

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
JUNE 4, 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 and via Zoom webinar.

**PRESENT:** Commissioners Chair Don Davis; Vice Chair Brian Bailey; Taylor Bradish; Trevor Kempton; Sheryl Reeve; Suzanne Glasoe (via Zoom webinar); and Matt Linscott

**ABSENT:** None

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

**CONSENT AGENDA:**

**APPROVAL OF MINUTES:** The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: May 21, 2020. Hearing no changes or objections, the Chair declared the minutes approved as written.

**PUBLIC HEARINGS:**

**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 ZC0002-20 – Zone Change – Charles Tesar & Brita Lindstrom** are requesting a Zone Change from Rural-5 to Rural Service Center. The project is located off Mariner Way in a portion of Section 1, 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 stated Mr. Taylor is doing some work for his company. He further stated this does not create a conflict for him. The Chair noted that there were no additional 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 Revised Code and Bonner County Comprehensive Plan.

**APPLICANT PRESENTATION:** Marty Taylor, James A Sewell & Associates gave a brief history and summary of the project. He further stated this property and surrounding are a good fit for this type of zone.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record in regarding this project: Laurie Howard and Ronnie Conn.

**APPLICANT REBUTTAL:** Mr. Taylor responded to public stating the sewer and parking will be addressed at time of permitting as it has nothing to do with rezoning.

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

**RECOMMEND TO APPROVE:** Commissioner Bradish moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0002-20, requesting a zone change from Rural-5 to Rural Service Center, 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 Bradish 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.

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**Background:**

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**A. Site data:**

- Use: Residential
- Unplatted
- Size: 1.15
- Zone: Rural-5
- Land Use: Resort Community

**B. Access:**

- This lot has direct access to Mariner way, a private road.

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- Site contains SFHA AE and X zones per firm panel 16017C1000E, effective on 11/18/2009

- Soil:
  - Classification: Bonner Silt Loam
  - Type: Consociation
  - Drainage: Well Drained

**D. Services:** [public & private water, sewer, fire protection, gas/electric, schools, etc.]

- Water: Individual well
- Sewage: Septic
- Fire: Sam Owen Fire District
- Power: Avista
- School District: #84

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

Compass	Comp Plan	Zoning
Site	Resort community	Rural-5
North	Resort community	Rural-5
East	Resort community	Rural-5
South	Resort community	Rural-5
West	Resort community	Commercial

**F. Standards review:**

- **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:**

The Resort Community provides for urban-like densities for areas centered around the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.
- **Rural - 5:**

A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:

  1. 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.

2. 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.
3. Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

**B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:**

1. R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
  - a. Characterized by slopes that are steeper than thirty percent (30%).
  - b. Located within critical wildlife habitat as identified by federal, state or local agencies.
  - c. Contain prime agricultural soils.
  - d. 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.
  - e. Within the floodway.
  - f. Contain limited access to public services.
2. 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)

**RURAL SERVICE CENTER DISTRICT:**

- A. The rural service center district is established to promote the development of local commercial services in small communities to meet the needs of rural residents as well as limited tourist commercial services and limited light industrial uses consistent with the maintenance of the rural character of the area. The rural service center district is also intended to provide opportunities for a variety of affordable housing types that are within walking distance of commercial services. These purposes are accomplished by:
- Providing for a range of small scale retail and rural service uses.
  - Allowing for mixed use buildings (housing over office or retail) and a range of housing types, including detached single-family dwelling units, cottage housing, townhouses, apartments and mobile home parks where sufficient services are provided.
  - Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses are mitigated.
  - Excluding commercial uses with extensive outdoor storage.
  - Excluding large scale commercial uses that would be more effectively located in incorporated cities.
  - Applying simple design standards that enhance pedestrian access and improve the character of the area. (Ord. 501, 11-18-2008)

- o Use of this zone is appropriate in areas designated as neighborhood commercial, resort community or transition by the comprehensive plan and community plans and that are served at the time of development by adequate sewage disposal services, water supply, roads and other needed public facilities and services. Expansion of existing rural service center districts or the creation of new rural service center districts may be considered only if the expansion will not negatively impact the safety and function of a state highway or other roadway. (Ord. 512, 1-6-2010)

**G. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC 12-721.2B because the proposal does not result in new impervious surface.

**H. Agency Review:** The application was routed to agencies for comment on February 18, 2020.

All Taxing Districts	Idaho Department of Water Resources
Bonner County Road Department	Idaho Department of Lands
Avista Utility Company	BNSF Railway
Bonner County Schools – Transportation	
Idaho Department of Environmental Quality	

**The following agencies provided comment:**

City of East Hope – Provided comment on March 11, 2020:  
The city’s comp plan does not match the county’s comp plan for the Area of City Impact but had no comment on the zone change.  
PHD – Current permitting needed to match Flow/usage

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

- IDL 2/24/2020
- ITD 3/9/2020
- Independent Hwy District 3/9/2020
- Kootenai Ponderay Sewer 3/9/2020
- DEQ 3/3/2020

**All other agencies did not reply.**

**I. Public Notice & Comments:** The following public comments were received in support of this project:

- Rick Auletta, Hope Marina
- Bob Kerslake, Neighbor
- Charles and Tessie Kramer, Kramer Marina
- Lisa L. Derr, Pend Oreille shores Resort

**Zone Change Findings of Fact**

1. Current comp plan designation is Resort Community.
2. The property is 1.15 acres in size.
3. The property is adjacent to other commercial services.
4. The property does not contain any known slopes.
5. The property is developed with a single family home and a church.
6. The property is serviced with urban services.
7. The property fronts State Highway 200 and is accessed by a paved private road.

**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 Service Center zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

**PRELIMINARY PLAT**

**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 S0001-20 – Preliminary Plat Subdivision – Spirit Lake North, LLC** is requesting a subdivision of +130 acres of land to create (26) +5-acre lots. The property is zoned Rural-5. The project is located off Barn Owl Drive in Section 21, Township 54 North, Range 4 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bradish stated he works for the Idaho Department of Lands. He further stated he sits on this commission as a private citizen and has no conflict with this project. Commissioner Bailey stated Mr. Taylor is doing some work for his company. He

further stated this does not create a conflict for him. The Chair noted there were no additional 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:** Marty Taylor, James A. Sewell & Associates stated this is a two phased plat due to the substantial amount of road to be developed. He stated this is the third and last installment of this project that began 2005.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

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

**Motion by the governing body:**

**RECOMMEND TO APPROVE:** Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE S0001-20, for a subdivision of ±130 acres of land to create (26) ±5 acre lots and the stormwater 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 plat is to complete the Conditions of Approval excluding B11, B12, B13 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.

**Background:**

**A. Site data:** [acreage, # of lots, site use. etc.]

- Use: Vacant land for rural pursuits
- Contains Platted and Unplatted lands
- Size: ±130 acres
- Zone: Rural - 5
- Land Use: Rural Residential 5-10 acres

**B. Access:**

- Access is provided by an extension of Barn Owl drive onto proposed Peacock Lane.

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)

- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake. (NHD)
- Floodplain: Parcels RP54N04W214202A & RP014380010040A are both entirely within SFHA Zone X, per FIRM Panel 16017C1125E, Effective Date 11/18/2009. No further flood review is required on this proposal.

**D. Services:**

- Water: Individual Well
- Sewage: Individual Septic and Leach Field
- Fire: Spirit Lake Fire
- Power: Inland Power and Light
- School District: Bonner School #83

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

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

**F. Standards review**

BCRC	Required	Provided
Minimum Lot Size (BCRC 12-411)	±5 acres	±5 acres
Depth to width, BCRC 12-621	4:1	≈2:1 or less
Submerged lands, BCRC 12-622	N/A	N/A
Urban services, BCRC 12-623(A)	N/A	N/A
Water supply (individual wells), BCRC 12-623(B)(1)	Sufficient production capability w/o conflicting with proposed sewage systems	Eleven surrounding wells have a mean production of 29.8 gpm
Sewage disposal, BCRC 12-623(C)	Sewage disposal as approved by PHD	Letter from PHD with conditions. (See Conditions of Approval)
Fire Plan/Fire risk assessment, BCRC 12-623(D)	Fire protection plan	Note per BCRC 12-623(D)(2) on preliminary plat map
Road name, BCRC 12-624(A)	Shall have unique road names	Peacock Lane
Road standards, BCRC 12-624(B)	Constructed in compliance with the conditions set forth in ZC365-18.	Road plan illustrates intent to pave per ZC365-18. County Engineer confirmed

		conformance to low volume private road standards per Appendix A
Legal access, BCRC 12-624(C)	Legal access meeting road standards per BCRC 12-624(B)	All lots front on existing or proposed roads
Direct frontage, BCRC 12-624(D)	N/A	N/A
Trails, BCRC 12-625 (A)	N/A	N/A
Public Access, BCRC 12-625 (B)	N/A	N/A
Natural hazards, BCRC 12-626(A)	N/A	N/A
Environmental Standards, BCRC 12-626(B)		
Shorelines, BCRC 12-710 et. seq.	N/A	N/A
Grading, Stormwater, Erosion Control BCRC 12-720 et. seq.	Professional Stormwater Plan	Provided professional Stormwater Plan
Wetlands, BCRC 12-730 et. seq.	N/A	N/A
Wildlife, BCRC 12-740 et. seq.	Mitigation measures as determined by IDFG or U.S. Fish and Wildlife	See omments provided by IDFG
Hillsides, BCRC 12-760 et. seq.	N/A	N/A
Waterfront Standards, BCRC 12-626(C)	N/A	N/A
Commercial/RSC Districts, BCRC 12-627	N/A	N/A
Conservation Subdivision, BCRC 12-633	N/A	N/A
Preliminary plat requirements, BCRC 12-642	Plat contents	Application deemed complete

**G. Stormwater plan:** A stormwater management plan was required pursuant to BCRC 12-720.2(A). The plan is provided by James A. Sewell and Associates, LLC. The plan calls for temporary erosion control utilizing existing vegetation. Permanent erosion control will be served via grassed infiltration basins, grass ditches, and reseeded of disturbed areas. BMPs will be implemented in conformance with the Idaho BMP manual. Further details can be found in the submitted plan.

**H. Agency Review:** The application was routed to agencies for comment on February 18, 2020.

*Panhandle Health District  
Idaho Department of Environmental Quality  
Spirit Lake Fire District  
Inland Power and Light  
Idaho Department of Fish and Game*

*Idaho Department of Water Resources  
U.S. Forest Service  
Bonner County Road Department  
U.S. Fish and Wildlife Service*

*Bonner County Engineer – Routed March 2, 2020  
Idaho Department of Lands – Routed March 11, 2020*

**The following agencies provided comment:**

*Inland Power and Light – Connie Nelson, February 24, 2020*

“The plat has adequate proposed ingress egress and utilities depicted for Inland Power & Light to install, maintain and have access to our facilities.”

*Bonner County Road Department – Matt Mulder, February 18, 2020*

Recommends that a traffic impact study to examine the service capacity and turning movements at the intersection of Peregrine Road & Spirit Lake Cutoff be done. Also recommends that the private easements extend to the boundary of the subdivision to allow potential interconnectivity to future emergency access.

*Department of Environmental Quality – Dan Redline, Reginal Administrator, March 3, 2020*

Provided an assortment of general comments. They did not complete a thorough review of the submitted documents.

*County Engineer – Spencer Ferguson, March 4, 2020*

Reviewed the stormwater, grading, erosion control, and private road construction plan against Bonner County Revised Code and found them to be in compliance.

*Idaho Department of Fish & Game – Charles E. Corsi, March 10, 2020*

Identifies potential for: conflict around borders between property owners and recreationalists abutting the property lines; increases of deer population where they are fed and not hunted; destruction of private property and loss of domestic animals from wildlife; Recommends to: retain as much standing timber as practical for open space, group building sites; maintain travel corridors; using wildlife friendly fencing where fencing is unavoidable. Overall, private property owners will be responsible for all consequences resulting from any interaction with wildlife; and the CCR's should outline those responsibilities. See letter for more details.

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

*Panhandle Health District – February 19, 2020*

**I. Public Notice & Comments:** None submitted at this time.

**Findings of Fact**

1. Size: ±130 acres
2. Zone: Rural - 5
3. Land Use: Rural Residential 5-10 acres
4. Access: Access is provided by an extension of Barn Owl drive onto proposed Peacock Lane, both 60' wide ingress, egress, and utility easements.
5. Site does not contain mapped slopes. (USGS)

6. Site does not contain mapped wetlands. (USFWS)
7. Site does not contain a river/stream/frontage on lake. (NHD)
8. Floodplain: Parcels RP54N04W214202A & RP014380010040A are both entirely within SFHA Zone X.
9. Water: Individual Well. 11 surrounding wells have a mean production of 29.8 gpm.
10. Sewage: Individual Septic and Leach Field
11. Fire: Spirit Lake Fire District
12. Power: Inland Power and Light
13. School District: Bonner School #83
14. The subdivision/road development will be done in two phases.
15. Subject to requirements of AM162-18 & ZC365-18

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**Conclusions of Law:**

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

Conclusion 1

The proposed subdivision is in accord with the purposes of this Title and of the zone district in which it is located.

Conclusion 2

The site is physically suitable for the proposed development.

Conclusion 3

The design of the proposed subdivision will not adversely impact Bonner County's natural resources, as identified in the comprehensive plan. Any adverse impacts or potential for impacts shall be mitigated as a condition of approval.

Conclusion 4

The public and private services, including but not limited to water, sewer services, solid waste, fire protection, emergency services, and school facilities and transportation, which will serve the proposed subdivision are adequate for the needs of future residents or users.

Conclusion 5

The proposed subdivision will not cause circumstances to exist that will cause future residents or the public at large to be exposed to hazards to health or safety.

Conclusion 6

The design of the proposed subdivision or related improvements will provide for coordinated access with the county system of roads and with adjacent properties, and will not impede the use of public easements for access to, or through the proposed subdivision. The proposed transportation system is designed to adequately and safely serve the future residents or users without adversely impacting the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

Conclusion 7

The proposed subdivision is designed to comply with the design criteria for subdivisions set forth in Subchapter 6.2 of this chapter.

Conclusion 8

The proposed subdivision 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         |                                    |

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**Conditions of approval:**

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**Required plat notes:**

The following notes shall be recorded on the face of the final plat:

- A-1** All easements and instrument numbers for ingress, egress and utility, pertaining to this subdivision shall be shown on the face of the plat.
- A-2** "The roads within this subdivision are private, and have not been constructed to county standards for maintenance. The roads shall be maintained at the sole expense of the property owners until such time as it is constructed to county standards for maintenance at no expense to the taxpayers and is dedicated to the public by the lot owners and accepted into the county's maintenance system by the Bonner County Board of Commissioners."

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**Standard and site-specific plat conditions:**

- B-1** A final plat shall be recorded.
- B-2** A digital copy of the final plat shall be submitted to the Bonner County Planning Department satisfying the requirements of BCRC 12-649.
- B-3** The preliminary plat shall be valid for a period not to exceed two (2) calendar years from the date of approval. At any time prior to the expiration date of the preliminary plat, the applicant may make a written request to the Planning Director for an extension of the preliminary plat for a period up to two (2) years. The Board of County Commissioners may consider such request for extension at any regular business meeting. The extension request must be approved or denied prior to the expiration date of the preliminary plat.
- B-4** The applicant shall install, prior to ground disturbing activities, all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department, prior to ground disturbing activities, a signed statement from the project engineer or design professional stating that

these measures have been installed as per the design specifications as approved. The applicant shall install, upon completing ground disturbing activities, and shall maintain thereafter, all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department, upon completing ground disturbing activities, a signed statement and stormwater system as-builts from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. All stormwater facilities shall be installed and functioning as designed or a suitable guarantee of completion shall be in place.

**B-5** Roads providing access to the proposed subdivision shall be constructed in accord with recommendations within AM 162-18 & ZC 365-18. Recommendations state the need for roads to be constructed to Title 12 Appendix A, low volume private road standards, and shall have a paved surface.

**B-6** Prior to final plat recording and prior to beginning construction, the subdivider shall have an improvement plan for the subdivision prepared by a Registered Civil Engineer. A copy of the improvement plan shall be filed with the Bonner County Planning Department. The plan shall include the items listed at Section 12-644, BCRC, specifically:

12-644. Improvement plan required, contents.

(a) After the preliminary plat is approved, the subdivider shall have an improvement plan for the subdivision prepared by a registered civil engineer. Two (2) copies of the improvement plan shall be filed with the County Engineer. This plan shall include the following:

- (1) The subdivision name and number, geographic grid (township, range and tier, section number and location within the section), North arrow, date and scale no smaller than one hundred feet to the inch (1" = 100').
- (2) The plan and profile of all proposed roads showing final grades and cross-sections of roads in accord with the requirements contained in Title 2, BCRC (County Roads and Rights of Way).
- (3) The plan and profile of proposed sanitary and storm water systems with grades and sizes indicated. Drain calculations may be required.
- (4) A grading plan, showing storm water drainage for each lot.
- (5) Any other improvements such as curbs, gutters, sidewalks, bridges, lift stations, fire hydrants, street lighting, etc., as required, and in accord with the requirements contained in Title 2, BCRC (County Roads and Rights of Way).

**B-7** The applicant shall either complete the required improvements as outlined in condition B-5 & B-6 and the required inspection(s), or enter into a surety agreement with Bonner County if the required improvements will not be completed prior to final plat.

**B-8** The applicant shall provide one of the following for all proposed lots:

(a) Prior to final plat, an approved water and fire hydrant system capable of providing one thousand (1,000) gallons per minute for a minimum of two (2) hours, where, a community water system exists or is proposed as part of the development and is capable of delivering the pressurized water supply necessary for delivering fire flows as prescribed by International Fire Code, as adopted by the state fire marshal, and such later editions as may be so published and adopted by the state fire marshal, or as amended, modified or superseded, and incorporated herein by reference with a copy on file with the office of the clerk of the Board of County Commissioners, and herein after referred to as IFC.

(b) A note on the final subdivision plat stating: "At the time of Building Location Permit or Building Permit, the lot owner shall install a minimum two thousand (2,000) gallon water storage system, meeting IFC standards." Refill on demand is not required to meet IFC standards.

(c) A note on the final subdivision plat stating: "The installation of an approved International Fire Code residential fire suppression sprinkler system is required in all newly constructed residences."

(d) Prior to final plat, a man-made or natural water source with a dry hydrant capable of delivering adequate water supply as prescribed by International Fire Code.

(e) A note on the final subdivision plat stating: "At the time of building permit or building location permit, the lot owner shall install an approved fire suppression method to the satisfaction of Bonner County." [if not within a fire district; if within fire district, use district name and verify district's approval of this note.]

**B-9** The final plat shall be endorsed with Panhandle Health District's approval.

**B-10** The applicant shall provide a copy of the Notice of Intent (NOI), in accordance with the Environmental Protection Agency's Construction General Permit (National Pollutant Discharge Elimination System) prior to final plat approval if site disturbance is greater than 1 acre.

**VARIANCE**

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

**File V0004-20 – Lot Size Minimum Variance – Wiley F. Beaux, Trustee** is requesting a lot size minimum variance allowing for 1 acre parcels, where 10 acres is required, for the purpose of creating 4 new lots. The property is 161 acres and zoned Rural-10. The project is located off Lariat Court in a portion of Section 29, Township 56 North, Range 3 West, Boise-Meridian, Bonner County, Idaho.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Glasoe stated Mr. McLaughlin represented her in a personal matter. She further stated this does not create a conflict for her for regarding this project. 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 Revised Code.

**APPLICANT PRESENTATION:** Travis Haller, Glahe and Associates, gave a history and overview of the project. He stated the applicant is attempting to mimic the Ranch at Riverbend as close as possible.

**PUBLIC/AGENCY TESTIMONY:** Seth Levy spoke on the record regarding this request.

**APPLICANT REBUTTAL:** Toby McLaughlin responded to public comments stating there have been no public objections to the request. He spoke about protections that were put into place to protect Mr. Beaux's interests and allow for what is being requested. He further stated Mr. Beaux is willing to work with the neighbors.

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

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**Motion by the governing body:**

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**MOTION:** Commissioner Linscott moved to approve this project File V0004-20, a lot size minimum variance allowing for 1 acre parcels, where 10 acres is required, for the purpose of creating 4 new lots, 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 adding "The roads need to be dedicated to public right-of-way". 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 with a vote of 4-2. Commissioners Linscott, Glasoe, Bailey, and Kempton voted in favor of the motion. Commissioners Bradish and Reeve voted in opposition of the motion.

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**Background:**

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**A. Site data:**

- Ag/forest ground
- Unplatted
- Size: 161 AC
- Rural 10 (R-10)

**B. Access:**

- Access to the lots is already in place by way of Lariat Court, which is a public road. Easement for ingress and egress coming off Lariat court would access the proposed lots.

**C. Environmental factors:**

- Wetlands exist in the area, and the floodplain runs the entire length of the water front. The proposed lots are designed to be on the only water front portion of the parcel that is not wetland. However, if wetlands are determined to be close, we are proposing to get the wetlands delineated by a wetlands specialist to show their exact location. If so, the wetland boundary location will be shown on the proposed plat. Also, elevations will be surveyed and staked on the proposed lots for determining where the flood plain elevation is. This floodplain line will also be shown on the proposed plat if needed.

**D. Services:**

- Water for the proposed lots would be supplied by an already existing community water system at Ranch at Riverbend. This system is already in place and running and capable of handling four more hookups.
- Sewer disposal is planned to be supplied by a community shared leach field that will be equally owned by all four lots. The leach field has already been located and staked. An application with PHD has been submitted, however timing has lapsed and a new PHD application is in the works.
- Utilities hookups are ready to be extended to supply power to the proposed lots from Lariat Court and Lot 11 from a an already existing 40' wide ingress, egress, and utility easement as shown on Plat of Ranch at Riverbend, Inst. No. 858213 to supply the proposed four lots.

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural 5-10	Rural 10	Ag/Timber
North	Rural 5-10	Rural 5	Residential
East	Rural 5 -10	Rural 5	Residential
South	Rural 5-10	Rural 5	Residential
West	Rural 5-10	Rural 5	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.

- (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.**

This proposal is looking to create four new lots surrounded by wetland and with similar lot design and size as the adjoining subdivision to the north. The subdivision to the north has lots along the water front that average approximately 1.4 acres in size.

**Staff:** Because of the surrounding wetlands and flood plain smaller lots that minimize the impact on the wetlands are a good fit.

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

*The proposed preliminary plat lot layout conforms to the adjoining lots design and size.*

**Staff:** The Applicant had no part in creating the mapped wetlands on his property.

- (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.**

*The proposal is not in conflict with public interest. The proposal aims at being compatible with the adjoining subdivision lots' size and design along the water front. In addition, this variance will allow four more residents the opportunity to enjoy and own water front property.*

**Staff:** Based on the information provided staff finds nothing detrimental to the public health, safety, or welfare.

**G. Agency Review:** The application was routed to agencies for comment on May 5, 2020. The following agencies commented:

Panhandle Health District	Idaho Department of Water Resources
Selkirk Fire District	Bonner County Road Department
Northern Lights Utility	U.S. Army Corps
School District #84	U.S. Fish and Wildlife Service
Bonner County Schools – Transportation	Idaho Department of Lands (Sandpoint)

Idaho Department of Fish and Game	BNSF Railway
Idaho Department of Environmental Quality	U.S. Forest Service
Idaho Department of Lands, Nav. Waters	
Federal Aviation Administration	

The following agencies replied "No Comment":

*Montana Rail, No comment*

All other agencies did not reply.

**H. Public Notice & Comments**

No Comments were received.

**Findings of Fact**

1. Public road access to the proposed lots.
2. Access to community water system.
3. Access to power and phone utility's
4. Plans for community sewer system
5. Wetland is prevalent in the surrounding area
6. Smaller lots would minimize impact to wetlands

**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:**

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

- A-2** The variance shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the variance, the applicant may make a written request to the Planning Director for an extension of the variance for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the variance.
- A-3** Roads must be built to the same standard as the adjoining subdivision road. (Lariat Court)
- A-4** Lots must have a state approved septic system or sewer service connection.
- A-5** Lots must have access to "the Ranch at Riverbend, shared water system.
- A-6** Lots must have Power utilities to each lot.
- A-7** Wetlands will be delineated on the Plat.
- A-8** The roads need to be dedicated to public right-of-way.

**AMENDMENT**

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

**File AM0005-20 – Amendment to Text – Bonner County Revised Code – Title 12 – Bonner County** is initiating a text amendment to Bonner County Revised Code – Title 12 to include the following proposed changes: Amend **Sections 411:** Density and Dimensional Standards; Forestry, Agricultural/Forestry and Rural Zone and **412:** Density and Dimensional Standards; Suburban, Commercial, Industrial, Rural Service Center, Recreation and Alpine Village Zones. This includes amending **Table 4-1** and **Table 4-2 Density and Dimensional Standards** and amending **Requirements or Exceptions** in each section. Amend Chapter 8 Definitions to add, delete, and amend definitions.

**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 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 and Bonner County Comprehensive Plan.

Commissioner Davis instructed staff to clarify property line more clearly when relating to the street or easement side of the property.

**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 Kempton moved to RECOMMEND APPROVAL of this FILE AM0005-20, to the Board of County Commissioners, amending the sections of Title 12, Bonner County Revised Code, as presented and amended in this hearing, based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Amending definition of throughfare to incorporate right-of-way when addressing property lines. 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.

**Project Authority**

Bonner County initiated an amendment to Title 12. Under the proposed amendment (File #AM0005-20), these amendments provide for a change to how setbacks will be defined. Instead of defining by front, side, and rear yard setbacks, the new setback standard will be from street as defined in Chapter 8 and property lines. The changes to the Chapter 8, Definitions, follows by addressing updates to words relevant to the setback changes. This also includes updates to words affected by previous ordinance updates. There is deletion of at least one word duplication and words not used in the code.

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

**12-411: DENSITY AND DIMENSIONAL STANDARDS; FORESTRY, AGRICULTURAL/FORESTRY AND RURAL ZONES:**

**TABLE 4-1  
DENSITY AND DIMENSIONAL STANDARDS**

Standard	Zoning District				
	F	A/F-20	A/F-10	R-10	R-5
Minimum lot sizes (acres) (1), (2)	40 (4)	20 (5)	10 (6)	10 (6)	5 (7)
Maximum residential density	1 dwelling unit per minimum lot sizes (3), (8)				

Standard	Zoning District				
	F	A/F-20	A/F-10	R-10	R-5
Minimum <del>street front yard</del> setback (9), (10) <del>(13)</del>	25 feet	25 feet	25 feet	25 feet	25 feet
Minimum <del>property line rear yard</del> setback (11), (12), (13), (14)	40-25 feet	40 25 feet	40 25 feet	25 feet (14)	25 feet (14)
Minimum <del>side yard</del> setback (11), (12), (13), (14)	40 feet	40 feet	40 feet	25 feet (14)	25 feet (14)
Minimum <del>side yard</del> setback flanking street (9)	25 feet	25 feet	25 feet	25 feet	25 feet
On premises sign <del>front property line or street</del> setback	25 feet	25 feet	25 feet	25 feet	25 feet
Maximum lot coverage	(15) (14)	(15) (14)	(15) (14)	(15) (14)	(15) (14)

**Requirements Or Exceptions:**

(1) Building lots in conservation subdivisions can be smaller than the minimum lot size for each zone. See chapter 6, subchapter 6.3 of this title for more details.

(2) For the purposes of subdividing or adjusting lots or parcel lines: Gross acreage may include rights of way within the boundaries of the land being subdivided or where right of way has been dedicated within the subject aliquot division of a section of land. Acreages may be rounded off per the following: 4.95 acres and larger shall be considered 5 acres; 9.95 acres and larger shall be considered 10 acres; 19.95 acres and larger shall be considered 20 acres; 39.95 acres and larger shall be considered 40 acres.

(3) Density may be increased via conservation subdivision provisions set forth in section 12-637 of this title for properties in the A/F and R zones.

(4) Or 1/16 aliquot division of the section minimum site area.

(5) Or 1/32 aliquot division of the section minimum site area.

(6) Or 1/64 aliquot division of the section minimum site area.

(7) Or 1/128 aliquot division of the section minimum site area.

(8) Dwellings, not to exceed a total of 3 dwelling units, may be permitted on a single parcel of land; providing, that the parcel is large enough to comply with the density requirements of the zone. For example, 3 dwelling units may be permitted on a 15 acre parcel in the R-5 district. Exceptions:

a. The total allowable number of dwelling units does not apply to temporary or seasonal farm labor housing, such as a bunkhouse where only sleeping quarters are provided for farmworkers.

b. Additional dwelling units may be allowed on a lot or parcel in a conservation subdivision or PUD, provided the subdivision or development plan complies with the density requirements of the district and where the dwelling units are authorized on the plat, if applicable.

(9) From Street as defined in BCRC 12-819 including any portion of a private easement providing access to three (3) or more lots or parcels beyond the subject lot or parcel. From property line or from ingress/egress easement boundaries, whichever distance is greater.

(10) Utility structures not exceeding 30 square feet, such as well houses may be permitted within the required front yard street setback, when necessary per applicable utility company or property owner.

(11) For legal nonconforming lots or parcels the following setback exceptions may be applied, provided snow storage and stormwater are accommodated on the subject site:

a. The minimum side property line setback may be reduced to 5 feet and the minimum rear setback may be reduced to 10 feet for lots/parcels of less than 20,000 square feet one (1) acre.

b. The minimum side setback may be reduced to 5 feet and the minimum rear setback may be reduced to 25 feet for lots/parcels between 20,000 square feet and 1 acre.

b. c. The minimum side property line setback may be reduced to 10 feet and the minimum rear setback may be reduced to 25 feet for lots/parcels larger than 1 acre but less than 5 acres.

(12) For detached residential accessory structures, the minimum side and rear setbacks shall be 5 feet and the minimum side setback flanking a street shall be 15 feet. Setback requirements per this subchapter do not exempt land owners from deeded restrictions or confirm landowners are not building in recorded or prescriptive ingress/egress boundaries. Nothing in this Title shall be construed to relieve an applicant from complying with deeded restrictions, prescriptive easements or legally binding easement boundaries.

(13) The minimum side and rear property line setbacks for agricultural buildings and other nonresidential structures shall be at least 40 feet, the minimum yard setback requirements may be reduced to 50 percent of the requirement if acceptable landscaping or screening, approved by the planning director, is provided. Such screening shall be masonry or solid fence between 4 feet and 8 feet in height, maintained in safe condition and free of all advertising or other signs on the residential side of lot or parcel. Landscaping provided in lieu of such wall or

fence shall consist of a strip of land not less than 20 feet in width, planted with an evergreen hedge or dense planting of evergreen shrubs not less than 4 feet in height at the time of planting. The yard requirement setback may be reduced to 25 feet from property line or ingress or egress easement when flanking a street or local road. The minimum side and rear property line setbacks for agricultural buildings used solely for growing and harvesting crops shall be 5 feet. The minimum front street setback for row covers, hoop houses or other membrane covered, season extending structures may be reduced to 15 feet, provided they are not on permanent foundations.

(14) Minimum side and rear setbacks for residences abutting land in the A/F district shall be 40 feet.

(14) (15) For legal nonconforming lots or parcels less than 1 acre in size, the maximum lot coverage shall be 35 percent.

(Ord. 501, 11-18-2008; amd. Ord. 512, 1-6-2010; Ord. 516, 6-9-2010; Ord. 520, 12-8-2010; Ord. 538, 6-26-2014)

**12-412: DENSITY AND DIMENSIONAL STANDARDS; SUBURBAN, COMMERCIAL, INDUSTRIAL, RURAL SERVICE CENTER, RECREATION AND ALPINE VILLAGE ZONES:**

TABLE 4-2  
DENSITY AND DIMENSIONAL STANDARDS

Standard	Zoning District					
	S	C	I	RSC	REC	AV
Minimum lot size where all urban services are available	10,000 square feet (1), (2)	See standard (3)	See standard (3)	12,000 square feet (1), (2)	12,000 square feet (1), (2)	12,000 square feet (1), (2)
Urban water only	2 acres (4)	2 acres	2 acres	2 acres	2 acres (4)	2 acres (4)
Urban sewer only	20,000 square feet (4)	20,000 square feet	20,000 square feet	20,000 square feet	20,000 square feet (4)	20,000 square feet (4)
Community LSAS and urban water	1.5 acres (4)	1.5 acres	1.5 acres	1.5 acres	1.5 acres (4)	1.5 acres (4)
Community drain field and individual well	2 acres (4)	2 acres	2 acres	2 acres	2 acres (4)	2 acres (4)
Minimum lot size where urban sewer and water services	2 1/2 acres (2), (4), (5)	2 1/2 acres (2), (5)	2 1/2 acres (5)	2 1/2 acres (2), (5)	2 1/2 acres (2), (4), (5)	2 1/2 acres (2), (4), (5)

Standard	Zoning District					
	S	C	I	RSC	REC	AV
are not available (1)						
Maximum residential density (if applicable)	1 dwelling unit per minimum lot size (2), (6)					
Minimum front yard street setback (7), (8) (9)	25 feet (9)	25 feet (9), (10)	25 feet (9)	25 feet (9), (10)	25 feet (9), (10)	(11)
Minimum rear yard setback (12), (13), (18)	25 feet (14)	25 feet (14)	25 feet (14)	25 feet (14)	25 feet (14)	25 feet
Minimum side yard property line setback (15), (18)	5 feet	5 feet	5 feet	5 feet	5 feet	15 feet (16)
Minimum side yard setback-flanking street (7)	15 feet	15 feet (10)	20 feet	15 feet (10)	15 feet (10)	
On premises sign front property line or street setback (7), (17)	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
Maximum lot coverage	35 percent	35 percent	50 percent	35 percent	35 percent	35 percent
Maximum building height						

Requirements Or Exceptions:

(1) Cluster lots in a conservation subdivision can be smaller than the minimum lot size for each zone.

(2) Density may be increased via conservation subdivision bonus provisions set forth in section 12-637 in this title.

(3) Lots must be sized sufficient to accommodate permitted uses and associated parking, setbacks, landscaping, walkways and other applicable development standards. Residential density for the C district shall be determined the same as for the minimum standards of the S district.

(4) Clustering lots via a conservation subdivision is encouraged to allow for the opportunity to develop at greater density if and when urban services become available. See section 12-636 of this title for more details.

(5) Or  $\frac{1}{256}$  aliquot division of the section minimum site area.

(6) Dwellings, not to exceed a total of 3 dwelling units, may be permitted on a single parcel of land; providing, that the parcel is large enough to comply with the density requirements of the zone. For example, 3 dwelling units may be permitted on a 30,000 square foot parcel with all urban services in the S district. Exceptions:

a. The total allowable number of dwelling units does not apply to temporary or seasonal farm labor housing, such as a bunkhouse where only sleeping quarters are provided for farmworkers.

b. Additional dwelling units may be allowed on a parcel in a conservation subdivision, provided the subdivision complies with the density requirements of the district and where the dwelling units are authorized on the plat.

(7) From property line or from ingress/egress easement boundaries, whichever distance is greater. From Street as defined in BCRC 12-819 including any portion of a private easement providing access to two or more lots or parcels beyond the subject lot or parcel.

(8) Utility structures not exceeding 30 square feet such as well houses may be permitted within the required front-yard property line or street setback, when necessary per applicable utility company or property owner.

(9) Street setback exceptions:

a. Front-yard Street setbacks may be reduced where approved and indicated on the final plat of a conservation subdivision or PUD.

b. First-floor porches and decks, open and unenclosed on three sides, and attached to the Dwelling Unit, may project up to 8 feet into the street setback.

(10) The minimum front-yard or side-yard flanking street setbacks may be reduced to 0 for buildings containing ground floor commercial uses facing the street, provided the following conditions are met:

a. A 12 foot wide sidewalk with street trees between the street and walkway is provided.

b. The street facade contains transparent windows and doors along at least 50 percent of the facade 3 feet and 8 feet above the sidewalk grade.

c. There is a public building entrance off of the sidewalk.

d. Street facade features weather protection at least 5 feet in width along at least

50 percent of the facade. Said weather protection could be a building overhang, permanent canopy or awning, or fabric awning, and must be at least 8 feet above the grade of the sidewalk.

e. Building location does not conflict with county or state roadway plans.

(11) Structures shall be set back at least 35 feet from the centerline of a paved road, but not closer than 5 feet setback from the property line fronting the right of way.

(12) Minimum side and rear yards property line setbacks shall be increased to 20 feet where abutting land in the A/F district.

(13) Rear-yard property line setbacks are 5 feet for detached, residential accessory buildings or structures, except where abutting land in the A/F district.

(14) The minimum Rear-yard property line setbacks for detached, residential accessory buildings shall be 5 feet.

(15) Side-yard property line setbacks may be reduced to 0 (only for lots internal to a subdivision) where indicated on the final plat of a conservation subdivision.

(16) Structures, including roof overhangs, shall not take up more than 60 percent of lot street frontage.

(17) Signs mounted on buildings are subject to building all setbacks requirements contained in this subchapter.

(18) The minimum side and rear property line setbacks for agricultural buildings and other nonresidential structures shall be at least 40 feet, the minimum yard setback requirements may be reduced to 50 percent of the requirement if acceptable landscaping or screening, approved by the planning director, is provided. Such screening shall be masonry or solid fence between 4 feet and 8 feet in height, maintained in safe condition and free of all advertising or other signs on the residential side of lot. Landscaping provided in lieu of such wall or fence shall consist of a strip of land not less than 20 feet in width, planted with an evergreen hedge or dense planting of evergreen shrubs not less than 4 feet in height at the time of planting. The yard setback requirement may be reduced to 25 feet from property line or ingress or egress easement when flanking a street or local road. The minimum side and rear property line setbacks for agricultural buildings used solely for growing and harvesting crops shall be 5 feet. The minimum front street setback for row covers, hoop houses or other membrane covered, season extending structures may be reduced to 15 feet, provided they are not on permanent foundations.

(Ord. 501, 11-18-2008; amd. Ord. 512, 1-6-2010; Ord. 538, 6-26-2014)

## CHAPTER 8 - DEFINITIONS

### 12-801: DEFINITIONS - A:

ACCESSORY DWELLING UNIT: A second, subordinate dwelling unit for use as a complete, independent dwelling with permanent provisions for living, sleeping, eating, cooking and sanitation. See definition "DWELLING UNIT, ACCESSORY."

### 12-802: DEFINITIONS - B:

BASEMENT: That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

### BCRC 12-804: Definitions - D

DWELLING UNIT, ACCESSORY: A dwelling unit, but not a mobile home, located on the same lot as a single-family dwelling, either within the same building as the single-family dwelling or in a detached building, with a separate entrance consistent with section 12-490.

DRIVEWAY: a private path giving access from a street.

### BCRC 12-805: Definitions - E

EASEMENT: The right-of-use over the property of another as defined in I.C.50-1301.

### BCRC 12-812: Definitions - L

LOT FRONTAGE: That part of a lot (a lot line) abutting on a street; except that the ends of incomplete streets shall not be considered frontage.

LOT SIZE the area contained within the boundaries lines of a Lot including Easements.

### BCRC 12-816: Definitions - P

PARK MODEL: A movable or portable dwelling containing from three hundred twenty (320) square feet and over to a maximum of four hundred (400) square feet constructed to be towed on its own chassis and designed so as to be installed with or without a permanent foundation for human occupancy as a residence composed of a single unit. A park model shall be considered a structure.

PLANNING DIRECTOR: An official appointed by the board who has knowledge in the practice of planning and zoning or his or her designee or appointee.

PROPERTY LINE: Shall mean any line bounding a lot or parcel.

### BCRC 12-818: Definitions - R

RECREATION VEHICLE: A vehicular or portable unit designed to be mounted on a chassis and wheels, designed and constructed to be installed with or without a permanent foundation for human occupancy as a residence not more than eight and one-half feet (8 1/2') in width and no more than three hundred twenty (320) nine hundred (900) square feet in total floor area. The term "recreation vehicle" shall include, but is not limited to, travel trailers, park models, camping trailers, truck

campers, and motor homes and tiny houses.

Staff Analysis: The old RV definition seems to address RV's as it relates to transportation on State Highways. The challenge with applying the old definition to County land use is the definition fails to define the full use of the RV including slide outs, canopies, break away decks or other additions that would apply if the unit was to be used as a dwelling unit or vacation rental. These uses were permitted in Ordinance #598 approved in January, 2020. The proposed definition will encompass slideouts, canopies, breakaway decks as well as larger RV's such as Semi-RV's.

RECREATION VEHICLE (DESTINATION): A recreation vehicle which is designed for, and is to be used for, permanent residential use in a travel trailer/recreation vehicle park or at other approved locations.

RECREATION VEHICLE (OVERNIGHT): A recreation vehicle which is not designed for, or to be used for, permanent residential use in a travel trailer/recreation vehicle park or at other approved locations.

### BCRC 12-819 Definitions - S

STREET: A travelway - excepting driveways and trails (as defined in BCRC 12-820) - which provides vehicular and pedestrian access to adjacent properties, including the following:

A. Legal Access: A public or recorded private thoroughfare which affords a primary means of access to adjoining properties. A recorded private thoroughfare may be a recorded easement for ingress or egress or a platted street right of way used as a private thoroughfare for access to abutting property, but for which the county assumes no responsibility for maintenance. A private thoroughfare not recorded with the county recorder shall not be considered legal access.

B. Local Roads: A public or recorded private thoroughfare which affords primary access to adjoining property. A local road may be a recorded easement for ingress and egress or a platted street which provides access to abutting property.

C. Major Collector: A public thoroughfare that links minor collectors and local access routes with routes of higher classification. Frontage and access is limited.

D. Minor Arterial: A public thoroughfare that serves less dense population concentrations. Minor arterials may connect to principal arterials or provide intermediate routes. Frontage and access is limited.

E. Minor Collector: A public or recorded private thoroughfare which affords access to adjoining property and connects local access roads to roads of higher classification.

F. Principal Arterial: A public thoroughfare that connects a network of continuous routes. Serves large intercounty population concentrations and is designed to carry heavy traffic loads. Frontage and access is limited.

G. State Highway: A public thoroughfare that serves interstate and intrastate populations. These highways are designed to carry maximum traffic loads. Frontage and access is restricted to Idaho department of transportation standards.

The term "street" shall not mean a private easement or travelway that provides access to two (2) or fewer single-family residential lots or parcels beyond the subject lot or parcel.

**BCRC 12-822: Definitions – V**

**VACATION RENTAL:** A single-family, duplex or multi-family residence, or condominium unit, rented for periods of up to one month per visit. A dwelling unit - excluding caretakers's residences and farm labor housing, - rented for periods of up to one month per visit.

**BCRC 12-825: Definitions – Y**

**YARD:** An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

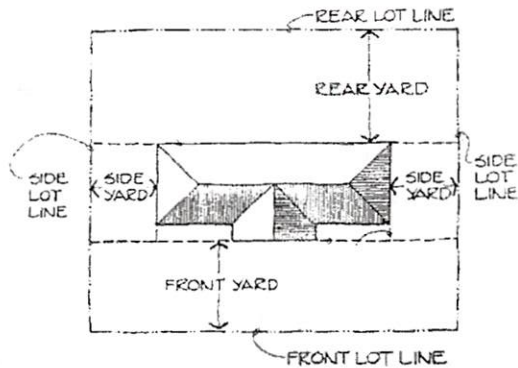
**YARD, FRONT:** A yard extending across the full width of the lot along a street. Where the lot fronts on two (2) intersecting streets, the yard fronting on the street providing primary vehicular access to the principal use shall be deemed the front yard. A lot fronting on two (2) nonintersecting streets shall be deemed to have two (2) front yards. The front yard of a lot or parcel that has no street frontage shall be determined by the planning director or designee at the time of permitting, based upon access to the property.

**YARD, REAR:** A yard extending across the full width of the lot along the rear property line. This is typically on the opposite side of the lot as the front yard.

**YARD, SIDE:** A yard extending from the front yard to the rear yard along each side of a lot.

**FIGURE 8-1  
ILLUSTRATING THE FRONT, SIDE, AND REAR YARDS OF A TYPICAL LOT**

Delete picture.



**Staff and Agency Comment:**

There have been comments received from:

Independent Highway District - My concern is that the backyard setback is being changed from 25 feet to 15 feet in the Alpine Village Zone. The problem with this change is that the Alpine standard is for steep hillsides. When you build close to the back property line snow can have great force falling from a roof. This snow can damage or injure anything or anyone on this downhill slope. Snow unloading from roofs at Schweitzer is a hazard today due to how close the buildings are to the property lines. We do not need to cause more problems by allowing this change.

City of Kootenai - The City Council voted unanimously to advise Bonner County that it objects to the portion of the ordinance eliminating the rear yard setback and replacing it with a property line setback of only 5 feet for the higher-density zoning districts. Most of the unincorporated lands adjoining the Kootenai city limits are zoned Suburban and Recreation. The ordinance amendment would effectively reduce the current 25-foot rear yard setback by 20 feet, which could have a profound effect on lands that back up to the City border. With the exception of the certain commercial and industrial districts, Kootenai's rear yard set-back standards are from 10 to 25 feet. The results of the ordinance amendment would create overcrowding and is not in accord with Kootenai's community design goal to maintain a "small town feel" and "rural quality of life."

City of Clark Fork – No Comment

**Public Comment:**

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

**Authority**

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

**Findings of Fact:**

1. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, may recommend a zoning ordinance.
2. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
3. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations "...not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve

the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein..."

The proposed ordinance making the above changes adds to the clarity intended in the interpretation of the Bonner County Revised Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining the protection of property, peace, good order, comfort and convenience of the county and its inhabitants

4. Further clarifying standards enabling the public and the staff to come to a more accurate understanding of the standards leading to a better planned development for both home and commercial use.

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**Conclusions of Law:**

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

**OPEN LINE DISCUSSION:**

Staff updates

Discussion regarding sub-area plans.

At 8:45 p.m., the Chair declared the hearing adjourned until June 18, 2020.

Respectfully submitted,



Milton Ollerton, Planning Director

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The above Minutes are hereby approved this 15<sup>th</sup> day of October 2020.

Bonner County Planning and Zoning Commission



Brian Bailey, Chair