

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
AUGUST 11, 2021**

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 Steve Bradshaw; and Jeff Connolly (Commissioner Jeff Connolly excused himself from the public hear at 2:40 p.m. and was not present for File VA0014-21.)

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planner I Swati Rastogi; Planner I Tyson Lewis; Planner I Daniel Britz; Administrative Manager Jeannie Welter; and Administrative Assistant III Janna Berard

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.

File AM0010-21 and ZC0018-21 - Comprehensive Plan Map Amendment and Zone Change – Bolser Family Trust is requesting a Comprehensive Plan Map Amendment from Agricultural/Forest Land to Rural Residential Land and a Zone Change from Agricultural/Forest 20 (A/F-20) to Rural 10 (R-10). The property is approximately 20.42 acres. The project is located off Bodie Canyon Road, a local road, in Section 15, Township 56 North, Range 5 West, Boise-Meridian. The Planning & Zoning Commission, at the July 1, 2021, public hearing, recommended denial of this file 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: Planner I Swati Rastogi presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Dan Provolt presented information regarding the prime land soils and housing development in the area.

PUBLIC/AGENCY TESTIMONY: The following spoke on the record in opposition of the project: Claudia Carrier, Ron Spears, Reg Crawford

APPLICANT REBUTTAL: Project Representative Dan Provolt responded to public comments received during the review process of this project relating to roadways, wetlands and agency comments.

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

MOTION: Commissioner Connolly moved to approve project FILE AM0010-21, requesting a comprehensive plan amendment from Agricultural/Forest Land (10-20 acres) to Rural Residential (5-10 acres), on a 20.42 acres parcel generally located in Section 15, Township 56 North, Range 5 West, Boise Meridian, Bonner County, Idaho, 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.

Comprehensive Plan Map Resolution Adoption:

MOTION: Commissioner Bradshaw moved to approve resolution #21-64 amending the Bonner County Projected Land Use Map. Commissioner Connolly seconded the motion.

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

Zone Change - Motion by the Governing Body:

MOTION: Commissioner Connolly moved to approve project FILE ZC0018-21, requesting a zone change from Agricultural/Forestry District 20 (A/F-20) to Rural 10 District (R-10) on a 20.42 acres parcel generally located in Section 15, Township 56 North, Range 5 West, Boise Meridian, Bonner County, Idaho, 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.

Ordinance Motion:

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 15, Township 56 North, Range 5 West, Boise Meridian, Bonner County, Idaho from Agricultural/Forestry District 20 (A/F-20) to Rural 10 District (R-10), 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.

ROLL CALL VOTE:

Commissioner McDonald: Aye
 Commissioner Connolly: Aye
 Commissioner Bradshaw: Aye

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

Background:

A. Site data:

- Use: Vacant
- Unplatted property
- Size: 20.42 acres
- Zone: Agricultural/ Forestry 20 District (A/F-20)
- Land Use: Agricultural/ Forest Land

B. Access:

- The property has access from County owned and maintained Bodie Canyon Road that is paved with treated gravel and has a speed limit of 25 miles per hour.

C. Environmental factors:

- Majority of the site is characterized by slopes that are less than 15% in grade. North-eastern corner of the site shows presence of slopes greater than 30%. The southern, northwestern and northeastern corners also show slopes between 15-30%. (US Geological Survey)
- Site contains the following wetlands. (US Fish and Wildlife Service)
 - i. Freshwater Emergent Wetland
 - ii. Freshwater Forested/ Shrub Wetland
 - iii. Riverine
- Site shows the presence of streams or river Intermittent. (National Hydrography Dataset, US Geological Survey)
- Site consists of the following soils-
 - i. Lenz-Rock outcrop association

- o Not prime farmland
- o Well drained
- ii. Vay-Ardtoo association
 - o Not prime farmland
 - o Well drained
- iii. Ardtoo gravelly sandy loam
 - o Not prime farmland
 - o Well drained
- iv. Vay gravelly silt loam
 - o Not prime farmland
 - o Well drained
- v. Bonner silt loam
 - o All areas are prime farmland
 - o Well drained
- Parcel is located within SFHA Zone X, per FIRM Panel 16017C0855E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
- Site contains Moose Range and Elk Wintering Area, as per the Critical Wildlife Habitat map (2002) created from field validated data collected by Idaho Department of Fish and Game.

D. Services:

- Water: Individual Well System
- Sewage: Individual Septic System
- Fire: West Pend Oreille Fire District
- Power: Northern Lights Utility Company
- School District: Bonner School #83
- Ambulance District: Bonner Co Ambulance District

E. Comprehensive Plan, Zoning and Current Land Use

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

F. Standards review: Bonner County Revised Code

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
 - o 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: Agriculture / Forest Land (10-20 acres)**
 - 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.
- **Proposed Comprehensive Plan Designation: Rural Residential**
 - The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.
- **Current Zoning: Agricultural/ Forest District (A/F-20).**
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:
 - Prime agricultural soils.
 - Are characterized by agricultural or forestry uses.
 - 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.
- **Proposed Zoning: Rural District (R-10)**
R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - Characterized by slopes that are steeper than thirty percent (30%).
 - Located within critical wildlife habitat as identified by federal, state or local agencies.
 - Contain prime agricultural soils.
 - Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
 - Within the floodway.
 - Contain limited access to public services.

G. Storm water plan: A storm water management plan was not required, pursuant to BCRC 12-720.3 because the proposal does not result in creation of any additional impervious surfaces.

H. Agency Review: The application was routed to agencies for comment on April 20, 2021.

Panhandle Health District	Bonner School District #83
West Pend Oreille Fire District	U.S. Army Corps (Coeur d'Alene)
Northern Lights Utility Company	Army Corps (Newport)
Bonner County Road and Bridge Department	U.S. Forest Service
Idaho Department of Fish and Game	U.S. Fish and Wildlife Service
Idaho Department of Environmental Quality	All Taxing Districts

The following agencies replied "No Comment":

Independent Highway District, June 04, 2021
 Panhandle Health District, June 07, 2021
 Idaho Department of Fish and Game, June 22, 2021
 Idaho Department of Environmental Quality, June 24, 2021

All other agencies did not reply.

I. Public Notice & Comments

The following public comments were received: None.

Comprehensive Plan Amendment Findings of Fact

- North-eastern corner of the site shows presence of slopes greater than 30%. The southern, north-western and north-eastern corners also show slopes between 15-30%.
- Site is accessible by Bodie Canyon Road, a Bonner County owned and maintained public right-of-way.
- Site primarily consists of Bonner Silt Loam Soil that is classified as well drained prime farmland soil. The site also shows presence of some other types of soils such as Lenz- Rock Outcrop Association, Vay-Ardtoo Association, Ardtoo Gravelly Sandy Loam and Vay Gravelly Silt Loam. These soils are classified as well drained not prime farmland soils.
- Site has access to urban services such as West Pend Oreille Fire District, Northern Lights Utility Company, Bonner School District #83.
- As per the Critical Habitat Wildlife map (2002), site contains Moose Range and Elk Wintering Area.

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 RURAL RESIDENTIAL Land Use Designation.

Zone Change Findings of Fact

- Site primarily consists of Bonner Silt Loam Soil that is classified as well drained prime farmland soil.
- Site contains Moose Range and Elk Wintering Area, as per the Critical Wildlife Habitat map that was created from field validated data collected by Idaho Department of Fish and Game in 2002.
- Majority of the site is characterized by slopes that are less than 15% in grade. North-eastern corner of the site shows presence of slopes greater than 30%. The southern, northwestern and northeastern corners also show slopes between 15-30%.
- Site is accessed by Bodie Canyon Road, a Bonner County owned and maintained public right-of-way that is paved with treated gravel and has a speed limit of 25 miles per hour.
- The site is located within Flood Hazard Zone X and is not located within a floodway.
- Site is serviced by individual well and septic system, West Pend Orelle Fire District Northern Lights Utility Company, Bonner School #83 and Bonner Co Ambulance District.

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 is found to be in compliance.

Conclusion 3

The proposal is in accord with the purpose of the RURAL 10 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 ZC0015-21 – Zone Change – Rural-10 to Rural-5 - C. Schuyler McCorkle is requesting a zone change from Rural-10 to Rural-5. The comprehensive plan designation is Rural Residential. This 10 acre parcel is located off Lakeshore Drive Road in Section 15 and 16, Township 56 North, Range 3 West, Boise-Meridian. The Planning & Zoning Commission, at the June 17, 2021, public hearing, recommended approval of this file 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: Planner I Swati Rastogi presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: None

PUBLIC/AGENCY TESTIMONY: The following spoke on the record: Ron Spears
The following spoke on the record in opposition of the project: Claudia Carrier, George Gehrig

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Bradshaw moved to approve project FILE ZC0015-21, requesting a Zone Change from R-10 to R-5 on 10 acres of unplatted land, located

off Lakeshore Drive in Section 15 and 16 of Township 56 North, Range 3 West, Boise Meridian, Idaho, 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 recommend adoption of 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.

Ordinance Motion:

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 15 and 16, Township 56 North, Range 3 West, Boise Meridian, Bonner County, Idaho from R-10 to R-5, 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.

ROLL CALL VOTE:

Commissioner McDonald: Aye
 Commissioner Connolly: Aye
 Commissioner Bradshaw: Aye

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

Background:

A. Site data:

- Use: Site is currently developed with the following-
 - i. Dwelling, built in 1966.
 - ii. Three attached garages.
 - iii. Three waterfront boat docks, built in 1995.
 - iv. General purpose building, built in 1995.
 - v. Lean-to, built in 1995.
- Unplatted
- Size: 10 acres, approximately.
- Zone: Rural 10 District
- Land Use: Rural Residential

B. Access:

- Property is accessed off Lakeshore Drive, a public right-of-way. It is Bonner County owned and maintained, paved with Treated Gravel with a speed limit of 35 miles per hour.

C. Environmental factors:

- Most of the site does not contain slopes of over 15%. A minimal portion of the site contains slopes between 15-30%. (USGS)
- Wetlands/ Waterbody: Site fronts on Morton Slough to the east and Pend Oreille River to the west. (USFWS)
- Soils: Elmira Loamy Sand
 - i. 0 to 8 percent slopes
 - ii. Prime farmland
 - iii. Excessively drained
- Critical Wildlife Habitat: None. (As per the Critical Wildlife Habitat Map created from the field-validated data collected by Idaho Department of Fish and Game in 2002.)
- Floodway: Most of the site is within Flood Hazard Zone X. A small southern portion of the site, adjacent to River Pend Oreille is within Flood Hazard Area AE.

D. Services:

- Water: The site is currently developed with a well. The owner does not intend to make any further additions.
- Sewage: The site is currently served by an individual septic and leach field system. The owner does not intend to make any further additions.
- Fire: Sagle Fire District
- Power: Northern Lights Utility Company
- School District: Bonner County # 84
- Ambulance District: Bonner Co Ambulance District
- Hospital District: Pend Oreille Hospital District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use
Site	Rural Residential	Agricultural/ 20 Forestry	Residential
North	Rural Residential	Agricultural/ 20 Forestry	Residential
East	Morton Slough	Morton Slough	Morton Slough
South	Pend Oreille River	Pend Oreille River	Pend Oreille River
West	Rural Residential	Rural 10	Residential

F. Standards of 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**

- o 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:

- o Rural Residential: The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

Existing Zoning: BCRC 12-323: Rural District (R-10):

R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:

- o Characterized by slopes that are steeper than thirty percent (30%).
- o Located within critical wildlife habitat as identified by federal, state or local agencies.
- o Contain prime agricultural soils.
- o 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 Title 12 or are absent.
- o Within the floodway.
- o Contain limited access to public services.

Proposed Zoning: BCRC 12-323: Rural District (R-5):

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.

G. Stormwater plan: A storm water management plan was not required, pursuant to BCRC 12-720.3(J) because the proposal does not result in the creation of additional impervious surface, as defined in BCRC 12-809.

H. Agency Review: The application was routed to agencies for comment on May 18, 2021.

Panhandle Health District	Idaho Dept. of Fish and Game
Selkirk Fire District	Idaho Dept. of Water Resources
Northern Lights Utility Company	U.S. Army Corps (Coeur d'Alene)
School District #84	Army Corps (Newport)
Bonner County Schools - Transportation	U.S. Fish and Wildlife Services
Bonner County Road and Bridge Department	BNSF Railway
Idaho Dept. of Lands (Sandpoint)	All Taxing Districts
Idaho Dept. of Lands and Navigable Waters	

The following agencies replied with no comments:

*Kootenai Ponderay Sewer District, May 24, 2021
Independent Highway District, May 20, 2021
Pend Oreille Hospital District, May 25, 2021
All other agencies did not reply.*

I. Public Notice & Comments

None received.

Zone Change Findings of Fact

- The site is in an area designated for Rural Residential Land uses by the Comprehensive Plan.
- Majority of the site does not contain mapped slopes of over 15%. A minimal portion of the site to the south contains slopes between 15-29%.
- The site does not contain critical wildlife habitat. The staff did not receive any comments from Idaho Department of Fish and Game confirming otherwise.
- The site is served by Lakeshore Drive, a Bonner County owned and maintained public right-of-way that is paved with Treated Gravel and has the posted speed limit of 35 miles per hour. This road meets the applicable standards of Public Roads as provided in Title 2 of Bonner County Revised Code.
- Most of the site is within Flood Hazard Zone X. A small southern portion of the site, adjacent to River Pend Oreille is within Flood Hazard Area AE.
- Site has access to the following public services.
 - o Direct access to public right-of-way, Lakeshore Drive.
 - o Site is serviced by Sagle Fire District, Northern Lights Utility Company, Bonner School District #84, Bonner Co Ambulance District and Pend Oreille Hospital District.
- The adjacent area is developed with a density of approximately 1 dwelling unit per 5 acres of land.

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 Rural 5 zoning, provided at Chapter 3, Title 12, Bonner County Revised Code.

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.

Appeal - File V0010-21 – Variance – Property Line Setback - Chris Pellascini is requesting a variance for a reduced property line setback of 10’ where 25’ is required. The lot is 5.8 acres with 15% or greater slope. The lot currently has a building pad and utilities are installed. The property is zoned R-5. The project is located off Living Waters Way in Section 5, Township 55 North, Range 4 West, Boise-Meridian. At the hearing on May 18, 2021, the Bonner County Planning & Zoning Commission denied this project. On July 14, 2021, the Planning Department received an appeal requesting this file to be forwarded to the Board of County Commissioners for a de Novo hearing.

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 I Daniel Britt presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Ryan Fobes explained the decision of the P&Z commission decision and the history of the property.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Connolly moved to approve this project FILE V0010-21, a reduced setback for a 10’ setback where 25’ is required, 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 Connolly 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 Bradshaw seconded the motion.

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

Background:

A. Site data:

- Residential
- Platted lot
- Size: 5.8 acres
- Zone: Rural 5
- Land Use: Rural Residential (5-10ac)

B. Access:

- Dufort Road is a paved County maintained road with a 60’ ROW,
- Morning Star Mountain Road is a private gravel surfaced road with a 60’ ROW
- Living Waters is a private gravel surfaced road with a 60’ ROW

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Not within a floodplain- Zone X #16017C0890E 11/18/2009

D. Services:

- Water: Individual well
- Sewage: Individual septic system
- Fire: West Pend Oreille Fire District
- Power: Northern Lights
- School District: Bonner School #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural 5	Vacant
North	Rural Residential	Rural 5	Residential
East	Rural Residential	Rural 5	Vacant
South	Rural Residential	Rural 5	Residential
West	Rural Residential	Rural 5	Vacant

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: "Access road and building pad already prepared. In addition, the well and power are already installed to building pad. The hillside lot is fairly steep the optimal building site was prepared previously based on site constraints. The well location limits the location and width of residence. A variance would allow the new owner to build their planned home."

Staff: Applicant has no control of the natural slope of the lot. Previous ownership developed a building pad and installed a well.

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

Applicant: "Roadway, building pad and utilities were installed prior to ownership"

Staff: The property has naturally steep slopes. Previous owner installed a building pad and a well.

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

Applicant: "The sideyard adjacent property owner to the north has already built on their lot. The existing trees and vegetation are well established and dense enough to provide 100% site obstruction. The reduced setback would not adversely effect the parcel the north as it is currently developed. The proposed house is oriented so that their will be no head lights shinning into the northern 20 acre lot"

Staff: The variance request aligns with the comprehensive plan goals and objectives. The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

G. Stormwater plan

A stormwater management plan is required pursuant to BCRC 12-720.2(E). New building construction or development which occurs on or within three hundred feet (300') of a slope with fifteen percent (15%) or greater incline as determined from the applicable seven and one-half (7.5) minute quadrangle map published by the United States geological survey or by actual survey, and which is subject to the provisions of title 11 of this code

H. Agency Review

The application was routed to agencies for comment on May 18, 2021.

Panhandle Health District	Idaho Department of Water Resources
West Pend Oreille Fire District	Bonner County Road Department
Northern Lights Utility Company	Idaho Department of Environmental Quality
Applicable School District #83	U.S. Fish and Wildlife Service
Bonner County Schools - Transportation	Idaho Department of Lands (Sandpoint)
Idaho Department of Fish and Game	

The following agencies commented: NA

The following agencies replied "No Comment":

Bonner County Road & Bridge- 5/18/21
Idaho Department of Fish and Game- 6/1/2021

All other agencies did not reply.

I. Public Notice & Comments

The following public comments were received:
Charlie Doll Hoover- May 22, 2021

Findings of Fact

1. The proposal was reviewed for compliance with BCRC 12-234 Variances, and standards for review of applications, BCRC 12-400, et seq
2. The property is zoned Rural-5
3. The applicant is requesting a 10' property line setback where 25' setback is required
4. The property is described as Lot 3 of Morning Star Mountain Estate, according to the plat thereof, recorded on Book 8 of Pates, page 25 records of Bonner County, Idaho
5. Existing building pad and well on the lot
6. Slopes greater than 15%
7. The applicant obtained the property in 2021 per warranty deed under Instrument #978919, recorded on March 22, 2021

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 building envelope for property line setback on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code excepting the modified building envelope herein.

A-2 Apply for a Building Location Permit, submit all necessary documentation required to Bonner County Planning Department for review and approval.

ADMINISTRATIVE 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.

Appeal - File VA0014-21 - Administrative Variance - Shoreline Setback & Bulk Increase - Navdeep & Babli Virk are requesting to increase the bulk of an existing storage/bunk house by 30%, and a shoreline setback 23' from the high-water mark, where 40' is required. The structure will be rebuilt taller than the existing structure. The parcel is .97 acres. The property is zoned REC. The project is located off East Cavanaugh Bay Road in Section 26, Township 60 North, Range 04 West, Boise-Meridian. This project was administratively approved by the Planning Director on June 22, 2021. On July 13, 2021, the Planning Department received an appeal requesting this file to be forwarded to the Board of County Commissioners for a de Novo hearing.

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 I Tyson Lewis presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project Representative Jeremy Grimm explaining the structures and property details.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Bradshaw moved to approve this project FILE VA0014-21, a 30% increase of bulk for a previously existing structure 23-feet from the average high-water mark, 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 Bradshaw further moved to adopt the following findings of fact and conclusions of law as written (or as amended). 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. After stepping down from the chair, Commissioner McDonald seconded the motion.

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

Background:

A. Site data:

- Always Lake Lots Plat, Lot 1
- Size: 0.97 acres
- Zone: Recreation (REC)
- Land Use: Resort Community

B. Access:

- The property is located off East Cavanaugh Bay Road, a private gravel easement.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (NWS)
- Site does contain frontage on a Priest Lake

- Certified Floodplain Manager: JRJ, 5.24.2021: Parcel is within SFHA Zone X and Zone AE, per FIRM Panel 16017C0225F, Effective Date 7/7/2014. A variance alone does not approve development, as defined in BCRC Title 14. Per site plan, project site is within SFHA Zone X. No further floodplain review is required on this proposal.

D. Services:

- Water: Cougar Creek Water Users Association
- Sewage: Coolin Sewer District
- Fire: Coolin Cavanaugh Bay Fire District
- Power: Northern Lights Inc.
- School District: #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreational	Residential
North	Resort Community	Recreational	Residential
East	Resort Community	Recreational	Residential
South	Resort Community	Recreational	Residential
West	N/A	N/A	Lake

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.**

Appellant: "There are limiting factors outside of the owner's control that are affecting the placement of a replacement structure, namely the steep slopes on this parcel. Specifically, most of the eastern portion of the parcel is encumbered by slopes exceeding 30% which are not desirable or safe to develop upon. Additionally, East Cavanaugh Bay Road sits immediately behind the house further restricting placement of a structure elsewhere on the parcel."

Staff: The property contains mapped slopes ranging from 15% to >30% in areas. Photos provided with the applicant's submittal and with the building location permit BLP2021-0101 demonstrate the slope of the property in relation to properties in the vicinity of the subject property. USGS Topographic maps demonstrate that the presence of slope is not unique to the subject property, but is present on the majority of properties in the vicinity.

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

Appellant: "The original building was constructed prior to the applicant purchasing the property. The applicant has not created or made worse the circumstances of this variance."

Staff: The applicant did not create the shape, orientation, nor slope of the subject property. Furthermore, the applicant is not responsible for the design or placement of the existing structures on this property. Always Lake Lots was platted March 13, 2017. The appellant purchased the property in 2018.

- (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.**

Appellant: "The expansion of the accessory structure will not be detrimental to the public health safety, or welfare. By expanding the structure in its current location the applicant is helping to reduce potential safety issues by avoiding development on steep slopes and ensuring that development does not occur close to East Cavanaugh Bay Road."

Staff: Bonner County Planning routes to local agencies and adjoining properties within 300 feet of the subject property for comment. There were no comments from neighboring property owners. Idaho Fish & Game Department commented with a strong recommendation for erosion control and sediment entrapment plans to be followed in order to preserve water quality and fish habitat.

G. Stormwater plan

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

H. Agency Review

The application was routed to agencies for comment on May 20, 2021.

Panhandle Health District	Idaho Department of Water Resources
Coolin Sewer District	Cougar Creek Water Users Association
Coolin Cavanaugh Bay Fire	Bonner County Road Department
Northern Lights Utilities	Idaho Department of Environmental Quality
School District #83	Idaho Department of Fish and Game
Bonner County Schools - Transportation	U.S. Fish and Wildlife Service
Idaho Department of Lands, Nav. Waters	

The following agencies commented:

U.S. Fish & Wildlife Service 06/08/2021

The following agencies replied "No Comment":

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All other agencies did not reply.

I. Public Notice & Comments
No public comment was received.

Findings of Fact

1. The property fronts Priest Lake.
2. The comprehensive plan designation for the property is resort community and is zoned REC.
3. The existing structure was built in 1970 according to assessor records.
4. The applicant purchased the property on May 15, 2018 per instrument number 921969.
5. Always Lake Lots Plat was recorded April 4, 2017 per instrument number 903547.
6. The property is accessed by East Cavanaugh Bay Road, a private road.

Conclusions of Law:

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

Conclusion 1

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

Conclusion 2

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

Conclusion 3

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

Conditions of approval:

Standard permit conditions:

A-1 Upon submission, or revision of building location permit, the proposed structure will reflect the approved bulk granted in this proceeding. No more than a 30% increase of bulk shall be approved within the 40 foot required shoreline setback.

The Chair declared the hearing adjourned at 3:01 p.m.

Respectfully submitted, this 13th day of September 2021,



Milton Ollerton, Planning Director