

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
THURSDAY, MAY 16, 2019**

**CALL TO ORDER:** Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 3<sup>rd</sup> Floor BOCC Board of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

**PRESENT:** Commissioners Chair Don Davis; Vice Chair Brian Bailey; Taylor Bradish; Trevor Kempton; Sheryl Reeve; and Matt Linscott

**ABSENT:** Suzanne Glasoe

**ALSO PRESENT:** Planning Director Milton Ollerton; Planner II Sam Ross, Planner I Halee Sabourin; and Administrative Manager Jeannie Welter

**CONSENT AGENDA:**

**APPROVAL OF MINUTES:** The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: May 2, 2019. Hearing no changes or objections, the Chair declared the minutes approved as written.

**PUBLIC HEARINGS:**

**VARIANCE**

**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 V0004-19 – Front Yard Setback Variance – Stephan & Amy Byrd** are requesting a 5' foot front yard setback where 25' feet is required to allow for the construction of a shop garage with future living area above on a 0.28-acre parcel. The project site is located off of N Steamboat Bay Road in Section 27, Township 60 North, Range 04 West, B.M.

**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 I Halee Sabourin presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. She pointed out an error on the staff report pertaining to a road name.

Commissioner Linscott asked for clarification regarding the shoreline setback standards.

Commissioner Kempton asked about the size and purpose of the shared easement.

**APPLICANT PRESENTATION:** Applicant Stephan Byrd submitted exhibits A & B in response to public comments that were received by staff. He gave a summary of his project. He stated he believes their project would better with the natural habitat of the property.

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

Steven Coffey                      Valerie Coffey                      Susan Coffey

**APPLICANT REBUTTAL:** Mr. Byrd responded to the public comments stating when they developed this property they created a French drain system behind the property and on both sides. He stated they also put in silt fencing, erosion control, and other thing to protect the lake. We have gotten a site location permit and been completely transparent with the County. He stated they are trying to stay away from the lake as much as possible.

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

**MOTION:** Commissioner Bailey moved to continue FILE V0004-19 front yard setback until a certified mapped survey is submitted by the applicant with an impervious surface calculation, also to include the 200-foot shoreline standard calculation. Commissioner Kempton seconded the motion.

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

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**Background:**

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**A. Site data:** The subject property is a

- Developed Lot (Single Family Dwelling and Pickle Ball Court)
- Unplatted
- Size: ≈0.28 acres
- Recreational zone

**B. Access:**

- Access is provided by North Steamboat Bay Road a 15' wide, gravel, county maintained road with a 60' R-O-W.

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream. Site fronts on Priest Lake.
- Site is partially located in a Special Flood Hazard Area (DFIRM Panel # 0225F, Zone AE) (FEMA) Area to be developed not located in a Special Flood Hazard Area (DFIRM Panel # 0225F, Zone X – 0.2% annual chance of flood hazard)

**D. Services:**

- Water: Shared well
- Sewage: Coolin Sewer
- Fire: Coolin Cavanaugh Bay Fire District
- Power: Northern Lights

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community (0-2.5 acres)	Recreation	Residential
North	Resort Community (0-2.5 acres)	Recreation	Residential
East	Resort Community (0-2.5 acres)	Recreation	Vacant
South	Resort Community (0-2.5 acres)	Recreation	Residential
West	Priest Lake	N/A	Dock

**F. Standards review:** BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

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

*Applicant: "I would suggest that compliance with the current standards creates undue hardship to the site by forcing the removal of remaining natural habitat along with ground cover and eliminating natural visual buffers along with natural drainage filtration for rain and runoff towards Priest Lake. If we are allowed a variance we could then maintain the natural site amenities and still have minimal or no impact on public or private uses occurring on and/or around our parcel."*

**Staff:** The proposed site has served as a parking area between the natural vegetation against the road and the western part of the parcel. Other areas of the property are either developed or contain mature trees.

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

*Applicant: "No special circumstances were created by the owners by any means in the past."*

**Staff:** The current homeowners did not create/define the current parcel boundaries or plant the mature trees on the property after obtaining the property in September of 2015 per deed #878807.

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

*Applicant: "Granting of this variance would not be in conflict with the public interest or detrimental by of the issues mentioned above. In fact quite the opposite is the result of granting the variance. We would be allowed to maintain our natural visual buffer along with the natural filtration of ground water and runoff that could become a problem in the future as a result of compliance to current setback. Also by allowing for a reduced setback we are able to place the new proposed structure fully outside of the 200' setback for shoreline management (see attached drawings & pictures)." [See additional responses to the Comprehensive Plan Goals and Objectives.]*

**Staff:** "Section 5.2 Forestry" of the Land Use component of the Comprehensive plan states: "Timber conservation management should be encouraged on both public and private lands."

**G. Stormwater plan:** A stormwater management plan is required pursuant to BCRC 12-720.3 K. Application does result in the creation of additional impervious surface. See conditions of approval – required stormwater management plan per BCRC will be submitted at the time of building location permit.

**H. Agency Review:** The application was routed to the following agencies for comment on February 6, 2019:

- |  |                                   |
|--|-----------------------------------|
| Panhandle Health District              | Idaho Dept. of Fish and Game      |
| Coolin Sewer District                  | Idaho Dept. of Env. Quality       |
| Coolin Cavanaugh Fire District         | Army Corps (Newport)              |
| Northern Lights                        | Fish and Wildlife Service         |
| School District #83                    | Idaho Dept. of Lands, Nav. Waters |
| Bonner County Schools – Transportation | Idaho Dept. of Lands (Sandpoint)  |
| Idaho Dept. of Water Resources         |                                   |

**The following agencies replied "No Comment":**

*Idaho Department of Lands*

**All other agencies did not reply.**

**I. Public Notice & Comments:**

Allison Still & Erica Mullins, on April 27, 2019 and April 26, 2019 respectively, provided comments in favor of the variance. They provided letters of understanding between their and the applicant's shared easement, ensuring an agreement between the two parties and the encroachment that extends beyond the required 5' side yard setback.

Cal Larson, on April 22, 2019 provided comments not in favor of the variance stating the following:

1. "I don't understand why [sic] could possibly be granted an exception to this code, as I think the code was written for public safety and this clearly is not in the interest of the public."

**Staff:** Variances are written into the code "to provide a mechanism by which the county may grant relief from the strict application of the provisions of this title where proposals conform to the standards set forth in [BCRC Subchapter 2.3]." Variances also grant the applicant the opportunity to address issues such as public interest.

2. "Their buildings are already jammed on the property, and this would create an unnecessary congestion."

**Staff:** The applicant has one residential building on site with a paved pickle ball court. Per BCRC, the applicant is entitled to build an accessory structure and accessory dwelling units on their property subject to the standards set forth in the BCRC.

3. "When they sell the property, the new owners would have no way to drive to their parking lot without trespassing on the neighbors, as the building would be in the way of the parking spot, and there is only a 5' setback."

**Staff:** There is a shared easement between the applicant and the northern parcel. Please see the letters of understanding from the northern neighbor showing their consent to build near/on the easement.

4. "I believe that their shop would encroach on Mr. Coffey's property in the back"

**Staff:** The site plan submitted by the applicant shows the required 5' side setback from the south property line. The applicant must adhere to the submitted site plan or be subject to another hearing process.

5. "It also strikes me as dangerous, having a building right on the road when kids are zooming by..., let alone the road is narrow to start with, and could be hazardous for larger work and emergency vehicles."

**Staff:** The majority of the proposed building will remain behind the existing tree line and does not appear to get much closer to the road than the existing trees per the scaled site plan.

6. "Being so huge and right on the road creates an awful aesthetic for the neighbors."

**Staff:** The BCRC does not include language to regulate the aesthetic of the structures built on the property. Additionally, they are not in a subdivision with HOA's or CC&R's (Neither are documents the County can enforce)

7. "Also, it is surprising to read that they are planning to turn this into yet another cabin. They already have a constant stream of people on the property (not to mention the two large families sharing the property to their North) and adding yet another family unit on the lake takes an environmental toll on the lake, which is so prized as it is an environmental gem. Every time we add another family dwelling, it slowly hurts the lake."

**Staff:** BCRC allows this property to have a single family dwelling, and an accessory dwelling unit. Per BCRC, vegetative buffers, and limitations on impervious surfaces within 200' of the shoreline, regulate the impact of structures on shorelines. The applicant is building beyond 200' of the shoreline and preserving the existing vegetation.

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#### Findings of Fact

1. The parcel is a ±0.28-acre area.
2. The parcel is zoned Recreation.
3. The parcel is located on North Steamboat Bay Road.
4. The parcel is served by Coolin Sewer.
5. The parcel is serviced by a shared well.

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#### Conclusions of Law:

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

##### Conclusion 1

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

##### Conclusion 2

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

##### Conclusion 3

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

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**Conditions of approval:**

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**Standard permit conditions:**

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- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The variance shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the variance, the applicant may make a written request to the Planning Director for an extension of the variance for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the variance.
- A-3** The applicant will submit a stormwater management plan or erosion control plan at the time of building location permit per the standards and the requirements of BCRC.
- A-4** The applicant shall build the future living area to accessory dwelling unit standards per BCRC.
- A-5** A Building Location Permit shall be obtained prior to construction.

**CONDITIONAL USE PERMIT**

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

**File CUP0002-19 – Grandview Lodge Planned Unit Development – Grandview Estates LLC** has requested a "large-scale residential" Planned Unit Development (PUD) consisting of 11 duplexes (22 units), a designated swim area, and a 22 boat slip marina. The project parcel is approximately four (4) acres and is located off of Reeder Bay Road in Section 17, Township 61 North, Range 04 West, B.M.

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

**STAFF PRESENTATION:** Planner II Sam Ross presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Project representative Debbie VanDyke, Clearwater Engineering, presented some history and a summary of the project. She stated they are trying to develop the project in keeping with a slow relaxed feel to it.

Tim Boden, Boden Architecture, responded to the IDL comment regarding a swim area. He stated as it is a recreation zone they can have a swim area. IDL stated no buoy area could be established. Mr. Boden explained the reasoning behind the layout of the units.

**PUBLIC/AGENCY TESTIMONY:** Maija Druffel requested the commission call her during the public testimony portion of the hearing. The Chair called, as requested, at the start of public testimony at 7:34 p.m. but the call was unanswered.

The following individuals spoke on the record in opposition of the project.

Warren Bixby  
Lori Bixby

**APPLICANT REBUTTAL:** Ms. VanDyke and Mr. Boden responded to the public comments relating to parking, stormwater and erosion control, impervious surface, high water mark, and setbacks. Mr. Ross explained what a PUD is and some specific standards. Mr. Boden and Mr. VanDyke agreed parking could be addressed in the CCandRs.

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

**MOTION TO APPROVE:** Commissioner Linscott moved to recommend approval of this project, FILE CUP0002-19, a 22-unit residential 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 Linscott 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 written with additional language added to condition B1 to address boat storage and off-street parking. This action does not result in a taking of private property. Commissioner Bailey seconded the motion.

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

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**Background:**

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**A. Site data:**

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

**B. Access:**

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

**C. Environmental factors:**

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

**D. Services:**

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

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

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

**F. Standards review**

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

Standard	Required	Provided
		the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.
BCRC 12-256(A)	10% Common Open Space	56% is reserved for common open space. Space calculated as not to include streets, easements and home sites
BCRC 12-256(B)	HOA/Corporate Ownership	The PUD will have an HOA responsible for common area and facilities.
BCRC 12-256(C)	CC&R's	CC&R's required
BCRC 12-256(D)	Development Density	For 4 acres, 11.6 duplexes (174,240 sf /15,000 sf) are allowed. Eleven (11) are being proposed.
BCRC 12-256(G)	Design Standards	See applicant's analysis below.
BCRC 12-256(H)	Buffering/Clustering	No subdivision of land is proposed. No lots need clustered.
BCRC 12-257	Standards of Review (PUD's)	See findings of fact and conclusions of law.
BCRC 12-332	The required acreage for a duplex shall be 15,000 square feet where all urban services are provided	For 4 acres, 11.6 duplexes (174,240 sf /15,000 sf) are allowed. Eleven (11) are being proposed.
BCRC 12-412	Minimum setbacks: Front: 25-feet Rear: 25-feet Side: 5-feet	See applicant's analysis below. The Unit B duplex furthest west, Units B1/B2, has its roofline shown at just over 1' from the property line. The adjacent Unit B duplex, Units B3/B4, has its roofline at 21.5' from the property line. See 'Sheet 2' of the submitted site plan.
BCRC 12-4.3	2 spaces/dwelling unit	2+ spaces/dwelling unit
BCRC 12-711	40-foot setback form ordinary high water mark. Exception: Walkway/ramp < 4' in width.	Dock access ramp = 10' in width. See 'Sheet 2' of the submitted site plan.
BCRC 12-712	Fences or walls, excluding seawalls, taller than thirty six inches (36"), shall not be located closer than forty feet (40') from the shoreline.	Two structures, Units A1 and A2, will extend into the setback 2' each with an approximate 30' wall.
BCRC 12-713	Maximum shoreland "impervious surface: 35%	Land within 200' of OHW = 113,180 sf 35% x 113,180 = 39,613 sf (allowable impervious area) Proposed Impervious within the shoreline setback = 49,064 sf (43%) Previous Impervious within the shoreline setback = 55,167 sf (49%) See 'Sheet 2' of the submitted site plan.
BCRC 12-714	Vegetation buffer management areas include all lands within forty feet (40') from shorelines.	Exceptions may be made for areas that contain no cultivatable soil, such as pebble beach areas or rock outcroppings. Shoreline property owners are encouraged to plant native vegetation where none exists, in areas that contain cultivatable soils.
BCRC 12-7.2	Stormwater, Grading, ERC plan.	Per BCRC 12-724.4, an optional preliminary grading/stormwater management and erosion control plan was submitted in lieu of the plans required at section 12-724.1 through 12-724.3.

• **BCRC 12-256(G)**

- Design Standards: Minimum development standards set forth in this title may be increased or decreased sufficient to accomplish design objectives in the utilization of natural or created amenities (i.e., topographic features, seasonal recreational uses, etc.), provided the development meets the intent of the standards. PUD subdivisions shall comply with the conservation subdivision provisions of section 12-633 of this title. (Ord. 512, 1-6-2010)

- Applicant:

- BCRC 12-711 requires a shoreline setback of 40' for all structures. Two structures, Units A1 and A2, will extend into the setback 2' each with an approximate 30" wall. Due to topography, setbacks and utility easements, this area of the site is the most restrictive for development.
- BCRC 12-711, also, allows for placement of walkways less than 4' in width within this setback. The project is proposing a 10' walkway within this setback to accommodate the needs of the lot owners as they access the marina and beach. The central pathway is outside of this setback.
- BCRC 12-713 sets the maximum impervious surface within the 200' from the shoreline (OHW) at 35%.
  - Land within 200' of OHW = 113,180 sf
  - 35% x 113,180 = 39,613 sf (allowable impervious area)
  - Proposed Impervious within the shoreline setback = 49,064 sf (43%)
  - Previous Impervious within the shoreline setback = 55,167 sf (49%)
- The lot formation, together with the existing sewer main location/easement, leaves a minimal area to build within and not exceed the allowable 35%. As shown on the Previous Site Plan Map, portions of 2 condominiums and 6,133 sf of the lodge were within the 40' setback. This project is proposing the higher percentage of 43% be allowed.
- BCRC 12-412: States those density standards in the REC zone have a minimum lot size of 12,000 sf where all urban services are available.
- BCRC 12-332 (Residential Use Table 3-2, note 2) shows that an additional 3,000 sf can be added to the minimum for duplexes for a total of 15,000 sf. For 4 acres, 11.6 duplexes (174,240 sf/15,000sf) are allowed. Eleven (11) are being proposed.

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

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

- Applicant

- BCRC 12-412, also, provides dimensional standards within the REC district. Those standards are a minimum of a 25' front yard setback from the R.O.W. and a 5' side yard setback. Note #9, Table 4-2, states that "Front yard setbacks may be reduced where approved and indicated on the final plat of a conservation subdivision or PUD." BCRC 12-636 C refers to reductions in setbacks: "Front, side and/or rear yard setbacks may be reduced to accomplish design objectives for the development, provided other applicable standards in this title are met." The Unit B duplex furthest west, Units B1/B2, has its roofline shown at just over 1' from the property line. The adjacent Unit B duplex, Units B3/B4, has its roofline at 21.5' from the property line. All other units are within the setbacks. The existing sewer main and its relative easement, limit building outside the easement and outside the 25' setback in the northern portion of this parcel. Side yard setbacks are twice the minimum at 10' wide.
- The approximately 24' wide Reeder Bay Road is located roughly at the center of the 100' R.O.W. The roadway has about a 10' wide shoulder sloping downhill at a 10% grade. The remaining 28' of R.O.W. slopes downward in the range of 26 - 46% with a general catch point about 10' from the property line. This area is heavily treed providing a great buffer. Previously, 3 cabins, a mobile home, a storage shop and maintenance shop all were within the 25' setback. The requested reduced setback greatly diminishes the number and amount of structures within this setback. The configuration of Reeder Bay Road within the 100' R.O.W. allows for flexibility of locating adjacent structures.
- This section of BCRC requires maximum lot coverage of 35%. The percentage of area to be occupied by covered structures is 26%. (45,055 sf/ (43,560 X4))

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

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

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

**I. Public Notice & Comments:** The following comments were received by the public: Maija M. Druffel – May 1, 2019

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**Findings of Fact**

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

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**Conclusions of Law:**

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

Conclusion 1

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

- |                       |                  |                                    |
|-----------------------|------------------|------------------------------------|
| •Property Rights      | •Population      | •School Facilities, Transportation |
| •Economic Development | •Land Use        | •Natural Resources                 |
| •Hazardous Areas      | •Public Services | •Transportation                    |

- |                   |                         |          |
|-------------------|-------------------------|----------|
| •Recreation       | •Special Areas or Sites | •Housing |
| •Community Design | •Implementation         |          |

Conclusion 2

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

Conclusion 3

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

Conclusion 4

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

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**Conditions of approval:**

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

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- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-4** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.

- A-5** The applicant shall obtain approved building location permits from the Bonner County Planning Department prior to the construction of any structure on the subject site.
- A-6** The total shore-land impervious surface as defined in section 12-809, BCRC, shall not exceed 43%.
- A-7** Units B1/B2 as shown on the site plan shall have a roofline no closer than 1' from the property line. The adjacent units, B3/B4, shall have a roofline no closer than 21.5' from the property line.
- A-8** The dock access ramp shall not exceed 10-feet in width.
- A-9** The proposed water supply and distribution system shall be publicly or privately maintained pursuant to BCRC 12-821; "urban services".

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

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- B-1** The applicant shall provide, to the Planning Department, documentation confirming the formation and establishment of a homeowners' association and/or corporate ownership, which shall be responsible for the development, use and permanent maintenance of all common activities and facilities. To include language addressing no off-street parking or recreational vehicle parking issues.
- B-2** The applicant shall provide, to the Planning Department, articles of incorporation for the homeowners' association or corporate entity governing the PUD. Said articles shall be recorded with the final development plans. The covenants, conditions and restrictions shall be sufficient to enforce development requirements and responsibilities of the homeowners' association and/or ownership.

**AMENDMENT**

**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 AM0002-19 – BCRC Text Amendment to Title 12: 12-238 (A), 12-238 (C), 12-267 (C), 12-268 (D), 12-214 (B), 12-268 (I), 12-484 (C.7.e.), 12-646 (M), 12-127: (A.1. 2. 3), 12-762 – Bonner County** is initiating changes to Bonner County Revised Code **BCRC 12-238 A.**: Administrative Variances: Update variance description to match the definition of variance. **BCRC 12-238 C.**: Change the requirement from letter of interest to application. **BCRC 12-267 C**: Public hearings: Update second sentence in section C to read: Written statements containing more than one standard letter-sized, single-spaced page shall be submitted to the planning department record no later than ~~five (5)~~ seven (7) days prior to the public hearing. **BCRC 12-268 D.** Amend the second sentence to read: The notice

shall be sent at least ~~fifteen (15)~~ twenty-two (22) days prior to the public hearing. **BCRC 12-214 B.** Amend the first sentence to read: At least ~~fifteen (15)~~ twenty-two (22) days prior to the hearing, notice of the time and place of the hearing and a summary of the proposed amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction. **BCRC 12-268 I.** Amend to read: When the Governing Body has made a final decision on an application, the Planning Director shall provide notice to applicants of the final decision in writing ~~by first-class mail~~ within five (5) working days of the date of the decision. **BCRC 12-484 C.7.e.:** The number of off-street parking spaces provided on the property, ~~and the maximum number of vehicles allowed to be parked on the property.~~ **BCRC 12-646 M.:** Wetland boundaries ~~and setbacks as set forth in subchapter 7.3 of this title~~ and any proposed easements or easements of record for drainage, channels, overhead and underground utility lines, sanitary sewers and water systems within the tract. **BCRC 12-127: A.1. 2. 3.:** ~~1. Subdivisions Preliminary plats of four (4) or fewer lots not otherwise eligible for short platting; 2. Variances; 3. Conditional Use Permits, including Planned Unit Developments and Tier III home occupations. 4. Special Use Permits. BCRC 12-762 GEOTECHNICAL ANALYSIS REQUIRED A.~~ Amend the first sentence to read: A geotechnical analysis shall be required for proposed building sites, roads, driveways or other development, where any of the following conditions apply:

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey recused himself from this hearing based upon a letter the planning department for the city of Kootenai. The Chair noted that there were no additional disclosures or conflicts.

**STAFF/APPLICANT PRESENTATION:** Planning Director Milton Ollerton presented a summary of the proposed changes and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code and Bonner County Comprehensive Plan.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record in opposition of specific proposed changes:

Diane Wheeler                                  Doug Gunter                                  Jonna Plante

**APPLICANT REBUTTAL:** Director Ollerton responded to the public comments stating that the County is just trying to clean up the current code.

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

**MOTION TO RECOMMEND APPROVAL:** Commissioner Kempton moved to RECOMMEND APPROVAL of this FILE AM0002-19, to the Board of County Commissioners, amending the sections of Title 12, Bonner County Revised Code, as presented in this hearing, based upon the evidence submitted up to the time the Staff



Report was prepared and testimony received at this hearing. This action does not result in a taking of private property. Commissioner Reeve seconded the motion.

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

### **Project Authority**

The Planning Department initiated an amendment to Title 12. Under the proposed amendment (File #AM0002-19), these amendments are to provide for clarifications resulting from questions that occur as the ordinances are being applied.

This is a continuation of the fine-tuning of the code. Below are the proposed amendments to each specific section and the description of the changes. The language in **red and underlined** is recommended as additions to the existing code. Those words in **red** and strike through would be deleted from the ordinance.

### **12-238: ADMINISTRATIVE VARIANCES**

A. The Director may grant a variance, as an administrative decision, of up to thirty percent (30%) of ~~the following requirements: lot size, lot width or depth, structure height, setback distances for the front, back, or side yards, or parking space. a modification of the bulk and placement requirements of this title as to lot or parcel size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space size, height of buildings, or other provisions of this title affecting the size or shape of a structure or the placement of a structure upon a lot or parcel, or the size of the lot or parcel.~~

C. The application shall be processed as follows:

1. Application And Administrative Requirements: A site plan and ~~application letter of intent~~ shall be submitted for review together with all appropriate fees as established by the adopted fee schedule. The burden of proof lies upon the applicant to show whether characteristics of the site conform to the standards in section 12-234 of this subchapter.

**STAFF:** This change is proposed to bring the definition of variance consistent throughout the code. The definition included with the administrative variance is different than the definition for variance used throughout the code leading to confusion. This makes the ordinance consistent.

The change in letter C is to clarify application versus a letter of intent.

### **BCRC 12-267 C. PUBLIC HEARINGS**

Written statements, plans, drawings and similar materials offered in support of statements at a public hearing are part of the hearing record, and shall be marked with an exhibit number and shall be retained by the county. Written statements ~~containing more than one standard letter sized, single spaced page~~ shall be submitted to the planning department record no later than ~~five (5)~~ **seven (7)** days prior to the public hearing. Written statements not exceeding one standard letter

sized, single spaced page may be submitted at the public hearing. The chair may request the document be read into the record. All written statements shall include the name, signature and address of the person submitting the document. The chair may rule as inadmissible any written document that fails to meet these standards. Nothing contained herein prohibits the chair or governing body from extending the written comment period as provided by this title.

**STAFF:** The proposed change to public hearings to not allow for public comment seven (7) days prior to the hearing. This is to allow the staff, Planning Commission and Board the necessary time to process, read and properly consider the public comments prior to a hearing.

In order to ensure the public adequate time to comment on a project, State Statute requires fifteen (15) days notice prior to a hearing. As this change does not allow public comment seven (7) days prior to a hearing, seven (7) days have been added to the notice requirement for public comment increasing the notice time to twenty-two (22) days. This change is noted below.

### **BCRC 12-268 D. MODIFICATION OF TERMS AND CONDITIONS OF PERMIT APPROVAL**

When the Planning Director has determined the application is complete and in compliance with this title, the Planning Director shall send copies of the application to public agencies and entities that may be affected by the proposal, including, but not limited to, the Health District, fire districts, irrigation or drainage districts, sewer and water districts, school districts, solid waste and transportation agencies and fish and wildlife agencies. The notice shall be sent at least ~~fifteen (15)~~ **twenty-two (22)** days prior to the public hearing.

**BCRC 12-268 I.** When the Governing Body has made a final decision on an application, the Planning Director shall provide notice to applicants of the final decision in writing ~~by first class mail~~ within five (5) working days of the date of the decision.

### **BCRC 12-214 B. PROCEDURES FOR AMENDMENTS TO THIS TITLE**

At least ~~fifteen (15)~~ **twenty-two (22)** days prior to the hearing, notice of the time and place of the hearing and a summary of the proposed amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice shall also be made available to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. A record of the hearing, the findings made, and actions taken shall be maintained.

### **BCRC 12-484 VACATION RENTALS**

C. 7. e. The number of off-street parking spaces provided on the property. ~~and the maximum number of vehicles allowed to be parked on the property.~~

**STAFF:** The term "maximum" was confusing to the permit process as the purpose of the ordinance was to identify the number of required parking spaces based on the number of occupants. The ordinance requires a parking space for every four (4) people and the property may have room for more parking spaces. The word maximum appeared to limit the number of parking spaces where more may be available.

#### **BCRC 12-646 FINAL PLAT, CONTENTS**

M. Wetland boundaries and setbacks as set forth in subchapter 7.3 of this title and any proposed easements or easements of record for drainage, channels, overhead and underground utility lines, sanitary sewers and water systems within the tract.

**STAFF:** Removing the requirement to show the setbacks on the plat removes the potential confusion that may exist from either setbacks changing over the years, variance requests or wetland modifications that may occur.

#### **BCRC 12-127: POWER AND DUTIES OF HEARING EXAMINER:**

A. For any application, the hearing examiner shall provide notice, conduct public meetings, consider applications and render written final decisions based on the standards and procedures provided in this title for the board and commission. The hearing examiner may recommend the commission conduct a public hearing pursuant to the public hearing noticing requirements and procedures of subchapter 2.6 of this title, based upon the extent of public comment or other contested factors in the case which warrant a hearing before the commission. The hearing examiner is authorized to consider the following:

1. Subdivisions Preliminary plats of four (4) or fewer lots not otherwise eligible for short platting;
2. Variances;
3. Conditional Use Permits, including Planned Unit Developments and Tier III home occupations.
4. Special Use Permits

**STAFF:** The purpose of this change is to indicate the applications that are more quasi-judicial and could be approved under a hearing examiner per Idaho Code 67-6520. The statute lists subdivisions, variances, special use permits, and zone changes as possible files the hearing examiner could hear.

#### **BCRC 12-762 GEOTECHNICAL ANALYSIS REQUIRED**

A. A geotechnical analysis shall be required for proposed building sites, roads, driveways or other development, where any of the following conditions apply:

**STAFF:** The ordinance lists three conditions which may trigger a geotechnical analysis on a building site. The ordinance, currently written, may lead one to believe that all three conditions must exist simultaneously in order to trigger this analysis. However, even if only one of the conditions exist, it still needs to be confirmed whether the site is safe for development. This proposed change clarifies the ordinance with the current interpretation of the code.

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#### **Public Comment:**

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At the time of the staff report, there have been no public comments on this file.

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#### **Authority**

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The ordinance amendment is proposed under the authority granted at Idaho Code, Chapter 7, Title 31; Chapter 8, Title 31; and Chapter 65, Title 67; and Article XII, Section 2, of the Idaho Constitution.

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#### **Findings of Fact:**

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1. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, may recommend a zoning ordinance.
2. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
3. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations "...not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein..."  
  
The proposed ordinance making the above changes adds to the clarity intended in the interpretation of the Bonner County Revised Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining the protection of property, peace, good order, comfort and convenience of the county and its inhabitants
4. Further clarifying standards enabling the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

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#### **Conclusions of Law:**

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1. The proposed amendments to Title 12 **IS** in accord with Idaho Code, Chapter 7, Title 31.
2. The proposed amendments to Title 12 **IS** in accord with Idaho Code Chapter 67 Title 65.

**EXECUTIVE SESSION:**

At 8:55 p.m., Commissioner Linscott moved to enter an Executive Session pursuant to Idaho Code §74-206(1)(a) to consider hiring. Commissioner Bailey seconded the motion.

**VOTED** upon and the motion carried unanimously.

The Chair resumed the public meeting at 9:15 p.m.  
Commissioner Bradish moved to appoint Teri Hill as an alternate member to the Priest Lake sub-area committee. Commissioner Bailey seconded the motion.

**VOTED** upon and the motion carried 3-4. Commissioners Bailey, Davis, Bradish, and Kempton voted in favor of the motion. Commissioner Reeve voted in opposition of the motion and commissioner Linscott abstained from voting.

**OPEN LINE DISCUSSION:** Discussion regarding rezoning.

Commissioner Bradish moved to direct the planning department to initiate the process of a Comprehensive Plan designation change to transition and zone change to industrial for said parcels including the compressor station, areas in rock with active rock pits, the county dump, the May pit, the wheat processing site, the old Ceda Pine facility, and the Woods Pack River pit. Commissioner Bailey seconded the motion. Voted upon and the motion passed unanimously.

Commissioner Davis recommended the next meeting be an open general discussion.

At 9:36 p.m., the Chair declared the hearing adjourned until June 6, 2019.

Respectfully submitted,



Milton Ollerton, Planning Director

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The above Minutes are hereby approved this 18<sup>th</sup> day of July 2019.

Bonner County Planning and Zoning Commission



Don Davis, Chair