

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
TUESDAY, JULY 2, 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 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

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

ABSENT: Taylor Bradish

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

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: June 30, 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 CUP0002-20 – Conditional Use Permit – Multi-family Dwellings – Millie’s 1943 Jess/Burk LLC is requesting a conditional use permit to construct two 4-plexes to provide employee housing associated with Millie’s Restaurant. The 3.36+/- acres is zoned Rural Service Center. The project is located off Highway 57 in Section 25, 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 project representative Marty Taylor is doing some design work for him on another project. He further stated this does not cause any conflict for him regarding this project. The Chair noted there were no additional disclosures or conflicts.

STAFF PRESENTATION: Planner II Amanda DeLima 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 would rely on the submitted application for the details of the project. He spoke about services and density of the proposed project.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

MOTION: Commissioner Kempton moved to approve this project FILE C0002-20, to allow for the construction of two, 4-plexes for employee housing associated with Millie’s Restaurant, 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 striking condition A-7 “A copy of the Facility Plan approved by the Idaho Department of Environmental Quality shall be submitted at the time of permitting”. This action does not result in a taking of private property. Commissioner Linscott seconded the motion.

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

Background:

A. Site data:

- Parcel area: ± 3.36 acres (~146,362 sf)
- Zone: Rural Service Center
- Land Use: Neighborhood Commercial (<=2.5 AC)
- Structures: The property is developed with a restaurant built in 1943, two cabins built in 1938, a mobile home (BLP2019-0814), and a storage building (BLP2019-0846).

B. Access: Highway 57

- a. Owner: Idaho Transportation Department
- b. Road Class: Main Arterial
- c. Surface: Paved

C. Environmental factors:

- d. Site does not contain mapped slopes. (USGS)
- e. Site does not contain mapped wetlands. (USFWS)
- f. Site does not contain a river/stream/frontage on a lake.
- g. Floodplain: Entire parcel is within SFHA Zone D, per FIRM Panel 16017C0200F, Effective Date 7/7/2014.

D. Services:

- Water: According to the applicant, the site is developed with a community well of sufficient quantity and quality to serve all existing improvements, as well as the proposed two, 4-plexes. In a letter from Sewell & Associates to Mr. Brende, a water system design has been submitted to IDEQ for review & approval.
- Sewage: Outlet Bay Sewer District
- Fire: West Priest Lake Fire District
- Power: Northern Lights
- School District: Lake Pend Oreille School District #83

- Each 4-plex requires 21,000 square feet of lot area; two, 4-plexes require 42,000 square feet. The property contains 146,362 square feet.
- According to the applicant, the development is served by all "urban services." The parcel is serviced by Outlet Bay Sewer District, and the site is developed with a community well of sufficient quantity and quality to serve all existing improvements, as well as the proposed two, 4-plexes. A water system design has been submitted to IDEQ for review & approval. **See Condition A-7.**

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Neighborhood Commercial (<=2.5 AC)	Rural Service Center	Restaurant, Mobile, & Storage Building
North	Rural Residential (5-10 AC)	Rural Service Center	Pasture
East	Neighborhood Commercial (<=2.5 AC)	Rural Service Center	Forest Land
South	Neighborhood Commercial (<=2.5 AC)	Rural Service Center	Lamb Creek Rural Service Center (retail, etc)
West	Neighborhood Commercial (<=2.5 AC)	Rural Service Center & Rural 5	Lamb Creek Rural Service Center (retail, etc)

- BCRC 12-337, Accessory Use Table, Employee Housing as an integral part of the commercial operation
 - Employee housing as part of an integral part of the commercial operation shall be onsite housing and **shall meet all the required standards and permits of the requested type of housing**, i.e., subdivision, RV park or condominium.
 - The proposed 4-plexes are on site with the commercial use. Building and site design will be reviewed against BCRC 12-4 in reference to multi-family dwelling standards at time of Building Location Permit.
- BCRC 12-4.2, Performance standards for all uses
 - Performance standards complies with BCRC 12-4.2.
- BCRC 12-4.3, Parking standards
 - A minimum of 2 spaces is required for units sized for 2 or more bedrooms.
 - Each unit includes two parking stalls for a total of 16 required parking spaces, where an excess of 17 spaces is provided.
- BCRC 12-4.4, Sign standards
 - No signage is proposed for the 4-plexes. Signage for Millie's is existing.
- BCRC 12-4.5, Design standards: The standards in section 12-453 of this chapter shall apply to all new development in the commercial, industrial where commercial uses and services are proposed, and **rural service center districts** and all other commercial, **multi-family**, public and industrial development in other zoning districts unless otherwise noted.
 - BCRC 12-453A: Site design standards require pathways paralleling the street along the front edge of the property for all new developments where the value of the addition equals or exceeds 50% of the market value of the proposed improvements.
 - A pathway paralleling the street along the front edge of the property is not proposed. Due to the size and scope of work, adequate pedestrian walkways shall comply with BCRC 12-453A. **See Condition A-8.**

F. Standards review

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

- BCRC 12-220, et seq, conditional use permit, application and standards
 - The application was considered complete and routed to agencies on June 2, 2020
- BCRC 12-332, Residential Use Table, Dwelling, Multi-family
 - Multi-family dwellings with a minimum of 12,000 square feet of lot area for the first unit, plus 3,000 square feet for each additional unit; provided that all urban services are available.

- BCRC 12-453B: Walkways connecting all on site commercial and multi-family buildings with each other and the street is required.
 - Walkways connecting commercial and multifamily buildings are not present. **See condition A-9.**
- BCRC 12-453C: Not applicable; parking lot pathways are not required due to the size of the parking area.
- BCRC 12-453F: Lighting proposed will be recessed or downward shielded.
 - Lighting meets the applicable standards
- BCRC 12-453I: Multi-family developments featuring more than four (4) dwelling units shall provide at least two hundred fifty (250) square feet of onsite recreational space per dwelling unit.
 - An event area containing horseshoe pits and a volleyball area complies with recreational space requirements for the proposed multi-family units.
- BCRC 12-453K: When visible from a street or resident/customer parking area, the Solid Waste receptacles shall be enclosed on at least three (3) sides by a solid wall or fence of at least six feet (6') in height, or within an enclosed building. Screen fences should be made of masonry, ornamental metal or wood, or some combination of the three (3). The use of chainlink, plastic or wire fencing is prohibited. The receptacle shall be animalproofed.
 - Solid waste receptacle shall be screened per BCRC 12-453K. See **condition A-10.**
- BCRC 12-4.6, Landscaping and screening standards
 - A landscaping plan was submitted and found to be in compliance with landscaping and screening standards listed in BCRC 12-4.6.
- BCRC 12-7.2, Grading, stormwater management and erosion control
 - A grading, stormwater, and erosion control plan has been submitted and was routed to county engineer, Spencer Ferguson, on June 2, 2020. Per the memorandum submitted on June 4, 2020, the submitted plan was found to be compliant with the standards of BCRC 12-7.2.

G. Comprehensive Plan Land Use Designation

The comprehensive plan designation of Neighborhood Commercial provides light commercial uses to serve the needs of the rural communities and tourist trade without adversely affecting residential neighborhoods. Urban services and primary transportation systems, such as the state highways or major/minor collector roads are required.

The proposed use is consistent with the goals & policies of the comprehensive plan. Workforce housing will provide staffing for the establishment which will in turn assist in providing services to tourists. Additionally the project is located in an area with

services and on a main arterial road which aligns with the intent of the Neighborhood Commercial land use designation.

H. Stormwater plan

A stormwater management plan was required pursuant to BCRC 12-7.2. A stamped plan by Sewell & Associates was submitted. The plan has detailed requirements for stormwater management and erosion control both during and after construction. Per the memorandum submitted on June 4, 2020, the submitted plan was found to be compliant with the standards of BCRC 12-7.2.

I. Agency Review

The following agencies were routed.

Outlet Bay Sewer District	Idaho Dept. of Water Resources
West Priest Lake Fire District	Idaho Dept. of Environmental Quality
Northern Lights Utility Company	Idaho Dept. of Transportation
School District #83	Idaho Dept. of Lands (Sandpoint)
Bonner County Schools - Transportation	

The following agencies commented:

On June 2, 2020, Idaho Department of Water Resources commented:

"Thank you for the opportunity to review the above application and supplements with respect to ID WR jurisdictional issues. It is our understanding that the proposal entails an addition of two 4-plex dwelling units to existing restaurant and single family dwelling facilities.

The application identifies "A privately maintained water supply and distribution system" to deliver water to the uses, but didn't reference water right(s). The application supplement addressing the water system does not include information sufficient to determine existing or projected water use.

IDWR has reviewed water right information in our files and do not find any recorded claim, application, permit or license for the existing use, or any "water supply and distribution system" on or around the property. A single exemption from mandatory permit filing requirements may exist, to provide no more than 18 gallons per minute and 2500 gallons per day, for the existing facilities. However, it appears that the present uses may exceed this volume of water, regardless of any additional uses.

IDWR requests the applicant contact this office to identify existing water rights that we may not know about and/or to discuss water right filing options available to them."

On June 24, 2020 the Idaho Department of Environmental Quality commented:

In summary: "DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that apply... DEQ has not completed a thorough review of the documents provided, therefore, the following general comments should be applied as appropriate to the specific project..."

All other agencies did not reply.

J. Public Notice & Comments

No public comments were received.

Findings of Fact

1. The proposed use will occur on a parcel zoned Rural Service Center. This is consistent with the intent of the zoning codes of Bonner County
2. The property fronts Highway 57, a paved, main transportation route.
3. The proposed use will occur on a parcel designated Neighborhood Commercial. This is consistent with the intent of the comprehensive plan.
4. The site will be adequately served with sewer and water services.
5. The site is serviced by West Priest Lake Fire District, and Northern Lights Power.
6. The parcel is +/-3.36 acres.

Conclusions of Law:

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

Conclusion 1

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

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

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

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

Conditions of approval:

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** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.

- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and 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.
- A-6** Prior to issuance of a building location permit, the owner of the proposed multi-family structure shall obtain an address for the dwelling from Bonner County that meets the provisions of Bonner County Revised Code, Title 13. (For multi-family CUPs)
- A-7** At the time of Building Location Permit, the applicant shall comply with the sidewalk & pathway standards of BCRC 12-453A.
- A-8** Pedestrian walkways connecting commercial & multi-family buildings shall be added in conformance with BCRC 12-453B at the time of Building Location Permit.
- A-9** Building Location Permits issued under this conditional use permit shall comply with all applicable solid waste screening standards of BCRC 12-453K.

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 V0008-20 – Front Yard Setback Variance – Cory Yost is requesting an eight foot (8') front yard setback, where 25-feet is required, to allow for the construction of a garage. The property is zoned Recreation. The project site is located off Sherwood Beach Loop in Section 3, Township 59 North, Range 4 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: Planner II Amanda DeLima presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Cory Yost stated that parking is difficult due to the conditions of the private, narrow, gravel road. He stated the granting of this variance would help remedy the situation.

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 approve this project FILE V0008-20, a request for an 8' front yard setback where 25' is required to allow for the construction of a detached garage, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Linscott further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bailey seconded the motion.

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

Background:

A. Site data:

- Residential
- Sherwood Beach Addition 2, Lot 24
- Size: ± 0.2 acres
- Zone: Recreation
- Land Use: Resort Community

2. Access: The site is accessed off Sherwood Loop Road, a private, gravel Road.

3. Environmental factors:

- Site does contain mapped slopes. (USGS) A geotechnical Report has been submitted with Building Location Permit 2020-0164.
- Site does not contain mapped wetlands. (USFWS)
- Site contains frontage on Priest Lake.
- Parcel partially in SFHA Zone AE. Entire project site is in SFHA Zone X, per FIRM Panel #16017C0430F, Effective Date 7/7/2014.

D. Services:

- Water: Individual Well
- Sewage: Coolin Sewer
- Fire: Coolin Cavanaugh Fire District
- Power: Northern Lights
- School District: #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Residential, Single Family Residence
North	Resort Community	Recreation	Residential, Single Family Residence
East	Resort Community	Recreation	Residential, Single Family Residence
South	Resort Community	Recreation	Residential, Single Family Residence
West	Priest Lake	n/a	n/a

F. Standards review

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

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

Applicant: "The garage needs to be located adjacent to the private road in order to be accessible due to the lot size and slope. The required setback cannot be achieved due to the location of the existing cabin structure."

Staff: Staff concurs that the 30% slope of the site is causing an access constraint for this particular parcel. Many structures along Sherwood Loop Road require closer frontage to the road in order to maintain accessibility to structures.

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

Applicant: "The existing private road and cabin were in place when I bought the property."

Staff: The applicant did not develop the property nor created the configuration of the lot. The subject property was platted in 1941 when the Sherwood Beach subdivision was created and the existing cabin was built in 1954.

(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: "All of the adjacent properties that have garages, do not comply with the setback. A variance (file V458-15) was issued to my neighbor."

Staff: Conflict of public interest is mitigated through the planning department's agency review process and by public notification. Both the public and governmental agencies expressed no concern regarding the proposal. Additionally, the conditions of approval will ensure that the granting of this variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.

G. Stormwater plan

An Erosion Control plan was required, pursuant to BCRC 12-720.3(k), and approved as a part of Building Location Permit 2020-0164.

H. Agency Review

The application was routed to agencies for comment on June 2, 2020.

Coolin Sewer District	Dept. of Water Resources
Department of Lands, Nav. Waters	Dept. of Lands (Sandpoint) Bonner
County Schools – Transportation	Dept. of Env. Quality
Coolin Cavanaugh Bay Fire District	School District #83
Northern Lights Utility Company	Bonner County Road & Bridge

The following agencies replied "No Comment":

Bonner County Road & Bridge- No Comment, June 2, 2020
Dept. of Env. Quality- No Comment, June 2, 2020

All other agencies did not reply.

I. Public Notice & Comments

No public comments were received.

Findings of Fact

1. The subject property features 30% slope.
2. The subject property was created in 1941 when the Sherwood Beach subdivision was platted.
3. The existing cabin was built in 1954
4. The subject property is located off of Sherwood Loop Road, a private, gravel road.
5. The applicant obtained the property in 2015 per instrument # 8669574.

Conclusions of Law:

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

Conclusion 1

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

Conclusion 2

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

Conclusion 3

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

Conditions of approval:

Standard permit conditions:

A-1 Only the development highlighted on the site plan has been reviewed for variance standards. Any other proposed development must comply with Bonner County Revised Code.

MODIFICATION OF 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 MOD0001-20 – Modification of Variance – Front Yard Setback – Sean Fitzpatrick is requesting a modification of variance for file #V516-18 to include a front yard setback variance of 10'-0", where 25 feet is required, to allow for the construction of a deck on the proposed Accessory Dwelling Unit (conversion from an existing garage). The property is zoned Suburban. The project site is located in Section 12, Township 56 North, Range 2 West, Boise-Meridian.

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

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

APPLICANT PRESENTATION: Applicant Sean Fitzpatrick stated the granting of this variance would keep the snow runoff from his roof off of his neighbor's 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 approve this project FILE MOD0001-20 to modify an approved variance (V516-18) to include a 10'-0" front yard setback to allow for the expansion of the existing attic space above the existing garage and become an Accessory Dwelling Unit with a new deck and stair way on the South and West sides of the building, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Kempton further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bailey seconded the motion.

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

Background:

4. Site data: The subject property is a

- Residential Use
- Unplatted
- Size: 0.27 acres
- Suburban zone

5. Access:

- Access is provided by Kootenai Bay Road, a paved, 2-way 40' wide, county maintained road.

6. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site is not located in a Special Flood Hazard Area (DFIRM Panel # 0720E, Zone X – 0.2% annual chance of flood hazard) (FEMA)

7. Services:

- Water: City of Sandpoint
- Sewage: Ponderay/Kootenai Sewer District
- Fire: North Side Bay Fire District
- Power: Avista

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Urban (0-2.5 Acres)	Suburban	Residential
North	Urban (0-2.5 Acres)	Suburban	Residential
East	Urban (0-2.5 Acres)	Suburban	Residential
South	Urban (0-2.5 Acres)	Suburban	Residential
West	Urban (0-2.5 Acres)	Suburban	Residential

F. Standards review

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

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

Applicant: "The existing garage structure was built in the 1940's on the property line creating the current safety hazard of avalanching snow onto the neighbors property."

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

Applicant: "We did not create the original subdivision, lot lines or the existing structure. It is in the current built condition as when we purchased the property."

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

Applicant: "The granting of this variance will in no way negatively affect the public. It will in fact though positively affect the safety and site conditions of the neighbors to the east"

G. Stormwater plan

A stormwater management plan was required pursuant to BCRC 12-720.2. An optional grading and stormwater plan was submitted by Sean Fitzpatrick of Fitzpatrick Architecture. The plan calls to use the existing stormwater swales, and silt fences and straw bales around excavation installation of footings. The calculations indicated the existing site and swales are capable of retaining the first 1/2" of run off from the impervious surfaces and the design storm yield expected at the site.

H. Agency Review

The application was routed to the following agencies for comment on June 2, 2020:

Panhandle Health District
Bonner County Road Dept.
North Side Fire District
U.S. Fish and Wildlife Service
Idaho Department of Environmental Quality
Idaho Department of Lands (Sandpoint)

Idaho Department of Water Resources
U.S. Army Corps
Idaho Department of Fish and Game
Avista Utilities
Kootenai-Ponderay Sewer District
Bonner County Schools – Transportation

The following agencies replied “No Comment”:

Idaho Dept. of Lands
Panhandle Health District

Idaho Dept. of Env. Quality
Idaho Dept. of Fish and Game

The Following Agencies replied:

Kootenai-Ponderay Sewer District (Colleen Johnson) – June 23, 2020

“The above-mentioned property is within the boundaries of the Kootenai-Ponderay Sewer District. The District has verified the location of the main line in relation to the property. The modification of variance for the property does not require additional connections or changes to current use.”

Bonner County Road & Bridge (Matt Mulder) – June 2, 2020

“Road & Bridge has no objections to the proposed 10' setback variance for this deck.
It will not affect our maintenance operations of the road.”

All other agencies did not reply.

I. Public Notice & Comments

As of June 25, 2020, no public comments have been formally submitted.

Findings of Fact

1. The parcel is a ±0.27 acre area.
2. The parcel is zoned Suburban.
3. The parcel is located on Kootenai Bay Road.
4. The parcel is served by Ponderay/Kootenai Sewer District.
5. The parcel is serviced by the City of Sandpoint for water.
6. The parcel is serviced by Coolin-Cavanaugh Fire District.

7. Garage below proposed Accessory Dwelling Unit is existing.

Conclusions of Law:

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

Conclusion 1

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

Conclusion 2

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

Conclusion 3

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

Conditions of approval:

Standard permit conditions:

- A-1** Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.

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 AM0007-20 & ZC0005-20 – Comprehensive Plan Map Amendment & Zone Change – Cook Trust is requesting a Comprehensive Plan Map Amendment from Ag/Forest 10-20 to Neighborhood Commercial 0-2.5, and a Zone Change from Ag/Forest 10-20 to Commercial. The properties total 8.13 acres and are located off Highway 95 in Section 3, Township 59 North, Range 1 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 summary of the project and previously circulated staff report, concluding this project

is consistent with the Bonner County Comprehensive Plan goals and objectives and the Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Rich Cook gave a brief summary of his request stating the property has been in his family for years and they want to continue to use the property to serve the community by providing additional commercial opportunities for the area.

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 -

PLANNING AND ZONING COMMISSION

MOTION: Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE AM0007-20, requesting a comprehensive plan amendment from Ag/Forest (10/20 AC) to Neighborhood Commercial 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 Glasoe seconded the motion.

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

Zone Change -

MOTION: Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0005-20, requesting a zone change from Ag/Forest 10 to Commercial, 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:

8. Site data:

- Use: Ag/Forest-10
- Unplatted
- Size: +/- 1.49, 5.04, 1.6
- Zone: Ag/Forest - 10
- Land Use: Ag/Forest -10
- Legal per: Instrument #870963

9. Access:

- Main access is off of Highway 95 a paved road with a 200-foot R.O.W. The applicant notes that the approach is off of Highway 95. The turn off of Highway 95 provides safe and easy access to the parcel.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS); per applicant, to be delineated prior to any development.
- Site does not contain waterfront or streams. (NHD)
- Entire parcel is within SFHA Zone X
- Soil:
 - Classification: Farmland of state wide importance
 - Type: Complex
 - Drainage: Well Drained

D. Services:

- Water: Well
- Sewage: Individual Septic
- Fire: North Side Fire
- Power: North side Fire
- School District: #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10/20 AC)	Agricultural/forestry 10 (A/f-10) & Rural 5 (R-5)	Mixed Use Residential/Commercial
North	Ag/Forest Land (10/20 AC)	Agricultural/forestry 10 (A/f-10)	Ag/Forest Land
East	Prime Forest Land (20 AC)	Agricultural/forestry (20AC)	Agriculture/Vacant Land
South	Residential (5/10 AC)	Rural 5 (R-5)	Residential
West	Ag/Forest Land (10/20 AC)	Ag/Forest Land (10 AC)	Ag/Forest Land

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)

Existing Comprehensive Plan Designation:

1. Ag/Forest Land:

The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% 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 Highway 95, a main transportation corridor that is paved, and the parcel is afforded fire protection via Northside Fire. Soil conditions are considered "prime farmland" if drained.

Conclusion: Existing densities, environmental features, access and services indicate that the subject property does not conform well to this land use designation.

Proposed Comprehensive Plan Designation: Neighborhood Commercial

The Neighborhood Commercial area is designed to provide light commercial uses to serve the needs of the rural communities and tourist trade without adversely affecting residential neighborhoods. Urban services and primary transportation systems, such as the state highways or major/minor collector roads are required.

Conclusion: The location of this parcel and the services available fits well with the Neighborhood classification. Based off historical and current use, commercial type uses will serve the local community and maintain the rural character of the area.

Zone Change Request:

The applicant is requesting a zone change from A/F-10 to Commercial. The standards for those districts are below:

Existing Zoning:

1. 12-322: Agricultural/Forest District:

The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:

- a) Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
- b) Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture, or requiring close proximity for the support of agriculture.

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

- 1. A/F-20 in all areas designated as prime ag/forest land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated ag/forest land in the comprehensive plan that also feature:
 - a. Prime agricultural soils.
 - b. Are characterized by agricultural or forestry uses.
 - c. Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to ag/forest production.

A/F-10 in areas designated as ag/forest land in the comprehensive plan that do not feature prime agricultural soils, but where agricultural and forestry pursuits remain viable. These areas may be within or adjacent to areas of city impact or where lands are afforded fire protection, access to standard roads and other services.

Proposed Zoning:

1. 12-325: Commercial District:

The commercial district is established to promote a range of commercial uses to serve the needs of the immediate area, surrounding rural communities and visitors without adversely affecting adjacent residential neighborhoods. The commercial district is also intended to provide opportunities for a variety

of affordable housing types that are within walking distance of commercial services. Intensive large scale commercial development is not appropriate due to the limited density of surrounding unincorporated areas. Access to primary transportation routes and a system of hard surfaced roads are expected and consideration is given to the potential public transportation access. These purposes are accomplished by:

- a) Providing for a wide range of small to medium scaled retail, professional, governmental and personal service uses.
- b) Allowing for mixed use buildings (housing over office or retail) and a range of housing types, including cottage housing, townhouses, apartments and mobile home parks where sufficient services are provided.
- c) Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses can be mitigated.
- d) Excluding commercial uses with extensive outdoor storage.
- e) Excluding large scale commercial uses that would be more effectively located in incorporated cities.
- f) Applying simple design standards that enhance pedestrian access and improve the character of the area.

Use of this zone is appropriate in areas designated as neighborhood commercial, urban growth area 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 commercial districts or the creation of new commercial districts may be considered only if the expansion will not negatively impact the safety and function of a state highway or other roadway. (Ord. 501, 11-18-2008)

Conclusion: The existing commercial type use has been established, and can be traced back to 1940. Access to hard surfaced, primary transportation routes, and the availability of a private well is in accord with the general and specific goals of the Transition land use designation. Per Bonner County Revised Code, at the time of development, adequate sewage disposal services, water supply, roads and other needed public facilities and services will be addressed. Additionally, during the permitting stage, new development will be required to demonstrate that the safety and function of a state highway and county road will not be negatively impacted.

The proposal to amend the Zoning Map is in accord with the general and specific goals of the Comprehensive plan and of Bonner County Revised Code.

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

H. Agency Review: The application was routed to agencies for comment on June 2, 2020.

*Bonner County Road Department
U.S. Army Corps
Idaho Department of Lands (Sandpoint)*

*Bonner County Schools - Transportation
Northern Lights
BNSF Railway
Idaho Transportation Department
(All Taxing Districts)*

The following agencies replied "No Comment":

*City of Clark Fork - No Comment
Bonner County Road Department - No Comment
PendOreille Hospital District - No Comment
Idaho Department of Lands (Sandpoint) - No Comment
Independent highway District - No Comment
Kootenai-Ponderay sewer district - no Comment*

All other agencies did not reply.

I. Public Notice & Comments:

No public comment was received.

Comprehensive Plan Amendment Findings of Fact

1. The existing and historical use of the property is consistent with the Neighborhood Commercial land use designation.
2. Access is provided by Highway 95, paved primary transportation routes.
3. Water is provided by Private Well.
4. The property features mixed uses; commercial and residential.

Comprehensive Plan Amendment Conclusions of Law:

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

Conclusion 1

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

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

Conclusion 2

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

Conclusion 3

The proposal **is** in accord with the Neighborhood Commercial Land Use Designation.

Zone Change Findings of Fact

1. The property is historically been used for commercial purposes.
2. The property is proposed to be designated Neighborhood Commercial in the comp plan.
3. Access is provided by Highway 95, paved primary transportation routes.
4. Water is provided by private well.
5. No adverse comments were received from Road & Bridge and the Idaho Department of Transportation in regards to negative impacts to the safety and function of the road system.

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

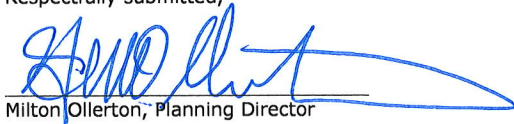
The proposal **is** in accord with the purpose of the Commercial zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

OPEN LINE DISCUSSION:

An additional hearing was added to the schedule for August 27, 2020.

At 6:48 p.m., the Chair declared the hearing adjourned until July 16, 2020.

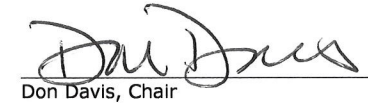
Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 16th day of July 2020.

Bonner County Planning and Zoning Commission



Don Davis, Chair