

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
NOVEMBER 7, 2019**

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Chair Davis 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 Chair Don Davis; Vice Chair Brian Bailey; Taylor Bradish; Trevor Kempton; Suzanne Glasoe; and Matt Linscott

ABSENT: Sheryl Reeve

ALSO PRESENT: Planning Director Milton Ollerton; Planner I Halee Sabourin; Planner I Tessa Vogel; 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: October 17, 2019. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARINGS:

AMENDMENT & ZONE CHANGE

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.

Files AM0006-19 & ZC0004-19 – Comprehensive Plan Map Amendment & Zone Change – Rockstarr Land LLC is requesting a Comprehensive Plan Map Amendment from Agriculture/Forest to Rural Residential and a Zone Change from Agriculture Forestry 10/20 to Rural-5. The ±23.25 acre parcel of land is located off Saunders Road in Section 1, Township 54 North, Range 6 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bradish disclosed he works for the Idaho Department of Lands in Section 36 but has no conflict. The Chair noted that there were no additional disclosures or conflicts.

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

APPLICANT PRESENTATION: Applicant Christian Starr gave a brief summary of his project.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Kempton moved to recommend approval to the Board of County Commissioners on this project, FILE AM0006-19, requesting a comprehensive plan amendment for the subject property from Ag/Forest Land to Rural Residential, 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. This action does not result in a taking of private property. Commissioner Glasoe seconded the motion.

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

Zone Change - Motion by the Governing Body:

**PLANNING AND ZONING COMMISSION
Motion 2 of 2**

MOTION TO APPROVE: Commissioner Linscott moved to recommend approval of this project, FILE ZC0004-19, requesting a zone change from Ag/Forest-10/20 to Rural-5, 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. 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.

Background:

A. Site data:

- Acreage: ±23.25 acres
- Zoning: Ag/Forest-10/20 (split zoned)
- Structures: vacant
- Access:
 - Saunders Rd

- Public ROW – County Maintained
- Local Access
- Gravel
- Environmental:
 - Flood hazard area:
 - X – 0.2% Annual Chance Flood Hazard
 - Wetlands: N/A
 - Hydrography: N/A
 - Slope: <15%
 - Soil: Stapaloop-Kaniksu, Dry Complex, 8 To 25 Percent Slopes
- Services:
 - Water:
 - Individual well
 - Sewage:
 - Individual septic
 - Fire:
 - Spirit Lake Fire
 - School:
 - Bonner School #83

B. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 acres)	A/F-10/20	Vacant Timber
North	Ag/Forest Land (10-20 acres)	A/F-10	Residential, 5-10 acre lots
East	Ag/Forest Land (10-20 acres)	A/F-20	Public Forest
South	Ag/Forest Land (10-20 acres)	A/F-20	Vacant Timber
West	State of Washington	A/F-10/20	Vacant Timber

C. Standards review: Bonner County Revised Code

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
 - The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
 - Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)

• Comprehensive Plan Map Amendment:

- **Ag/Forest Land:** The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% Land Use Component Bonner County Comprehensive Plan CHAPTER 6-4 or greater) 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.
 - Staff: The subject parcel does not feature steeper slopes (USGS <15%). Access is provided by Saunders Rd, a county maintained road, and the parcel is afforded fire protection via Spirit Lake Fire.
- **Rural Residential:** The Rural Residential area 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.
 - Staff: The subject parcel does not feature steeper slopes (USGS <15%). Access is provided by Saunders Rd, a county road, and the parcel is afforded fire protection via Spirit Lake Fire. Surrounding properties feature agricultural and residential uses. Parcels lying to the North are 5-10 acres in size and are developed with residences.
- Conclusion: Existing densities, environmental features, and services indicate that the subject property conforms to the Rural Residential Designation.
- **Zone Change:**
 - **Rural District:** The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
 - Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
 - Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
 - Encouraging conservation development configurations that create permanent open space or farming areas, protect

sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

- Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - Characterized by slopes steeper than thirty percent (30%).
 - Located within critical wildlife habitat as identified by federal, state or local agencies.
 - Contain prime agricultural soils.
 - Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
 - Within the floodway.
 - Contain limited access to public services.
 - R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above. (Ord. 501, 11-18-2008

- Staff: The subject parcel does not feature slopes in excess of 15% (USGS). Access is provided by Saunders Rd, a county road. The parcel does not feature any special flood hazard areas or floodway. The parcel has access to public services such as Spirit Lake Fire. Surrounding properties vary in size. Those lying to the north and southeast are approximately 5 acres in size and have been developed with residential uses. Similar environmental conditions, services and access are present.

D. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.2 because the proposal does not listed in the applicability section.

E. Agency Review: The application was routed to agencies for comment on October 8, 2019.

- o The following agencies responded:
 - IDL – No comment
 - IDFG – No comment
 - Road and Bridge – No comment
 - PHD – No comment

All comments from agencies are due by October 31, 2019. Any agency comment received after the production of this report is to be referenced during the public hearing.

F. Public Notice & Comments: As of October 25, 2019, there have been no public comments received.

Findings of Fact

- The parcel is ±23.25 acres.
- Properties in the area are 5 acres in size and are used similarly.
- The parcel features individual utilities and is afforded fire protection.
- The parcel is accessed by Saunders Road, a county road.
- The parcel does not feature steep slopes or special flood hazard areas.

Conclusions of Law:

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

Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

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

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **is** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the Rural Residential Land Use Designation.

Zone Change Findings of Fact

- The parcel is ±23.25 acres.
- Properties in the area are 5 acres in size and are used similarly.
- The parcel features individual utilities and is afforded fire protection.
- The parcel is accessed by Saunders Road, a county road.
- The parcel does not feature steep slopes or special flood hazard areas.

Zone Change Conclusions of Law:

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

Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

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

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the purpose of the Rural-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

VARIANCES

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

File V0020-19 – Guest House Bulk Variance – Steven & Michele Lewis are requesting a bulk variance to allow three existing cabins (Guest Homes) on a 10 acre property to remain, where only one is allowed. The property is zoned Agricultural/Forestry-20. The project is located off Little Flume Creek Road in Section 13, Township 58 North, Range 01 East, 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: Staff Planner Halee Sabourin presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Steve Lewis gave a summary of the process he has gone through for the project. He stated he is in the process of working with Panhandle Health District relating to the drain field issues.

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

John Gentleman

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Kempton moved to approve this project FILE V0020-19 to allow three existing cabins (Guest Homes) on a 10 acre property to remain, where only one is allowed, finding that it is in accord with the 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 variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Linscott seconded the motion.

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

Background:

A. Site data:

- Residential
- Unplatted
- Size: 10 acres
- Zone: Agricultural/Forestry-20
- Land Use:A/F (10-20 acres)

B. Access:

- Access is by Little Flume Creek Road, a private, gravel road.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does contain a Flume Creek. (NHD)
- Site appears heavily vegetated. (GIS Imagery)
- Entire parcel is SFHA Zone X, per FIRM Panel #16017C0545E, Effective Date 11/18/2009. No further flood review needed.

D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Near Northside Fire District
- Power: Northern Lights, Inc.
- School District: Bonner School #81

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC)	Agricultural/Forestry-20	Residential forest land
North	Ag/Forest Land (10-20 AC)	Agricultural/Forestry-20	Residential forest land
East	Ag/Forest Land (10-20 AC)	Agricultural/Forestry-20	Residential forest land
South	Ag/Forest Land (10-20 AC)	Agricultural/Forestry-20	Residential forest land
West	Ag/Forest Land (10-20 AC)	Agricultural/Forestry-20	Residential forest land

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: "We purchased the property in 2017 and learned subsequently that the 3 bunkhouses do not comply with density regulations."

Staff: Staff wishes to clarify, that this is not density requirement variance request. Guest homes as specifically stated in BCRC12-332 table 3-2 sub note 10 that "a guest home... may be permitted on the same lot as the main dwelling without respect to lot density... Either 1 guest home or 1 accessory dwelling is permitted per lot or parcel." This is a bulk increase request as defined in BCRC12-822 as the relationship of a structure to a lot or other structures. The circumstance beyond the applicant control addressing variance conditions A and B is the fact the guest homes were established before the applicants obtained the property.

These cabins, based on a Facebook Page, appeared to be used for commercial use – more specifically a Hostel. However, per a conversation with Michele Lewis, the Facebook page was meant for friends and family stays. She also explained her struggle using Facebook and stated she had removed the page. Facebook appears to still have the page available to the public. Once the advertisement is removed the use can be established as guest houses.

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

Applicant: "The bunkhouses were built in 2004, long before we acquired the property."

Staff: The circumstance beyond the applicant control addressing variance conditions A and B is the fact the guest homes were established before the applicants obtained the property. The planning departments were made aware of these guest homes on August 15, 2019 with the submittal of a Building Location Permit and a Declaration of Exempt for accessory structures. Assessor records show the establishment of these guest homes in 1990 and that the applicants obtained the property in July of 2017.

- (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: "The three bunkhouses are seasonal structures that contain beds and a ¾ bath. They have no heat and no cooking amenities. They are used like detached bedrooms for family and guests. They are not residences. They are not for rent." [See additional responses to the Comprehensive Plan Goals and Objectives by the applicant.]

Staff: These structures have not been subject to any documented public complaint and have been established and assessed since 1990.

G. 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.

H. Agency Review: The application was routed to agencies for comment on October 4, 2019.

- | | |
|---------------------------|--|
| Panhandle Health District | Dept. of Water Resources |
| Bonner County Road Dept. | Army Corps (Coeur d'Alene) |
| Northside Fire District | Dept. of Env. Quality |
| Northern Lights Inc. | Fish and Wildlife Service |
| School District #84 | Bonner County Schools – Transportation |
| Dept. of Fish and Game | Dept. of Lands (Sandpoint) |

The following agencies commented:

Panhandle Health District – Chris Irvin October 8, 2019

"Upon Review of the documents provided through agency review for a variance, Panhandle Health District (PHD) was unable to find adequate permit documents for the main home or the 3 guest houses on the site. All structure on this

site are required to have legally permitted drainfield/s. Please advise that applicant contact PHD in order to clear up any required permits."

The following agencies replied "No Comment":

Idaho Department of Lands - Tom Fleer October 17, 2019

All other agencies did not reply.

I. Public Notice & Comments

October 25, 2019
Luke McDaniel - In favor

October 28, 2019
Graff and Lori Moore - In favor

Findings of Fact

1. Current parcel consists of 3 guest homes, one single family dwelling, and 6 accessory structures as shown on the site plan.
2. Unplatted, 10 acres parcel. Zoned A/F-20.
3. Structures were established before current ownership.
4. Property is accessed by Little Flume Creek Road.

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)

Conditions of approval:

Standard permit conditions:

- A-1** Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
- A-2** Applicant shall obtain building location permits for the existing guesthouses. With the condition placed stating "Cabins and other dwellings on site are not to be used for short term renting, retreats, resorts, or other uses requiring a conditional use permit without first obtaining a conditional use permit or the proper permits."
- A-3** Existing guest homes can be modified so long as the structures remain as a structure consisting of sleeping quarters with no kitchen facilities and a floor area of six hundred (600) square feet or less for the use by temporary guests or family members of the occupants of the main structure, not rented or otherwise used as a separate dwelling.
- A-4** Removal of "Little Flume Creek Resort" advertisement referring to use as Hotel/Lodging.

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 V0021-19 - Front Yard Setback - Jeffrey Hagel is requesting a 17.4 feet front yard setback variance where 25 feet is required, to allow for a carport addition to an existing accessory structure for safer access and use of property in the winter on a 5 acre parcel. The property is zoned Rural-5. The project is located off Bottle Bay Road in Section 01, Township 56 North, Range 02 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: Staff Planner Halee Sabourin presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: None.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Linscott moved to approve this project FILE V0021-19 requesting a 17.4 feet front yard setback variance where 25 feet is required, to allow for a carport addition to an existing accessory structure for safer access and use of property in the winter on a 5 acre parcel, finding that it is in accord with the 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 variance is to complete the Conditions of Approval as adopted. 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.

Background:

A. Site data:

- Residential use
- Unplatted
- Size: 5 acres
- Zone: Rural-5/Suburban

B. Access:

- The property is accessed off Bottle Bay road, an existing, county maintained, paved, 70' wide right of way.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/waterfront (NHD)
- Entire parcel is within SFHA Zone X, per FIRM Panel 16017C0950E, Effective Date 11/18/2009. (FEMA)

D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire District
- Power: Avista Utilities
- School District: Bonner School #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential (5-10 AC) /Transition	R-5/Suburban	Residential
North	Rural Residential (5-10 AC) /Transition	R-5/Suburban	Residential
East	Rural Residential (5-10 AC)	R-5	Residential/Vacant
South	Rural Residential (5-10 AC) /Transition	R-5/Suburban	Residential
West	Transition	Suburban	Residential

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:

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

Applicant: "The condition that applies to the property is that the existing structure was placed right up on the front yard setback. The driveway is existing and will continue to be used for off street parking. The proposed addition will allow for continued safer access and use of the property in the winter. The driveway is not as useful in any other location."

Staff: Properties of similar size and zoning in the area do not have structures orientated to face the county road. The applicant's driveway exists and will continue to provide parking for the parcel. Additionally, there is a drop off behind the home that leads to the wetland on the property.

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

Applicant: "I did not build the building or the retaining wall on the property. Nor did I place the driveway in the current location. There is a serious drop off on the west side of the structure, so I highly doubt the original developer could have placed the structures and driveway in any other feasible location."

Staff: Per the Assessors records the dwelling was established in 1937 and the detached garage were established in 1984. The applicant did not obtain the property until July of 2019. The applicant is not responsible for the existing structures or property conditions except for the establishment of the carport.

(f) 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: "The car port, at 12-feet, would not interfere with public travel, health, safety, or welfare. In order to widen Bottle Bay Road, one would have to remove about 150' of 5' high retaining wall, and 3 large trees on the property before getting to the carport. Additionally, I spoke with Bonner County Road and Bridge Engineer, Matt Muider, who expressed no concern w/ the proposal as it relates to county operations. He did suggest I mitigate snow plowing impacts with a wall or fence of appropriate height within my front yard." [See additional responses to the Comprehensive Plan Goals and Objectives.]

Staff: Both the public and governmental agencies expressed no concern regarding the proposal. Additionally, the conditions of approval – as proposed or amended – will ensure that the granting of this variance 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.

G. 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.

H. Agency Review: The application was routed to agencies for comment on October 4, 2019. The following agencies were routed:

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Army Corps (Coeur d'Alene)
Selkirk Fire District	Dept. of Lands (Sandpoint)
Avista	Fish and Wildlife Service
School District #84	Bonner County Schools – Transportation
Dept. of Fish and Game	Dept. of Env. Quality

The following agencies replied "No Comment":

Idaho Department of Lands – Tom Fleer October 17, 2019

All other agencies did not reply.

I. Public Notice & Comments: Public comments were not submitted.

Findings of Fact

1. Unplatted, 5 acre parcel. Split zoned R-5 and Suburban.
2. Property fronts on Bottle Bay Road.
3. Property contains mapped wetlands.

4. Properties of similar size and zoning in the area do not have structures orientated to face the county road.
5. The applicant's driveway exists and will continue to provide parking for the parcel.
6. There is a drop off behind the home that leads to the wetland on the property.
7. Per the Assessors records the dwelling was established in 1937 and the detached garage were established in 1984.
8. The applicant did not obtain the property until July of 2019.
9. Both the public and governmental agencies expressed no concern regarding the proposal.

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)

Conditions of approval:

Standard permit conditions:

- A-1** Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
- A-2** Applicant shall obtain a building location permit for an addition to an Accessory Structure bringing the carport into compliance.

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 CUP0004-19 – Vacation Rental (more than 20 people) – Christian & Dori Rhynalds are requesting a conditional use permit for a vacation rental to accommodate more than 20 individuals. The property is zoned suburban. The project is located off Lakeshore Drive in Section 3, Township 56N North, Range 2 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: Staff Planner Tessa Vogel presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Jesse Hehn Daugherty stated his company will manage the vacation rental. He answered questions from the commissioners relating to complaints.

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

Greggory Paterson
Stephanie Berghan
Doug Pope

APPLICANT REBUTTAL: Planning Director Milton Ollerton spoke to the public comments. He stated that the state of Idaho does not allow cities or counties to prohibit short-term rentals or vacation rentals. Jesse Hehn thanked the public for their comments. He stated Daugherty goes above and beyond to be good neighbors relating to their vacation rentals. He clarified that when someone calls Daugherty they are not talking to someone in Boise rather they are speaking with a local representative.

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

MOTION TO APPROVE: Commissioner Kempton moved to approve this project FILE CUP0004-19, a vacation rental with a maximum occupancy of twenty-four (24) persons on 2.16 acres, 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 amended as follows: A-4 no more than 24 persons to reside at the property at one time; A-5 no more vehicles shall be parked on the premises than there are designated parking spaces. 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 Linscott seconded the motion.

VOTED upon and the Chair declared the motion carried with a vote of 4-1. Commissioners Bradish, Kempton, and Glasoe voted in favor of the motion and commissioner Bailey voted in opposition of the motion.

Background:

A. Site data:

- a. Parcel Area: 2.16 acres
- b. Zone: Suburban
- c. Use: Residential

B. Access:

- a. Lakeshore Drive
 - i. Owner: County
 - ii. Road Class: minor arterial
 - iii. Surface Type: paved

C. Environmental factors:

- a. Floodplain: D, AE
 - i. Per FEMA
- b. Soil Type: Mission Silt Loam, 0 to 2 percent slopes
- c. Slopes: Less than 15% per USGS

D. Services:

- a. Water: Southside Water and Sewer District
- b. Sewer: Southside Water and Sewer District
- c. Fire: Selkirk Fire District
- d. Power: Avista Utilities
- e. School: Lake Pend Oreille School District, #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Urban Growth Area (<=2.5 AC)	SUB	Residential
North	N/A	N/A	Lake Pend Oreille
East	Urban Growth Area (<=2.5 AC)	SUB	Residential

Compass	Comp Plan	Zoning	Current Land Use & Density
South	Rural Residential (5-10 AC)	Rural-5	Residential
West	Urban Growth Area (<=2.5 AC)	SUB	Residential

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.

<p>BCRC12-484.C.1; Permit: The vacation rental permit shall be issued for two (2) years. The Planning Department shall issue the permit where it finds the application requirements of this section have been met, and upon payment of the "permit fee" in an amount as determined by the Board of County Commissioners.</p>	<p>Staff: The conditional use permit will satisfy the issuance of two (2) years use along with the biennial renewal requirements for continued use.</p>
<p>BCRC12-484.C.2; Ownership: A vacation rental permit is issued to a specific owner of a property in the applicable zone. If the property holding a vacation rental permit is sold, the vacation rental permit shall immediately expire and the new owner shall make application for a new vacation rental permit.</p>	<p>Staff: The applicants, Christian and Dori Rhynalds, are the legal owners per the warranty deed recorded April 30, 2019 under Instrument number #937866. Per BCRC12-221.C; <i>Conditional use permits issued under this title are valid for the life of the use at the location for which the permit was issued, unless an expiration date is specified in the conditional use permit or unless a permit has been revoked under this title. Conditional use permits shall be deemed to run with the land to which they are attached, and the terms of the permits shall not be modified or terminated by a change in ownership of the lands.</i> This conditional use permit for a large vacation rental will not have to be reapplied for if ownership changes due to the use being conducted under a conditional use permit and not a vacation rental permit.</p>
<p>BCRC12-484.C.3 a & b; Occupancy: (a) The maximum occupancy for a vacation rental shall be three (3) persons per bedroom plus an additional three (3) people up to a total of twenty (20) persons, regardless of age. This shall also be based on Panhandle Health or the sewer district recommendation and the space available for off-street parking. If there is to be more than twenty (20) people allowed in the rental, a conditional use permit is required. (b) No recreational vehicle, travel trailer or other temporary shelter shall be used as a vacation rental or in conjunction therewith to provide additional sleeping areas or otherwise.</p>	<p>Staff: This conditional use permit will allow for four (4) more additional persons than a vacation rental permit allows. There will also be adequate parking spaces available with a total of six (6) which allows for twenty-four (24) persons and Southside Water and Sewer District had no comments in regards to this file.</p>

<p>BCRC12-484.C.4; Access: Approval shall be obtained from the agency having jurisdiction over the access serving the site.</p>	<p>Staff: Lakeshore Drive is a County owned road. Per the Bonner County Road and Bridge Department, an encroachment permit must be obtained through the Bonner County Road and Bridge Department for the existing driveway.</p>
<p>BCRC12-484.C.5; Parking: One off-street parking space shall be provided for each four (4) persons of occupancy in a vacation rental, regardless of age. No more vehicles shall be parked on the property than there are designated off-street parking spaces. Inability to provide the required off-street parking will reduce the permitted occupancy. A site plan shall be submitted with an application for a vacation rental permit which identifies the location of the required off-street parking.</p>	<p>Staff: The applicants are providing six (6) off-street parking spaces (four (4) in the driveway and two (2) inside the attached garage). These off-street parking spaces are indicated on the attached site plan on page 3 of this staff report by six (6) 'X's. Six (6) off-street parking spaces allows for a total occupancy of twenty-four (24) persons.</p>
<p>BCRC12-484.C.6; Solid Waste Disposal: The property owner/owner's representative or a waste collection provider shall provide weekly solid waste collection during all months that the vacation rental is available for rent.</p>	<p>Staff: Weekly service will be provided by the owner's representative, Daugherty Management.</p>
<p>BCRC12-484.C.7, a-h; Permit Posting: The vacation rental permit shall be posted within five feet (5') of the front door of each dwelling unit, on the inside of the dwelling unit, and contain the following information. (a) The name and telephone number of the local representative. (b) The name and address of the owner. (c) The contact information for the Planning Department and the Sheriff's Office in Bonner County. (d) The maximum occupancy permitted. (e) The number of off-street parking spaces provided on the property. (f) The solid waste disposal collection day. (g) Rules of the area, HOA, etc. (h) Boating and recreational rules.</p>	<p>Staff: A permit posting created by the Bonner County Planning Department with information required per BCRC12-484.C.7 a-h will be brought to the vacation rental for posting by the designated Bonner County Planning Department compliance investigator at the time of the inspection for the number of available bedrooms and off-street parking spaces. Rules of the area, HOA, etc. along with boating and recreational rules will be made available inside the vacation rental by the owners/owner's representative and inspected by the compliance investigator. There will also be quiet hours between 10Pm and 8Am which will be enforced.</p>
<p>BCRC12-484.C.8; Signs/Advertising: One on premises sign, which may be lighted from the exterior, not in excess of six (6) square feet, shall be permitted. All advertising for the vacation rental shall include the County permit number and the maximum number of vehicles accommodated by off-street parking spaces.</p>	<p>Staff: The existing sign is for home site identification and not for vacation rental advertising. The sign is to make sure that renters go to the correct home and not a neighboring property. If any signs/advertising for the vacation rental is to be used, it will be restricted to the requirements in BCRC12-484.C.8 and will include CUP0004-19 for the County permit number and twenty-four (24) for the number of vehicles to be accommodated for by off-street parking spaces.</p>

<p>BCRC12-484.C.9; Land: Adequate evidence shall be provided that there is sufficient land area to accommodate the proposed use, and that the use and any appurtenant are so arranged on the land as to minimize any adverse effects on surrounding properties, and will not create particular hazards to adjacent properties.</p>	<p>Staff: There is adequate space for the vacation rental as it is being held in the permitted single family dwelling. The single family dwelling was permitted through the Bonner County Planning Department in 1991 (BLP1991-0001) for a single family dwelling with an attached accessory building (garage).</p>
<p>BCRC12-484.C.10; Zoning: All vacation rentals shall conform to the zoning in which they are located including and up to floodplain permitting, shoreline regulations and other applicable building location permits.</p>	<p>Staff: The zoning district is Suburban (SUB) and the property has all urban services which allows for a minimum lot size of 10,000 square feet and the property is 2.16 acres. Vacation rentals are a permitted residential use in all zoning districts except for the Forest-40 acre, Commercial, and Industrial zoning districts. There is a building location permit on file with the Bonner County Planning Department under BLP1991-0001 for a single family dwelling with an attached garage.</p>
<p>BCRC12-484.D, 1-3; Local Representative: (1) Local Representative: The owner of the property shall designate a "local representative". The local representative must be either the owner or other individual person who resides permanently within ninety (90) minutes of the property or; a legally operating resort, bed and breakfast establishment, or property management company. (2) Change Local Representative: The local representative may be changed by the owner from time to time throughout the term of the permit, by the owner filing a written notice that includes the name, address and telephone number of the new local representative. (3) Notification of Change: Failure to notify the County within thirty (30) days of a change in the local representative constitutes a violation and is grounds for a penalty pursuant to this section.</p>	<p>Staff: The local representative, Daugherty Management, resides within ninety (90) minutes of the property. Daugherty Management is located at 101 N. First Ave., #2, Sandpoint, ID 83864 which is approximately seven (7) minutes from the property.</p>
<p>BCRC12-484.D.4; Complaints: The local representative must be authorized by the owner to respond to questions or concerns from the occupants or neighbors. The local representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the property as a vacation rental. The local representative must respond to those complaints within seven (&) business days to ensure that the use of the property complies with the standards for vacation rental occupancy, as well as other pertinent County Code requirements pertaining to noise, disturbances, or nuisances, as well as State law pertaining to the consumption of alcohol, or the use of illegal drugs.</p>	<p>Staff: As the representative, Daugherty Management will be responsible for all requirements under BCRC12-484.D.4 and any complaints/concerns that are submitted to the Bonner County Planning Department in regards to this vacation rental shall be included into file CUP0004-19 and sent to Daugherty Management.</p>

<p>BCRC12-484.D.5; Neighbor Notification: The County shall notify property owners and residents within three hundred feet (300') of the property of the issuance of the permit and associated information. The purpose of this notification is so that adjacent property owners and residents can contact the local representative and/or owner to report and request the resolution of problems associated with the operation of the vacation rental.</p>	<p>Staff: After issuance of the conditional use permit and appeal periods are complete, a notice that a vacation rental has been issued through file CUP0004-19 to neighboring properties within three hundred feet (300') of the vacation rental property.</p>
<p>BCRC12-412; Density and Dimensional Standards: Suburban, Commercial, Industrial, Rural Service Center and Alpine Village Zones. Minimum lot size where all urban services are available is ten thousand 10,000 square feet.</p>	<p>Staff: The property of this conditional use permit has adequate land space for the residential use due to the property being 2.16 acres where 10,000 square feet is the minimum requirement where all urban services are available. This property has all urban services due to being on a paved roadway and being on an existing community sewer and water system.</p>
<p>BCRC14-301 Lands to which this Title applies; This title shall apply to all special flood hazard areas within the jurisdiction of Bonner County, Idaho. Nothing in this title is intended to allow uses, development or structures that are otherwise prohibited by the zoning ordinance.</p>	<p>Staff: Per Bonner County Planning Department Floodplain Manager Jason Johnson; <i>The parcel is a combination of SFHA Zone X and Zone AE, per FIRM Panel 16017C0950E, Effective Date 11/18/2009. The proposed vacation rental is entirely within the SFHA Zone X. Vacation rental use, under Bonner County code, does not meet the FEMA and BCRC Title 14 definition of Development. No BCRC Title 14 Development is proposed under this application and no further flood review is required.</i></p>

G. Comprehensive Plan Land Use Designation: The property is zoned as Suburban (SUB) and Comp Plan designated as Urban Growth Area <=2.5 AC). The comprehensive plan designation of Urban Growth Area <=2.5 AC) is designed to recognize the historic developments of communities and neighborhoods which are served by either urban water or sewer services or are located within the fringes of incorporated cities where such services have or can be extended to serve these areas. These areas are generally level to moderately sloped landscapes and serve a network or primary transportation systems.

H. Stormwater plan: A stormwater management plan was not required as no land disturbance is proposed.

I. Agency Review

The application was routed to agencies for comment on October 04, 2019. The following agencies commented;

- Bonner County Road and Bridge
- Panhandle Health District
- Idaho Department of Environmental Quality

On October 10, 2019, Panhandle Health District commented; This parcel was determined to be unsuitable for an individual on-site subsurface sewage disposal system in 2007 (see PHD file 07-09-107617) and the application indicates the parcel is connected to Southside Water and Sewer District (SWSD) for both drinking water and wastewater services. As such, PHD has no comments regarding the sanitary services

associated with the proposal. However, SWSD may have comments regarding the sanitary services and PHD did not observe SWSD in the list of entities that were indicated on the notification letter dated October 08, 2019. PHD has no additional comments regarding the proposed CUP at this time.

On October 16, 2019, Bonner County Road and Bridge commented:
An encroachment permit for the existing driveway could not be located in Road & Bridge Records. Applicant should be required to file for an encroachment permit for their existing access. Once files, Road & Bridge crews will inspect the existing driveway to verify that it meets current standards as specified in the Bonner County Roads Standards Manual. If not, work will be required to bring the driveway up to current standards, and then a final inspection given.

On October 25, 2019, Idaho Department of Environmental Quality (DEQ) commented:
Thank you for the opportunity to respond to your request for comment. While the Idaho Department of Environmental Quality (DEQ) does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply. Further details can be found in DEQ's letter.

J. Public Notice & Comments: The application was routed to neighbors within 300 feet of the subject property for comment on October 08, 2019. The following comments were received;

On October 09, 2019 Peter & Stephanie Berghan of 1643 Lakeshore Dr. commented:
Summary of Comment (in opposition of): Concerns about the single family dwelling being rented to large groups instead of single families, parties occurring, loud, obnoxious, and intrusive renters, renters trespassing on their property and dock, and irresponsible use of watercrafts. Mr. and Mrs. Berghan seem concerned that the rental is being used as a resort and ask to have file CUP0004-19 denied.

On October 30, 2019 the Murphy Family of 1841 Lakeshore Dr. commented:
Summary of Comment (in opposition of): The copy of the application posted to the Bonner County Planning Department website is not complete and unclear. Allowing the occupancy at this property would change the neighborhood, character, and quality of the area and how it functions. There is a concern about speeding vehicles and the Murphy's are asking for a Speed Watch program to be put in place with an enforcement system before any increase in density occurs. Along with wanting a speed watch program in place, the Murphy's also ask that a traffic study be conducted and/or that an explanation be provided on how the traffic would be handled prior to this file's consideration. The Murphy's feel that "this request seems to be an issue where one individual would benefit at the expense of the entire community and its safety."

Findings of Fact

1. The proposed residential use will occur on a SUB Zone parcel. This is consistent with the intent of the zoning codes of Bonner County.
2. The use will generate traffic at a rate no greater than local single-family dwellings already do.

3. The site will be adequately served with sewer and water services by Southside Water and Sewer District.
4. The single family dwelling provides seven (7) bedrooms and per BCRC 12-484.3.a, three (3) persons are permitted per bedroom plus an additional three (3) persons. Due to this home having seven (7) bedrooms their allowed occupancy is twenty-four (24) persons.
5. This property provides six (6) off-street parking spots and per BCRC 12-484.5, one off-street parking space shall be provided for each four (4) persons of occupancy regardless of age. Due to this property providing a total of six (6) off-street parking spaces, their maximum allowed occupancy is twenty-four (24) persons.

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 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.

Conclusion 4

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

Conditions of approval:

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

- A-1** Pursuant to a recommendation by Bonner County Road and Bridge (October 16, 2019), the applicant shall submit to the Road and Bridge Department, a residential encroachment permit for issuance.

A-2 Quiet hours will be between 10PM and 8Am.

A-3 No weddings or other events will be permitted without modifying this Conditional Use Permit.

A-4 No more than 24 persons to reside at the property at one time.

A-5 No more vehicles shall be parked on the premises than there are designated parking spaces.

A-6 No recreational vehicle may be used as part of the vacation rental.

EXECUTIVE SESSION:

At 7:40 p.m., Commissioner Kempton moved to enter into Executive Session pursuant to Idaho Code §74-206(1)(a) hiring. Commissioner Glasoe seconded the motion. Voted upon and the Chair declared the motion carried, unanimously.

The Chair declare the meeting back in session at 8:34 p.m.

Commissioner Kempton moved to direct staff to draft a letter notifying all sub-area committees that the Planning & Zoning Commission is vacating seated members Andrew Scott and Alan Corning and Alternate members Richard Miller and Mary Maio due to attendance. Letter to be finalized and signed by Planning & Zoning Chair Don Davis. Commissioner Bailey seconded the motion. Voted upon and the motion passed unanimously.

OPEN LINE DISCUSSION:

Staff updates

Discussion regarding the RV ordinance coming soon.

At 8:44 p.m., the Chair declared the hearing adjourned until November 21st.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 21st day of November 2019.

Bonner County Planning and Zoning Commission


Don Davis, Chair