

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
FEBRUARY 6, 2020**

**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 1<sup>st</sup> 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; Sheryl Reeve; Suzanne Glasoe; and Matt Linscott

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Planning Operations Manager Josh Pilch; Planner II Halee Sabourin; Planner I Tessa Vogel; and Administrative Manager Jeannie Welter

**CHANGE IN AGENDA:**

Chair Davis added an additional item, Single Access Point At-Grade Railroad Crossing, to the agenda after the last scheduled hearing file.

**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: January 16, 2020. Hearing no changes or objections, the Chair declared the minutes approved as written.

**PUBLIC HEARINGS:**

**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 CUP0003-19 – Conditional Use Permit – Public Library Expansion – Priest Lake Library** is requesting a conditional use permit to expand the Priest Lake Library. The addition totals 3354 square feet comprising of storage and public space. The Existing library includes 2495 square feet and the expanded library will contain 5849 square feet. The 5 acre subject property is zoned A/F 10. The project is located off Highway 57 in Section 26, Township 60 North, Range 5 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed the firm of James A Sewell & Associates will be entering into a contract with his construction company but it is unrelated to this project and it creates no conflict for him relating to this project. The Chair noted that there were no other disclosures or conflicts.

**STAFF PRESENTATION:** Planner I 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:** Project Representative Marty Taylor, James A Sewell & Associates stated the library is looking for more shelves and storage. He commented on the encroachment permit from the state.

**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 approve this project CUP0003-19, an expansion of the Priest Lake Library to allow for an addition of 3,354 square feet of storage and public use space, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Kempton further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Glasoe 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: 5-acres
- b. Zone: Agricultural/Forestry 10
- c. Comprehensive Plan Designation: Prime Ag/Forest Land (20+ac)
- d. Use: Public - library

**B. Access:**

- a. Highway 57
  - i. Owner: Idaho Transportation Department
  - ii. Road Class: Highway
  - iii. Surface Type: Paved

**C. Environmental factors:**

- a. Floodplain: SFHA D
  - i. Per FEMA
- b. Slopes: 0-15% slopes in north-west corner of the property
- c. Wetlands: Freshwater Emergent Wetland & Freshwater Forested/Shrub Wetland located on the portion of property across Highway 57.

**D. Services:**

- a. Water: Individual well
- b. Sewer: Outlet Bay Sewer District
- c. Fire District: West Priest Lake Fire
- d. Power: Northern Lights, Inc.

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Prime Ag/Forest Land (20+ac)	Ag/F-10	Priest Lake Library - Public
North	Rural Residential (5-10 ac)	Ag/F-10	Residential
East	Rural Residential (5-10 ac)	RSC	Residential
South	Prime Ag/Forest Land (20+ac)	Ag/F-10	Korner Market - Commercial
West	Prime Ag/Forest Land (20+ac)	Ag/F-10	Residential

**F. Standards of Review**

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

**BCRC 12-335, note 3; Where access to the site is by road, the road shall be located within a recorded easement or public right-of-way, and constructed to the appropriate standards set forth in Title 12 of this Code or appendix A of this title, except where subject to the terms of an approved special use permit issued by a State or Federal Agency.**

**Applicant:** This site is accessed at 28769 Highway 57, a state highway located within a public right-of-way with is publicly maintained.

**Staff:** Highway 57 in Priest Lake, Idaho is a state highway under the jurisdiction of the Idaho transportation Department and is located inside of a public right-of-way. The Idaho Transportation Department was routed for this application and they stated that the applicant will need to submit a permit application for the approach and that no fee will be charged for this permit.

**BCRC 12-335, note 6; Specified conditions with respect to emissions of noise, glare, smoke, odor, dust, particulate matter, vibrations or hours of operation may be prescribed differently from those required in a given district, as to be compatible with other applicable State and Federal standards.**

**Applicant:** The proposed addition will not result in any emissions. Operating hours will not change. This addition will not result in the creation of any additional noise, light glare, etc., on any adjoining properties.

**Staff:** The Priest Lake Library will not be producing emissions of noise, glare, smoke, odor dust, particulate matter, or vibrations. The hours of operation will be Monday through Saturday from 10AM to 6PM depending on the day of the week and the season.

**BCRC 12-335, note 11; The area of land covered by buildings shall not exceed 35 percent of the total area. The site area shall be sufficient to accommodate the facility and required parking, setbacks, landscaping, walkways and other applicable development standards. The public utility facility lot or parcel is not required to meet the minimum lot/parcel size of the zoning district in which it is located. In considering applications, the Planning Commission shall consider the public convenience and necessity of the facility and any adverse effect that the facility will have upon properties in the vicinity, and may require such reasonable restrictions, or conditions of development; or protective improvements as to uphold the purpose and intent of this title and the comprehensive plan.**

**Applicant:** The area of land covered by buildings equals 2.9 percent of the 5 acre total lot area, and 6.4 percent of the 2.25 acre lot area east of Hwy 57. Parking is existing. Current spaces are in excess of those needed for the existing facility. Therefore, sufficient spaces existing for the proposed expansion. The proposed addition complies with all setbacks. The area surrounding the library will remain forested and the parking is existing. As such, the proposed additional square footage will not create any hazards to adjoiner. Further, the closest adjoiner is the State highway right-of-way.

**Staff:** The parking for the library is existing and is more than what is necessary. A landscaping plan is not required per BCRC 12-461 "For remodels or additions, the standards in this subchapter shall apply where the value of the additions equals or exceeds fifty percent (50%) of the market value of the existing structure and/or site improvements as determined by the Bonner County Assessor's Office over any five (5) year time period. For other additions or remodels, the landscaping standards shall only apply to the specific areas being improved". Per the applicant, all landscaping is existing and the area surrounding the library will remain forested. As per the submitted site plan, all required setbacks are being met as well.

**BCRC 12-411 Density & Dimensional Standards for Forestry, Agricultural/Forestry and Rural zone; Minimum parcel size requirement for the Agricultural/Forestry 10 zone.**

**Staff:** Per BCRC12-335's note 11, public utility facilities are not required to meet the minimum parcel size for the zoning district it is located in. The subject parcel is 5 acres where 10 acres is required but the setback requirements are being met. Where 25 feet is required for the front yard, the applicant is providing 27.5 feet; where 40 feet is required for the rear yard, the applicant is providing 58.2 feet, and where 40 feet is required for the sides, the applicant is providing 188.8 feet for the northern property line and 298.8 feet for the southern property line.

**BCRC 12-342.A Non-conforming Lots of Record; The minimum site area requirements will apply in all districts, except that these regulations shall not prohibit permitted uses on a lot of record (i.e., lots divided prior to the date of this section). All structures will meet minimum setback requirements as provided in this title.**

**Staff:** The subject parcel is 5 acres in a 10-acre minimum zoning district but the legal description of the subject party has been the same since the current owners obtained the property in 2002 per the warranty deed under Instrument #595151, also before the adoption or amendment of BCRC 12-3.4 et seq.

**G. Comprehensive Plan Land Use Designation:** The subject property is zoned Agricultural/Forestry 10 and has a comprehensive land use designation of Prime Ag/Forest Land (20+ac). The comprehensive plan designation of Prime Ag/Forest Land (20+ac), per the Bonner County comprehensive plan is, *designed to preserve the productive farm and ranch land and timber land to promote its important economic and environmental contributions to the County. This area may have a range of road systems serving it and is generally served by individual sewer and water systems. These areas generally have prime agricultural land soils and soils of recognized state importance and active farm and ranch operations.*

**H. Stormwater plan:** A stormwater management plan was required pursuant to BCRC 12-722.4: Procedures for review of public projects and BCRC 12-722.2: Procedures for concurrent review of applications other than for new subdivisions or building location permits or building permits. The plan has detailed requirements for stormwater management and erosion control both during and after construction.

**I. Agency Review:** The application was routed to the agencies for comment on **January 07, 2020**. The following agencies **commented**;  
Idaho Transportation Department commented on 01/07/2020;  
*"They will need to submit a permit application for the approach. I've attached the forms to this email. There will be no fee charged for this permit".*

**The following agencies responded with 'No Comment';**

Idaho Department of Water Resources  
Northern Lights, Inc.  
Bonner County Road & Bridge Department

**All other agencies did not reply.**

Idaho Department of Environmental Quality  
Idaho Department of Lands – Coolin  
Idaho Department of Water Resources  
Outlet Bay Sewer District  
U.S. Army Corps of Engineers  
U.S. Forest Service  
West Priest Lake Fire District

**J. Public Notice & Comments:** The application was routed to neighbors within 300 feet of the subject property for comment on **January 07, 2020**. No comments were received.

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**Findings of Fact**

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1. The proposed extension of the existing use (library) will occur on an Agricultural/Forestry – 10 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 what is currently occurring. The parking area is existing and traffic will vary depending on the season and the day of the week.
3. The site will be adequately served with sewer by Outlet Bay Sewer District and potable water by an individual well.
4. There is one librarian and four assistants operating the library.
5. Hours of operation are Monday through Saturday with hours varying between 10AM to 6PM depending on the day of the week and season.
6. There are no lighting plans proposed, all lighting is existing.
7. There are two conditional use permits (C0568-95 and C0771-03) on file with the Bonner County Planning Department.
8. There is a building permit (BP1995-0442) and a building location permit (BLP2004-0350) on file with the Bonner County Planning Department.
9. The warrant deed under Instrument #595151 shows that the Priest Lake Library District is the current owner of the subject property and that they obtained the property on January 23, 2002 from the West Priest Lake Fire District.

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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 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.

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**Conditions of approval:**

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- A-1** A building location permit and all associated fees shall be submitted and paid to the Bonner County Planning Department for review and approval.
- A-2** An encroachment permit shall be submitted to the Idaho Transportation Department for review and approval.

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

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1. The use shall be developed and shall be operated in accordance with the approved site plan.
2. The conditional use permit shall not supersede deed restrictions.
3. All county setbacks shall be met.
4. No changes to the Priest Lake Library's use or structure will be permitted without modifying this conditional use permit.

**MODIFICATION OF PUD**

**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 MOD0001-19 – Modification of PUD – The Highlands – Highlands Homeowner's Association** is requesting to remove a strip of land consisting of 0.23 acres (9,829 sq.ft.) from the 22.7 acre "common area." The property is zoned Recreation. The project is located off Red Fir Road in Section 2, Township 56 North, Range 1 East, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed the firm of James A Sewell & Associates will be entering into a contract with his construction company but it is unrelated to this project and it creates no conflict for him relating to this project. The Chair noted that there were no other disclosures or conflicts.

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

**APPLICANT PRESENTATION:** Project Representative Marty Taylor, James A Sewell & Associates stated this is the second installment of modifications to the Highlands PUD. He stated the open space cannot be reduced to less than 10%.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

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

**MOTION:** Commissioner Linscott moved to recommend approval this project to the Board of County Commissioners for FILE MOD0001-19, a modification of the Highlands PUD, removing 0.23 acres from the 22.7 acre "common area" of the previously approved PUD site plan, 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 adopted. 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.

- BCRC 12-2210 (b): Considered a Large Scale PUD (residential)

**Background:**

**A. Site data:**

- o Acreage: ±22.7 acres (common area)
- o Acreage: 0.23 acres
- o Legal Description: The Highlands PUD Common Area
  - (Book 14 of Plats, Page 16)
- o Zoning: Recreation
- o Use: Common Area

**B. Access (Strip of land in question):**

- o Red Fir Road – public, maintained by Bonner County

**C. Environmental factors (Strip of land in question):**

- o Hydrography: Lake Pend Oreille (USGS)
- o Floodplain: Zone X/AE, Firm Panel #: 16017C0981E (FEMA)
- o Vegetation: Moderately forested (Application)
- o Soils: Pend Oreille Silt Loam, 5 To 45 Percent Slopes (Not Prime Farmland – NRCS)
- o Wetlands: Freshwater Lake (USFWS NWI)
- o Slopes: <30% (USGS)

**D. Services (Strip of land in question):**

- o Water: Not intended to be plumbed
- o Sewer: Not intended to be sewer
- o Fire: Sam-Owen Fire
- o Power: Avista
- o School: Bonner School #84

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	REC	PUD Common Area
North	Lake	Lake	Lake Pend Oreille
East	Resort Community	REC	PUD Common Area
South	Resort Community	REC	PUD Common Area
West	Resort Community	REC	PUD Common Area

**F. Standards review**

- BCRC 12-266, Modifications of Terms and Conditions of Permit Approval
  - o The Planning Director, commission and/or Board shall consider the proposed modification in accordance with the requirements for the original permit application and shall confine the review to the proposed modification. The proposal shall be reviewed against the previous ordinance established at the time or the original permit.
    - BCRC Title 12 Chapter 22 et al.

**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 on the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

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

**I. Agency Review:** The application was routed to agencies for comment on January 7, 2020.

- |  |  |
|--|--|
| <i>Panhandle Health District</i>         | <i>Idaho Department of Water Resources</i>       |
| <i>Ellisport Bay Sewer</i>               | <i>Army Corps (Coeur d’Alene)</i>                |
| <i>Bonner County Road Department</i>     | <i>Idaho Department of Lands (Sandpoint)</i>     |
| <i>Sam Owen Fire District</i>            | <i>US Forest Service</i>                         |
| <i>Avista Utilities</i>                  | <i>US Fish and Wildlife Service</i>              |
| <i>Bonner School District #84</i>        | <i>Idaho Department of Environmental Quality</i> |
| <i>Idaho Department of Fish and Game</i> | <i>Bonner County Schools – Transportation</i>    |

**The following agencies replied “No Comment”:**

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

**The following agencies replied with comment:**

*Idaho Department of Lands (Justin Eshelman) – January 8, 2020*

*The subject 0.23 acres that will be adjusted to adjacent Lot 12 has an encroachment permit associated with the property. This permit will need to go through the assignment process to transfer the permit into the new owner’s name*

**All other agencies did not reply.**

**J. Public Notice & Comments:** No public comments have been submitted to staff at this time.

**Findings of Fact**

1. The project is consistent with BCRC 12-266, and the original ordinances that the original permit was approved against.
2. Adequate common open space is retained – 10% minimum required.

3. HOA, Covenants and Articles of Incorporation remain unchanged, excepting a portion addressing the severance of the common area in question.
4. Development density is not being exceeded.
5. Public amenities are not proposed.
6. Design standards are being met.
7. Buffering/Clustering is not altered by the proposal.

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**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 **is** in compliance with the criteria and standards set forth at BCRC 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.

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**Conditions of approval:**

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

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** Pursuant to Title 12, Chapter 6, Bonner County Revised Code, a Lot Line Adjustment application shall be submitted to the Bonner County Planning Department to lawfully remove the subject 0.23 acre area from the 22.7 acre 'common area'.

**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 V0027-19 – Depth-to-Width Variance – Deborah Sather, et al** are requesting a depth to width ratio (d:w) variance for two lots on a 1.35 acre parcel. Proposed Lot 1 will have a d:w ratio of 3.90:1 where a d:w ratio of 3:1 is allowed and Proposed Lot 2 will have a d:w ratio of 4.75:1 where a d:w ratio of 3:1 is allowed on. The property is zoned Recreation. The project is located off Kalispel Bay Road in Section 6, Township 60 North, Range 4 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bailey disclosed the firm of James A Sewell & Associates will be entering into a contract with his construction company but it is unrelated to this project and it creates no conflict for him relating to this project. Commissioner Reeve stated she has done some work on the property in the past but nothing relating to this project and she has no conflict relating to this project file. The Chair noted there were no other disclosures or conflicts.

**STAFF PRESENTATION:** Planner I 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:** Project Representative Marty Taylor, James A Sewell & Associates stated he did an analysis to confirm that legal access to the properties could be obtained. He stated he obtained a will serve letter for the sewer.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

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

**MOTION:** Commissioner Bailey moved to approve this project V0027-19, where the applicant is requesting that proposed Lot 1 have a depth to width (d:w) ratio of 3.90:1 where a d:w ratio of 3:1 is allowed and that proposed Lot 2 have a d:w ratio of 4.75:1 where a d:w ratio of 3:1 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 Bailey 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 Kempton seconded the motion.

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

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**Background:**

- A. Site data:**
- Parcel Area: 1.33 acres

- Use: Residential
- Zone: Recreation
- Land Designation: Resort Community (<=2.5 ac)

**B. Access:**

- Kalispell Bay Road
  - i. Owner: Bonner County
  - ii. Road Class: Local
  - iii. Surface Type: Paved

**C. Environmental factors:**

- Floodplain: SFHA: Zone D and AE
  - i. Per FEMA
  - ii. An unstudied area
- Slopes: 0-14% and 15-29%
- Wetlands: Yes

**D. Services:**

- Water: Individual well that pulls from Priest Lake
- Sewage: Kalispell Bay Sewer District
- Fire District: West Priest Lake Fire
- Power: Northern Lights, Inc.

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community (<=2.5 ac)	Recreation	Residential with a single family dwelling
North	Resort Community (<=2.5 ac)	Recreation	Residential with a single family dwelling
East	Priest Lake	Priest Lake	Priest Lake
South	Resort Community (<=2.5 ac)	Recreation	Residential with a single family dwelling
West	Resort Community (<=2.5 ac)	Recreation	Residential with a single family dwelling

**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:

**BCRC 12-234.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:** The subject properties as described in the 1950s and 1960 created lot shapes that are long and narrow, something over which the applicants had no control. The property is developed with a single family residence. The proposed lot  
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configuration will not result in any effects on adjoining property as the property is already zoned for residential uses. The requested depth to width ratio will simply result in two properties (subject to minor land division approval) where originally three properties existed.

**BCRC 12-234.B; Special conditions and circumstances do not result from the actions of the applicant.**

**Applicant:** Based on the 1950's 1960 property configurations, it is not possible to divide the premises in accordance with current depth to width ratio design standards. Proposed Lots 1 and 2 of a corresponding minor land division application originally consisted of three deeded properties described prior to the adoption of any county ordinances governing lot depths and widths (T-6, Bk. 81, Deeds, Pg. 19, 10/24/62). Attached is a working drawing depicting these three uniquely described parcels. Also attached is the site plan for purposes of continuity. These properties were combined as part of a trust (QC Deed 427326, 6/29/93). The applicants acquired the properties in 2006 (QC Deed 702851, 4/28/06). Therefore, the applicants did not create the shape of the original parcels.

**BCRC 12-234.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:** Attached is an engineering analysis confirming that driveway access can be developed off of Kalispell Bay Road. Consequently, creating the proposed lot shapes will not conflict with the public interest or create safety concerns.

**G. Stormwater Plan:** A stormwater management plan was not required pursuant to BCRC 12-720.3(K): Activities to which this subchapter is not applicable; *Applications for conditional use permits, industrial and commercial site plan reviews, planned unit developments and variances that do not result in the creation of additional "impervious surface", as defined in section 12-809 of this title.*

**H. Agency Review:** The application was routed to agencies for comment on **December 31, 2019**. The following agencies commented;

On 01/22/2020 Bonner County Road & Bridge commented;

*Road & Bridge has no objections to the proposed depth/width lot variance. The preliminary driveway layout shown on the plans appears to be in accordance with Road & Bridge requirements for residential driveways and I don't see any issues from looking at the plans. That said, an encroachment permit and site inspections will be required at the time of construction of the driveway to verify on-site safety concerns.*

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

- Idaho Department of Environmental Quality
- Idaho Department of Water Resources

**All other agencies did not reply.**

Idaho Department of Lands – Coolin  
Idaho Department of Lands – Navigable Waters & Mining  
Idaho Department of Water Resources  
Kalispel Bay Sewer & Water  
Northern Lights, Inc.  
U.S. Army Corps of Engineers  
West Priest Lake Fire District

**I. Public Notice & Comments:** The application was routed to neighbors within 300 feet of the subject property for comment on **December 31, 2019.**

Staff has reviewed the standards and responded with each standard above.

**Findings of Fact**

1. The subject property is located on an unplatted 1.33 acre parcel in the Recreation zone.
2. The subject property was first described as three separate parcels in the 1950s and then as a single parcel in 1993.
3. The applicants did not come into ownership until 2006.
4. Kalispell Bay Road is a Bonner County owned and maintained road.
5. Priest Lake borders the subject property to the east.
6. Approval of the proposed depth to width ratios would allow the subject property to go through a minor land division process.
7. The parcel is served by Kalispell Bay Sewer District and the parcel has an individual well that pulls from Priest Lake.
8. Proposed Lot 1 will be 31,171 square feet and proposed Lot 2 will be 27,771 square feet.
9. Both proposed lots meet the minimum lot size per BCRC 12-412 which allows lots to be subdivided down to 20,000 square feet when only urban sewer services are available.
10. Setbacks for structures will be the same for the proposed lots as they are for the subject property as it is currently per BCRC 12-412 and 12-711.A.1.
11. Proposed Lots 1 and 2 do not affect neighboring parcel RP60N04W067901A to the south or parcel RP60N04W067840A to the north for setback purposes as the setbacks will remain the same whether the subject property is subdivided or not.

**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** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** All proposed structures shall meet setback requirements per BCRC 12-412 and BCRC 12-711.A.1.
- A-3** Per the Bonner County Road & Bridge Department, encroachment permits and site inspections shall be required at the time of construction of the driveways to verify on-site safety concerns.

**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.

**File AM0010-19 & ZC0009-19 – Comprehensive Plan Map Amendment & Zone Change – Daum Construction, 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 ±59.6-acre parcel of land is located off Hoo Doo Loop road in Section 17, Township 55 North, Range 05 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:** Planning Operations Manager Josh Pilch presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

**APPLICANT PRESENTATION:** Project representative Tiffanie Davis, Advanced Technology Surveying & Engineering, INC stated an application was submitted to PHD for perk testing which will occur in the spring.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

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

**Comprehensive Plan Amendment - Motion by the governing body:**

**MOTION:** Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE AM00010-19, 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 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.

**Zone Change - Motion by the Governing Body:**

**MOTION:** Commissioner Linscott moved to recommend approval of this project, FILE ZC0009-19, 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:**

- Size: 59.6 Acres
- Zone: Ag/Forestry land (A/F-20)
- Land Use: Ag/Forest Land (A/F-10/20)
- Structures : Vacant

**B. Access:**

- Property fronts on Hoo Doo Loop, a county maintained, 24' wide, paved road.

**C. Environmental factors:**

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- SFHA x - 0.2% Annual Chance Flood Hazard, FIRM Panel 16017C1100E, Effective Date 11/18/2009
- Soil:
  - Classification: All Areas Are Prime Farmland
  - Type: Consociation
  - Drainage: Well Drained

**D. Services:**

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Spirit lake Fire
- Power: Inland Power & Light
- School District: #83

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 acres)	A/F-20	Vacant Timber
North	Rural Residential (5-10 AC)	R-5	Residential
East	Ag/Forest Land (10-20 acres)	A/F-20	Residential/ Farming
South	Ag/Forest Land (10-20 acres)	A/F-20	Residential
West	Ag/Forest Land (10-20 acres)	A/F-20	Vacant Timber

**F. 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:**

- **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 Hoo Doo Loop Rd, a paved, 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 Hoo Doo Loop 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 Hoo Doo Loop, 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.

**G. Storm water plan:** A storm water management plan was not required, pursuant to BCRC Title 12, Chapter 7.

**H. Agency Review:** The application was routed to agencies for comment on January 7, 2020.

*All Taxing Districts  
Bonner County Road and Bridge  
Northern Lights  
Bonner County Schools – Transportation*

*Dept. of Water Resources  
Dept. of Fish and Game  
Dept. of Env. Quality*

**The following agencies provided comment:**

**Spirit lake Fire:** Per Chief DeBernardi: Regarding the comprehensive plan map amendment & Zone Change noted above, Spirit Lake Fire Protection District wants to maintain access/egress for all adjacent parties. There should be two roads going into this area from Hoo Doo Loop so that all parties can exit in the event of a wildland fire or other conflagration requiring evacuation. This would improve public safety for the impacted area.

**The following agencies replied "No Comment":** Inland Power, Panhandle Health, Bonner County Road & Bridge, Idaho Transportation dept.

**All other agencies did not reply.**

**I. Public Notice & Comments:** No Comments

**Findings of Fact**

- The parcel is 59.6± 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 Hoo Doo Loop Rd. a paved, county road.
- The parcel does not feature steep slopes or special flood hazard areas.
- Site features prime Ag soils that are well drained.

**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
Community Design	Implementation	Transportation
Land Use	Natural Resources	Economic Development
Public Services	Transportation	Hazardous Areas
Special Areas or Sites	Housing	Recreation

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 ± 59.6 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 Hoo Doo Loop, a paved, county road.
- The parcel does not feature steep slopes or special flood hazard areas.
- Site features prime Ag soils that are well drained.

**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
Community Design	Implementation	Transportation
Land Use	Natural Resources	Economic Development
Public Services	Transportation	Hazardous Areas
Special Areas or Sites	Housing	Recreation

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.

**OPEN LINE DISCUSSION:**

Discussion regarding Single Access Point At-Grade Railroad Crossing. Upon review, it was found that there are twenty-two neighborhoods of more than four homes that have a single access point that involve an at-grade railroad crossing. The commission discussed comp plan designation and zoning in the Whiskey Jack area. Discussion relating to how to best address the situation.

Staff updates: Department fully staffed again. Department updating fees.

At 7:59 p.m., the Chair declared the hearing adjourned until February 20, 2020.

Respectfully submitted,

  
Milton Ollerton, Planning Director

The above Minutes are hereby approved this 20<sup>th</sup> day of February, 2020.

Bonner County Planning and Zoning Commission

  
Don Davis, Chair