March 7, 2019. Hearing no changes or objections, the Vice Chair declared the minutes approved as written.

PUBLIC HEARING:

CONDITIONAL USE PERMIT

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

File CUP0001-19 – Peaceful Pines Cabins – Gary & Susan Hoesel are requesting fifteen (15) vacation rental cabins, one (1) event pavilion and one (1) office/store on a 7.237 acre parcel. The project is located off of Olympic Drive in Section 36, Township 58N, Range 1W, Boise-Meridian. The parcel is zoned Recreation (REC).

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Vice Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed that he knew a member of the audience but it did not create any conflicts for him. Commissioner Bradish stated he worked for the Idaho Department of Lands and some of their state land butts up against the subdivision the subject property is in, but it would not affect his ability to make a decision or create a conflict of interest. Commissioner Kempton stated he knew some of the residents in the area of the subject property, but it did not create any conflicts for him. The Vice Chair noted that there were no additional disclosures or conflicts. (Commissioner Linscott, at 6:52pm, recused himself stating that he knows

some individuals that testified during this hearing and believes their testimony will weigh on his decision.)

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

Commissioner Bradish asked staff planner Jason Johnson if had made a site visit. Mr. Johnson said he did not. Commissioner Bradish noted that the stormwater plan looked like it depicted water ran uphill.

Commissioner Linscott questioned, in relation to services, what would need to happen in the future to expand the density to 26 units. Mr. Johnson said all services would need to be urban.

APPLICANT PRESENTATION: Representative Jared Hoesel presented a PowerPoint showing the general project overview. Mr. Hoesel stated they would not allow individual fire pits due to fire concerns, they would maintain the heavily vegetated buffer to reduce noise pollution, and use low LED light fixtures to reduce light disturbance/pollution.

Commissioner Glasoe asked for clarification regarding the hours of the retail store, who could utilize its services, and how much vegetation buffer would remain. Mr. Hoesel said the specific hours were not known and anyone could use their services. Commissioner Glasoe further asked if there were limitations on how long the public could stay. Mr. Hoesel stated no, other than permanent residency would not be allowed.

Commissioner Reeve asked for more details about the retail store including the exact location. Mr. Hoesel showed information previously presented in the PowerPoint presentation.

Commissioner Bailey asked staff if vacation rental permits had a time frame. Planning Director Milton Ollerton stated the time frame is 30 days or less, but clarified the project file presented was for a Conditional Use Permit.

Planning Director Milton Ollerton asked if the clubhouse at Idaho Club had limited hours.

Jason Johnson clarified that hours of operation was not described in Bonner County Code.

Commissioner Linscott asked what was allowed in the recreational district. Mr. Johnson brought the use tables up on the screen projector.

PUBLIC/AGENCY TESTIMONY:

Charles Bisbee spoke on the record that he was neutral.

Lisa Holder spoke on the record and questioned what would preclude the project from becoming low-end housing and not just seasonal. She neither stated if she was opposed, neutral, or in support of the project.

The following people spoke on the record and opposed the project:

Susan Anderson
Jeffrey Ash
Jamie Jeffries
Nathan Jeffries
Tom Houlihan
Steve Holder

Commissioner Linscott asked if the subject property was part of a current subdivision with HOA and CC&R's. Mr. Johnson stated it was not in a platted subdivision, but was not sure if there was an HOA.

Commissioner Glasoe stated the parking is specific in regard to the rental units. She asked where the parking for the event center and store are or does additional parking need to be taken into consideration. Mr. Johnson stated the planning department reviews the application that is submitted. He stated the planning department reviews the land use that is being proposed not the viability of the applicant's business plan. Mr. Johnson stated the applicant has submitted an application for 38 proposed parking spaces. If the applicant wanted more parking they could have proposed that. He stated if the applicant wants more parking spaces in the future, they can submit a modification to the CUP which will have to go through the same hearing process. Mr. Johnson did stipulate that the parking spaces need to be a foot wider, bringing them to 200 square feet in total, and loading zones for the store and pavilion, and extra spots for ADA will also need to be added to the parking plan. Commissioner Glasoe asked for confirmation that the parking road surface was gravel. Mr. Johnson confirmed yes it is.

Commissioner Reeve stated under conditional use "minimizing adverse impact on other development" is number one. She asked if he took a look at that in depth. Mr. Johnson stated it was reviewed in terms of the project application that was submitted. Commissioner Reeve reiterated she was looking at the overall project and the impact that it would have on the development and the Idaho Club next to it. Director Ollerton responded to Commissioner Reeve's statements saying, "As we review applications we review them to BCRC. If it was the County's plan not to have this type of development then it shouldn't have been zoned recreation. That is why we have zoning. Zoning tells us where allowed uses can go. This property is zoned recreation." Mr. Johnson stated in 2005 this area was zoned for recreational use and it has just taken this long for the use to begin to happen in the area.

Mr. Ollerton affirmed that the USGS map used by the planning department did not depict any wetlands on the subject property. Mr. Johnson stated Bonner County Revised Code uses the US Fish and Wildlife map as the basis for regulation and is the basis of authority.

Pertaining to Commissioner Bradish's question about stormwater; Mr. Johnson stated the slopes on the site are variable and each cabin would need to be reviewed under each individual BLP, and each cabin would have a different requirement.

Commissioner Bradish asked Mr. Johnson if there were any county code that address parking on county right-of-way in association with a conditional use permit. Mr. Johnson stated that is was not under Bonner County Revised Code and the purpose of the hearing was not to approve that aspect.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Vice Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

Commissioner Glasoe stated she did not think there were enough conditions on the project, such as hours of operation.

Commissioner Bradish stated that decisions have to be made based on how the code is currently written.

Commissioner Glasoe stated the code allowed for retail sales, but also allowed for conditions to be set forth, including length-of-stay.

Planning Director Milton Ollerton stated that staff did not have a recommendation regarding hours of operation because it is a resort and check-in times can happen at any time. Commissioner Glasoe clarified the hours of operation question pertained to the retail store. Commissioner Bradish asked if the retail store is the office and if they could close the retail store but keep the office open.

Vice Chair Bailey asked staff if Olympic Drive met commercial standards. Mr. Johnson stated it would be required to meet Bonner County Road and Bridge standards, but the planning department did not review for that. Road and Bridge were routed during the agency review period and they didn't provide any comment.

Commissioner Glasoe stated she wanted to see a limitation of hours of operation for retail sales and length of stay. She further stated that she would like seasonal rental hours defined in the conditions.

Commissioner Bradish asked who would track the length of stay, stating the planning department would not. Mr. Ollerton affirmed the planning department would not, but rather, the neighbors.

Commissioner Bradish stated office hours could be put on the store. He further stated limiting length of stay might turn into a neighborhood watch situation. Commissioner Glasoe stated it prevents it from becoming a long-term rental location. Vice Chair Bailey stated that if it became other than what it's being proposed, then they would lose their conditional use permit. Commissioner Glasoe agreed and stated she would like the hours of retail operation limited in the conditions. She proposed hours of 9am-10pm.

Vice Chair Bailey asked if the Idaho Club's facility was open to the public, or members only. Commissioner Glasoe stated that it was located in a gated community, limiting it to members. Commissioner Bradish stated that the P&Z Commission was not there to discuss the Idaho Club.

Commissioner Linscott, at 6:52pm, recused himself stating that he knows some individuals that testified during this hearing and believes their testimony will weigh on his decision.

Commissioner Kempton asked about the old traffic calculations brought up during public testimony and questioned if there were concerns with that? Commissioner Bradish questioned staff if there was a potential for more than 15 homes on the project site; Vice Chair Bailey stated that it could be up to 26 homes. Mr. Johnson confirmed yes. Director Ollerton responded to Commissioner Kempton's question stating that is not a standard we are required to review for. Mr. Johnson stated it was simply additional information the applicant provided.

MOTION: Commissioner Kempton moved to approve this project FILE CUP0001-19, an application for a conditional use permit allowing fifteen (15) vacation rental cabins, one (1) event pavilion and one (1) office/store, 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 Kempton 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 Bradish seconded the motion.

VOTED upon and the Vice Chair declared the motion failed with a vote of 2-3. Commissioners Bradish and Kempton voted in favor of the motion and Commissioners Reeve and Glasoe voted in opposition of the motion. Commissioner Bailey after stepping down from the Chair voted in opposition of the motion. **Motion failed.**

Background:

A. Site data: The site is a single parcel with no current use. The site is a 7.24 acre parcel in the Recreation (REC) zoning district. The project is located off of Olympic Drive in Section 36, Township 58N, Range 1W, Boise-Meridian on Parcel RP58N01W36S250A. The site is zoned as Recreation (Rec) and Comp Plan designated as Ag/Forest Land (10-20 AC).

B. Access: Access within the site is proposed to be a private easement, with a travel-way to be a 20' wide gravel surface. Traffic for this site will be served by Olympic Dr., which connects to Lower Pack River Rd., then Highway 200 (a three-lane road). Highway 200 is expected to carry 100% of the traffic volume. Applicant submitted traffic analysis demonstrates that the proposed traffic volume generated

by the proposed use will be less than the traffic volume that would be generated by developing the site with single-family dwellings.

C. Environmental factors: Topography, including estimated maximum slope, rock outcroppings, benches, etc: Bonner County GIS USGS slope layers indicate approximately 25% of the site slopes >30% and approximately 27% of the site slopes 15-29%. There are currently no water courses on the site. There are no structures on the site. The US Fish & Wildlife Wetland Inventory Map indicates there are no wetlands present on the site. The site is heavily vegetated with timber, shrubs, deciduous trees and grasses. The location of the proposed structures is mostly gentle sloping. The entire site is within Special Flood Area Zone X, per FIRM Panel 16017C0735E, with an effective date 11/18/2009. There are no special floodplain requirements with this designation.

D. Services: Sewer services will be provided by individual septic system. An individual well (to be drilled) will be utilized to fill (2) 2,400 gal storage tanks. Water will be distributed from the tank to the buildings utilizing pumps and underground water piping, maintenance to be in accordance with IDAPA 58.01.08. Fire protection will be provided by Northside Fire District. Power will be provided by Northern Lights.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC)	REC	N/A
North	Ag/Forest Land (10-20 AC)	REC	0.5 - 2.0 acre platted lots, residential in use
East	Resort Community (<=2.5 AC)	REC	0.5 - 2.0 acre platted lots, residential in use
South	Ag/Forest Land (10-20 AC)	(A/F-10)	180 acre lot, (1) house
West	Ag/Forest Land (10-20 AC)	(A/F-10)	180 acre lot, (1) house (same lot as described in "South" above)

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 12-333; Commercial Use Table; Resorts, commercial

- The proposed driveway access on the site is served by Olympic Drive, a county-maintained road in a 60-foot right of way.
- The proposed site meets the minimum lot size of the applicable zoning district and is greater than 1 acre. Resorts may include facilities for food and beverage sales, rented seasonal living units, retail sales of equipment, supplies or services in conjunction with a resort, campgrounds and recreation vehicle parks.
- BCRC 12-4.1 – Density and Dimensional standards:
 - Minimum parcel size standards are met by this proposal.
 - See Condition A-7.
- BCRC 12-4.2, Performance standards for all uses
 - See Condition A-8.
- BCRC 12-4.3, Parking standards
 - 38 parking spaces are to be provided, per submitted site plans. Hotels, motels, RV sites require 1.25 spaces/unit. Proposed parking is in excess of this standard.
 - Parking spaces shall be resized per Condition A-9.
 - ADA Parking is not present, see Condition A-10.
 - Event pavilion and office/store have not been provided with off-street loading spaces upon issuance of Building Location Permits for these structures. See Condition A-11.
- BCRC 12-4.4, Sign standards
 - Signage has been proposed that is inconsistent with ITD standards, per comments. All signage shall comply with ITD and Bonner County standards, see Condition A-12. Signs are structures per BCRC, signage will require Building Location Permits.
- BCRC 12-4.5, Design standards
 - Site design complies with BCRC 12-4.5. Building design will be reviewed against BCRC 12-4.5 at time of Building Location Permit review, see Condition A-13.
- BCRC 12-4.6, Landscaping and screening standards
 - The applicant states that the existing timber on the site will be maintained, with removal only to accommodate new facilities. The site is heavily wooded.
- BCRC 12-7.2, Grading, stormwater management and erosion control
 - A grading, stormwater management and erosion control plan has been submitted.
- BCRC 12-7.6, Hillsides
 - Building Location Permits shall be required to comply with BCRC 12-7.6, see Condition A-14.

G. Comprehensive Plan Land Use Designation: The property is zoned as Recreation (Rec) and Comp Plan designated as Ag/Forest Land (10-20 AC). The comprehensive plan designation of Ag/Forest Land (10-20 AC) provides for areas where steeper slopes prevail and transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services.

H. Land Capability Report: A land capability report is no longer required by Bonner County for a Conditional Use Permit application, per BCRC 12-222(j). Nonetheless, a Land Capability Report was still submitted by H4 Development, LLC. It states in the conclusion of the report that the proposed site is currently undeveloped and exists in its natural state. A field review of the site and available records indicate that there is minimal risk from flooding, harmful groundwater or surface conditions, significant erosion or sedimentation, and geologic or existing slope instability. In addition, a preliminary evaluation of the site by Panhandle Health District indicates that the site is suitable for on-site sewage disposal. Therefore, it is our opinion that the site is capable of withstanding disturbances from these factors without substantial harmful consequences, should they occur.

I. Stormwater plan: A stormwater management plan was required pursuant to BCRC 12-7.2. A stamped plan by Tri-State Consulting Engineers, Inc was submitted. The plan has detailed requirements for stormwater management and erosion control both during and after construction.

J. Agency Review: The application was routed to agencies for comment on February 15, 2019. The following agencies commented:

- Northern Lights
- Idaho Transportation Department (ITD)
- Idaho Department of Environmental Quality (IDEQ)
- Panhandle Health District (PHD)

On February 25, 2019, Northern Lights commented:
NLI will require the applicant to grant an easement to NLI on the property for extending NLI's powerline to provide power to the property. The easement location will be dependent on the applicant's final plans and power needs.

On February 25, 2019, Idaho Transportation Department (ITD) commented:
The Idaho Transportation Department has reviewed the Peaceful Pines Cabins Conditional Use Permit (CUP0001-19) application and provides the following comments. Under Additional Project Description, Item 12: Advertising sign, size and location states that the project proponent will place one on premise sign and one sign at the corner of State Highway 200 (SH-200) and Lower Pack River Rd.

Idaho Administrative Code 39.03.60 Rules for Governing Outdoor Advertising provides the rules and regulations regarding outdoor advertising along the interstate, primary system of highways and the National Highway System roads of the state of Idaho. The proposed project is zoned Recreation and not Commercial or Industrial, does not front SH-200 and as such does not qualify for off premise outdoor advertising. The proposed development shall not place any outdoor advertising in the Idaho Transportation Department Right of Way along SH-200. The proposed project may qualify for Tourist Oriented Directional Signs (TODS). The intent of the TODS program is to provide tourist oriented directional signing in the form of facility name and directional information to the traveling public. If the CUP0001-19 is approved by the Bonner County, the project proponent may apply for a TODS sign through ITD District 1 office in Coeur d'Alene.

On March 8, 2019, the Idaho Department of Environmental Quality (IDEQ) commented:

The application indicates that a new drinking water system will be developed to serve this project. The water system will be considered a transient non-community public water system and will be regulated by DEQ. Once constructed, the water system will have routine monitoring and reporting requirements. Prior to construction of any portions of the drinking water system, the following must be submitted to DEQ:

Facility Plan: a facility plan must be completed, and approved by DEQ, in accordance with IDAPA 58.01.08 Section 502. DEQ generally recommends that the facility plan follow the outline established in the "Outline and Checklist for Planning Document" included as Form 5-A in the "Applicant's Guide to Idaho's Public Drinking Water Facilities Planning Grant Program" located at <http://www.deq.idaho.gov/waterquality/grants-loans/water-system-planning-grants/>.

Well site evaluation report: The applicant must submit to DEQ a well site evaluation report that includes all applicable requirements in IDAPA 58.01.08 Section 510.

Well Completion Report: Following Completion of the well, a well completion report must be submitted to DEQ. The report must include the applicable requirements of IDAPA 58.01.08 Section 510.05.

Plans and Specifications: Plans and Specifications for the water system infrastructure must be submitted to DEQ. Plans and specifications must meet the minimum standards as outlined in IDAPA 58.01.08 Section 504. DEQ generally recommends the design engineer complete and submit the applicable plan and specification checklists with the plan submittal. Checklists are located at <http://www.deq.idaho.gov/assistance-resources/for-engineers-developers/checklists/>.

Demonstration of Technical, Financial, and Managerial Capacity: A demonstration of technical, financial, and managerial capacity must be submitted prior to, or concurrent with the submittal of plans and specifications. This submittal must include applicable information as outlined in IDAPA 58.01.08 Section 500.

On February 26, 2019, Panhandle Health District (PHD) commented:
Panhandle Health District (PHD) completed a review of the CUP application. In Dec. 2018 PHO completed a speculative site evaluation to determine if the soil in area of the test holes was suitable for subsurface sewage disposal. The soils in the very small and specific area were confirmed suitable but this doesn't confirm the project is suitable. At this time the applicant has not come in for a subsurface sewage disposal permit application or paid the required fees. This is a very large project and will require multiple agency reviews of the engineered plans for the drainfield and collection system. PHD will not issue a permit for sewage disposal until the application and fees are paid, DEQ reviews the potential LSAS requirements and N/P study, and PHO reviews the engineered system designs. Please advise the CUP applicant of the PHD requirements.

K. Public Notice & Comments: No public comments were received by the date of preparation of the staff report.

Findings of Fact

1. The proposed recreational use will occur on a Rec Zone parcel. This is consistent with the intent of the zoning codes of Bonner County.
2. The proposed use will be screened from adjacent uses by the maintenance of existing vegetation.
3. The use will generate traffic at a rate no greater than single-family dwellings.
4. The site will be adequately served with sewer and water services.

Conclusions of Law:

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

Conclusion 1

The proposed conditional use permit **is not** 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 in Bonner County Revised Code, Title 12.

Conclusion 3

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

At 7:01 p.m., the Vice Chair declared a five minute recess.

At 7:07 p.m., the Vice Chair declared the hearing back in session.

OPEN LINE DISCUSSION:

Staff updates

At 7:22 p.m., the Vice Chair declared the hearing adjourned until April 4, 2019.

Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 4th day of April, 2019.

Bonner County Planning and Zoning Commission



Don Davis, Chair