

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
AUGUST 12, 2020**

**CALL TO ORDER:** Chair McDonald called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

**PRESENT:** Commissioners Chair Dan McDonald; Vice Chair Jeff Connolly; and Steve Bradshaw

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Assistant Planning Director Josh Pilch; Administrative Manager Jeannie Welter; and Administrative Assistant III Maria Alexander

**PUBLIC HEARINGS:**

**AMENDMENT & ZONE CHANGE**

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

**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. At the public hearing on July 2, 2020 the Planning & Zoning Commission recommend approval of this project to the Board of County Commissioners.

**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:** Assistant Planning Director Josh Pilch presented the previously circulated staff report, concluding this project is with the Bonner County Comprehensive Plan and Bonner County Revised Code.

**APPLICANT PRESENTATION:** None

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

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**Comprehensive Plan Amendment**

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**MOTION:** Commissioner Bradshaw moved to approve this project, FILE AM0007-20, requesting a comprehensive plan amendment from Ag/Forest (10 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 Bradshaw 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 Connolly seconded the motion.

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

**MOTION:** Commissioner Connolly moved to approve resolution #20-59 amending the Bonner County Projected Land Use Map. Commissioner Bradshaw seconded the motion.

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

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**Zone Change**

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**MOTION:** Commissioner Bradshaw moved to approve this project, FILE ZC0005-20, requesting a zone change from Ag/Forestry 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 Bradshaw 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 Connolly seconded the motion.

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

**MOTION:** Commissioner Connolly moved to approve an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of the Official Zoning Map of Bonner County by the reclassification of lands located in Section 4, Township 57 North, Range 1 West, Boise Meridian, Bonner County, Idaho from Agriculture Forestry-10 & Rural Service Center to Commercial, and providing for an effective date. Commissioner Connolly further moved to authorize the Chair to sign the official supplementary zoning map upon publication of the ordinance. Commissioner Bradshaw seconded the motion.

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

**Roll Call Vote:**

Commissioner McDonald      AYE  
 Commissioner Connolly      AYE  
 Commissioner Bradshaw      AYE

**Background:**

**A. 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

**B. 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

Compass	Comp Plan	Zoning	Current Land Use & Density
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  
Idaho Department of Lands (Sandpoint)  
Bonner County Schools - Transportation  
Idaho Transportation Department*

*U.S. Army Corps  
Northern Lights  
BNSF Railway  
(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.

**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 ZC0006-20 - Zone Change from Rural-5 to Recreation - Steele Living Trust** is requesting a Zone Change from Rural-5 to Recreation. The property is zoned R-5 and the Comprehensive Plan designation is Resort Community. The project is located off Willow Bay Road in Section 1, Township 55 North, Range 4 West, Boise-Meridian. At the public hearing on July 16, 2020 the Planning & Zoning Commission recommend approval of this project to the Board of County Commissioners.

**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 summary of the project and previously circulated staff report, concluding this project is with the Bonner County Comprehensive Plan and Bonner County Revised Code.

**APPLICANT PRESENTATION:** Travis Haller reiterated the parcel is currently not in compliance with Bonner County Revised Code and approval of this request will bring the parcel into compliance.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

**Zone Change**

**MOTION:** Commissioner Connolly moved to approve this project, FILE ZC0006-20, requesting a zone change from Rural-5 to Recreation, 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 Connolly 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 Bradshaw seconded the motion.

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

**MOTION:** Commissioner Bradshaw moved to approve an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of the Official Zoning Map of Bonner County by the reclassification of lands located in Section 1, Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho from Rural-5 to Recreation, and providing for an effective date. Commissioner Bradshaw further moved to authorize the Chair to sign the official supplementary zoning map upon publication of the ordinance. Commissioner Connolly seconded the motion.

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

**Roll Call Vote:**

Commissioner McDonald     AYE  
 Commissioner Connolly     AYE  
 Commissioner Bradshaw     AYE

**Background:**

**A. Site data:**

- Use: One residential home with attached garage, including one shop.
- Unplatted
- Size: +/- 15.0

- Zone: Rural-5
- Land Use: Resort Community
- Legal per: Instrument # 954237

**B. Access:**

- Main access is off of Willow Bay Road, a paved, county road. Willow Bay Road is off Dufort Road.

**C. Environmental factors:**

- Site does contain a small amount of sloping areas. (USGS)
- Site does not contain mapped wetlands.
- Site does not contain waterfront or streams. (NHD)
- Entire parcel is within SFHA Zone X, per FIRM Panel 16017C0895E, Effective Date 11/18/2009.
- Soil:
  - Classification: Bonner gravelly ashy silt loam, 0 to 4 percent slopes
  - Type: Prime Farmland
  - Drainage: Well drained

**D. Services:**

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire
- Power: Northern Lights
- School District: #84

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Residential / Forested
North	Resort Community	Recreation	County Road and 7.86 acres used as an RV Site, forested
East	Resort Community	Rural-5	A 5-acre parcel and 2.42 acre parcel, forested
South	Resort Community	Recreation	35.797 acre parcel and a 2.42 acre parcel, forested
West	Resort Community	Recreation	35.797 acre parcel, forested

**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.

**Comprehensive Plan Designation: Resort Community:** 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.

**Zone Change Request:** The applicant is requesting a zone change from Rural-5 to Recreation. The standards for those districts are below:

**Existing Zoning:**

**12-323: RURAL DISTRICT:**

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)

**12-328: RECREATION DISTRICT:**

A. The recreation district is established to provide a wide range of recreational uses in areas where if access is by road rather than solely by waterways, the road shall be located within a recorded easement or public right of way, except where subject to the terms of an approved special use permit or a state or federal agency, adequate water and sewer services and fire services. Consideration shall also be given to access to potential public transportation systems. The recreation district is intended to provide for a range of housing types and uses that are accessory and complementary to recreational and residential uses. These purposes are accomplished by:

1. Allowing for a range of housing types provided adequate services are available.

2. Providing for commercial and private resorts which contain provisions for a range of recreational activities.

3. Excluding uses that are not compatible with the desired recreational character of the area.

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

5. Applying simple design standards that enhance the recreational opportunities and character of the area.

B. Use of this zone is appropriate in areas designated as transition, neighborhood commercial, urban growth area and resort community with the following conditions:

1. Land is physically suitable to accommodate a broad range of residential and recreational uses.

2. Sites are served by adequate sewage disposal service, water supply, roads and other needed public facilities and services. (Ord. 501, 11-18-2008)

**Conclusion:** The existing zoning for Rural District is in conflict with the underlying land use designation of Resort Community. Resort Community is intended to have zones that are compatible with recreational areas and where urban services are

provided. However, the overlying zone districts do accommodate for parcel sizes that do not have urban services such as the 2.5-acre minimums.

The surrounding uses and existing neighboring lot sizes indicate this parcel would adequately meet the standards of the recreation district.

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 16, 2020.

*Idaho Department of Water Resources  
Bonner County GIS  
U.S. Army Corps  
Idaho Department of Lands, Nav. Waters  
Idaho Department of Fish & Game  
(All Taxing Districts)*

*Bonner County Road & Bridge  
Northern Lights  
Idaho Department of Lands  
Department of Environmental Quality  
Bonner County Schools Transportation*

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

*Bonner County Road & Bridge – No Comment, July 1, 2020  
City of Clark Fork – No Comment, June 24, 2020  
Independent Highway District – No Comment, June 24, 2020  
Pend Oreille Hospital District – No Comment, June 29, 2020  
Kootenai-Ponderay Sewer District – No Comment, June 24, 2020  
Division of Aeronautics – No Comment, June 23, 2020*

**All other agencies did not reply.**

**I. Public Notice & Comments:** No public comments were received.

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**Zone Change Findings of Fact**

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- 6. The property is currently and historically been used for residential purposes.
- 7. The property is designated Resort Community in the comp plan.
- 8. Access is provided by Dufort Road and Willow Bay Rd, paved primary transportation routes.
- 9. Water and sewer are provided by individual well and septic consistent with the proposed larger lot sizes.
- 10.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.

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**Zone Change Conclusions of Law:**

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

The Chair declared the hearing adjourned at 1:46 p.m.

Respectfully submitted, this 12<sup>th</sup> day of August 2020,

Milton Ollerton, Planning Director