

**PLANNING DEPARTMENT  
PUBLIC HEARING DECISION MINUTES  
Wednesday, November 10, 2021**

**CALL TO ORDER:** Chair McDonald called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 1<sup>st</sup> floor conference room, 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

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Assistant Planning Director Jacob Gabell; Planner I Chad Chambers; Planner I Daniel Britt; Administrative Manager Jeannie Welter; and Administrative Assistant III Da Niel Scott

**PUBLIC HEARINGS:**

**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.

**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.

**AMENDMENTS & ZONE CHANGES**

**File AM0017-21 & ZC0030-21 – Comprehensive Plan Map Amendment & Zone Change - Gary & Rose Reed** are requesting a comprehensive plan map change from Prime A/F to A/F and a zone change from A/F-20 to A/F-10 on 76.8 acres. The property is zoned A/F-20. The project is located off Eastside Road in Section 9, Township 57 North, Range 4 West, Boise-Meridian. The Planning & Zoning Commission, at the October 7, 2021 public hearing, recommended approval of this file to the Board of County Commissioners.

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

**APPLICANT PRESENTATION:** Project Representative Travis Haller, Glahe Professional Land Surveyors, submitted a PowerPoint presentation (exhibit A) and overview of the project. He commented the project site and surrounding properties.

**PUBLIC/AGENCY TESTIMONY:** The following individual spoke on the record: Lu Clark

**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 AM0017-21 for a comprehensive plan amendment from Prime Agricultural/ Forestry Land to Agricultural/ Forestry Land, 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties 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.

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**Comprehensive Plan Map Resolution Adoption:**

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**MOTION:** Commissioner Connolly moved to approve resolution 21-110 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 TO APPROVE:** Commissioner Connolly moved to approve this project, FILE ZC0030-21, requesting a zone change Agricultural/Forestry-20 to Agricultural/Forestry-10 for the parcel noted in the staff report, 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties 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.

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**Zone Change Ordinance Motion Roll Call Vote**

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**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 9, Township 57 North, Range 4 West, Boise Meridian, Bonner County, Idaho Agricultural/Forestry-20 to Agricultural/Forestry-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

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**Background:**

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**A. Site data:**

- Use: Residential
- Unplatted
- Size: 76.87
- Zone: Ag/F-20
- Land Use: Prime Ag/Forest Land

**B. Access:**

The parcel is located on Eastside Road a gravel county-maintained easement

**C. Environmental factors:**

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain a stream. (NHD)
- Entire parcel is SFHA Zone X, per FIRM Panel #16017C0665E, Effective Date 11/18/2009. No further flood review needed.
- Soil:
  - Classification: Pend Oreille silt loam, 5 to 45 percent slopes
  - Type: Consociation
  - Drainage: Well drained
  - Not prime farmland
  - Classification: Dufort silt loam, 5 to 45 percent slopes
  - Type: Consociation
  - Drainage: Well drained
  - Not prime farmland

**D. Services:**

- Water: Individual well
- Sewage: Individual Septic system
- Fire: West Pend Oreille Fire
- Power: Avista Utilities
- School District: Bonner School #83

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Prime AG/F	AG/F-20	Residential
North	Remote AG/F & Prime AG/F	AG/F-20	Residential
East	Remote AG/F	Forest 40	Vacant
South	Remote AG/F	AG/F-20	Vacant
West	Prime AG/F	AG/F-20	Residential

**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:**

The Prime Agricultural/Forest land is designed to preserve the productive farm and ranch land and timber land to promote its important economic and environmental contributions to the County. This area may have a range of road systems serving it and is generally served by individual sewer and water systems. These areas generally have prime agricultural land soils and soils of recognized state importance and active farm and ranch operations.

**Proposed Comprehensive Plan Designation:**

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.

**Existing Zone: A/F-20**

A. 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:

1. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
2. 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.

B. 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.

**Proposed Zone: A/F-10**

A. 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:

1. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
2. 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.

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

1. 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

**G. Agency Review:**

The application was routed to agencies for comment on September 7, 2021.

Panhandle Health District	Idaho Department of Water Resources
West Pend Oreille Fire District	Bonner County Road Department
Avista Utilities Company	U.S. Army Corps (Coeur d'Alene)
School District #83	Army Corps (Newport)
Bonner County Schools – Transportation	U.S. Fish and Wildlife Service
Idaho Department of Fish and Game	Idaho Department of Lands (Sandpoint)
Idaho Department of Environmental Quality	U.S. Forest Service

**The following agencies replied:**

Panhandle Health District replied September 22, 2021 “we recommend the applicant contact PHD to septic feasibility of the proposed lots.”

Idaho Department of Fish and Game replied September 24, 2021 “wildlife maybe displaced but will likely still use available corridor through this section for travel and migration.”

Department of Environmental Quality replied September 29, 2021 “recommends consideration be given to design and implementation. For example, retaining shade-provided trees and a 25’ of greater vegetative buffer along the length of the creek, and avoiding the installation of roads that run adjacent to, or cross the stream, and avoiding impacts to wetlands”

**All other agencies did not reply.**

**H. Public Notice & Comments**

September 30, 2021- a list of signatures opposing the zone change was submitted.

October 5, 2021- See attached letter

**Comprehensive Plan Amendment Findings of Fact:**

- The parcel does not contain prime agricultural soils
- The parcel lies within West Pend Oreille Fire District
- The parcel has slopes that are between 15 to 30% grade
- Services are provided by individual well and septic system
- The parcel is located on Eastside Road a gravel county maintained 60’ easement
- The parcel does contain a mapped wetland and a stream

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**Comprehensive Plan Amendment 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 |
| •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 Title 12, Bonner County Revised Code, and **is** found to be in compliance.

**Conclusion 3**

The proposal **is** in accord with the Agricultural/Forestry Use Designation.

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**Zone Change Findings of Fact:**

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- The parcel does not contain prime agricultural soils
- Agricultural and forestry pursuits remain viable
- Fire protection is provided by West Pend Oreille Fire District
- The parcel is not within area of city impact
- The parcel is located on Eastside Road a gravel County maintained 60' easement
- Other service includes power, water and sewage disposal

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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 |
| •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 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 Agricultural/Forestry-10 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

**File AM0016-21 – Text Amendment – Title 12-333 - Jacob Marble & Josh Pilch**

are request a Title 12 text amendment as follows: BCRC 12-333 standards (33): (33) Maximum square footage for ministorage, boat storage, and rental warehouse facilities on a single lot or parcel shall be 10,000 square feet for the rural service center and recreation districts. ~~The maximum square footage for ministorage facilities on a single lot or parcel in the commercial district shall be 40,000 square feet and unlimited within the industrial district.~~ Maximum square footage for ministorage, boat storage, and rental warehouses in the commercial and industrial districts shall be unlimited. The Planning & Zoning Commission, at the October 7, 2021 public hearing, recommended approval of this file to the Board of County Commissioners.

**STAFF PRESENTATION:** Assistant Director Jacob Gabell presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Comprehensive Plan.

**APPLICANT PRESENTATION:** Applicant Jacob Marble provided further information for this amendment request.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record:

**APPLICANT REBUTTAL:**

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

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**Motion of Governing Board:**

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**MOTION:** Commissioner Connolly moved to approve project FILE AM0016-21 to amend Title 12, Section 12-333, Commercial Use Table Standard 33, Bonner County Revised Code, as presented or amended in this hearing, 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 findings of fact and 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

**ORDINANCE 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 Title 12, Bonner County Revised Code, Section 12-

333, Commercial Use Table Standard 33 as presented or amended in this hearing, and providing for an effective date. Commissioner Connolly seconded the motion.

**ROLL CALL VOTE:**

Commissioner McDonald      AYE  
 Commissioner Connolly      AYE  
 Commissioner Bradshaw      AYE

**Project Summary:**

Bonner County Revised Code (BCRC) 12-213 authorizes any citizen or property owner in Bonner County to apply for amendments to the County’s land use laws.

The applicant is requesting an amendment to BCRC Title 12, Chapter 3, Subchapter 3.3, Commercial Use Table, Standard 33 (BCRC 12-333). The proposed change would remove the maximum square footage limitation on ministorage and boat storage facilities within the commercial and industrial districts.

Below is the proposed amendment to BCRC 12-333 Commercial Use Table, Standard 33. The language in red and underlined is recommended as additions to the existing code. Those words in **red** and strike through would be deleted from the ordinance.

TABLE 3-3 COMMERCIAL USE TABLE

Use	Zoning District									
	F	A/F	R	S	C	I	RSC	REC	AV	
<b>Rental warehouses/ ministorage (17), (33)</b>					P	P	C	C		

(33) Maximum square footage for ministorage, boat storage, and rental warehouse facilities on a single lot or parcel shall be 10,000 square feet for the rural service center and recreation districts. The maximum square footage for ministorage, boat storage, and facilities on a single lot or parcel in the commercial district shall be 40,000 square feet and unlimited within the industrial district. Maximum square footage for rental warehouses in the commercial and industrial districts shall be unlimited.

Through this request above, the applicant is proposing that the maximum square footage restriction of 40,000 sf. for ministorage facilities be removed in Commercial Districts to allow unlimited development.

**Agency & Public Comment:**

**Agency Review**

The application was routed to the following agencies for comment on August 20, 2021.  
*All Taxing Districts*  
*All Areas of City Impact (ACI)*

**Agency comments:**

**The following agencies replied “No Comment”:**  
*Pend Oreille Hospital District - August 26, 2021*  
*Independent Highway District - September 03, 2021*

**All other agencies did not reply.**

**Public Notice & Comments**

No public comments were received.

**Findings of Fact:**

1. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, may recommend a zoning ordinance.
2. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
3. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations “...not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein...”
  - a. The proposed ordinance making the above changes adds to the clarity intended in the interpretation of the Bonner County Revised Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining

the protection of property, peace, good order, comfort and convenience of the county and its inhabitants.

4. This proposed change provides further clarifying standards enabling the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

5. This proposed change is in accordance with the Bonner County Comprehensive Plan.

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### Conclusions of Law:

#### Conclusion 1

The proposed amendments to Title 12 **is** in accord with Idaho Code, Chapter 7 Title 31.

#### Conclusion 2

The proposed amendments to Title 12 **is** in accord with Idaho Code Chapter 67 Title 65.

#### Conclusion 3

The proposed amendments **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         |                                    |

### PRELIMINARY PLATS

**File S0003-21 – Sundance Acres Subdivision - Clay Wagner Trust** is requesting a subdivision of ±47.63-acres of land to create 21-22 lots, ranging in size from 1.122-acres to 15.865-acres. The subject property is zoned Recreation. The project is located off Eastriver River Road in Section 10, Township 59 North, Range 4 West, Boise-Meridian. The Planning & Zoning Commission, at the October 7, 2021 public hearing, recommended approval of this file to the Board of County Commissioners.

**STAFF PRESENTATION:** Assistant Director Jacob Gabell 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 Travis Haller, Glahe Professional Land Surveyors, submitted a PowerPoint presentation (exhibit A) and overview of the project.

Applicant Brad Wagoner stated reasons why they are requesting this subdivision. He gave a brief summary of the family, subject property, and well water levels.

**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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### Motion by the Governing Body:

**MOTION:** Commissioner Bradshaw moved to approve FILE S0003-21 for a subdivision of ±47.63 acres of land to create 21 residential lots ranging in size from 1.122 to 15.865 acres, 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 findings of fact and conclusions of law as set forth in the Staff Report striking Condition A-3 as amended during this hearing, and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken to obtain the preliminary plat is to complete the Conditions of Approval as adopted. Commissioner Connolly seconded the motion.

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

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### Background:

#### A. Site data:

- Use: Single family residence and vacant land
- 21 lots proposed
- Size: ±42.54 & 5.09 acres
- Zone: Recreation (Rec)
- Land Use: Resort Community

#### B. Access:

- The property is accessed off Eastriver Road, a County owned and maintained road. The proposed public roads: Wagner Drive, Conifer Court, and Pulaski Road will be 22 feet wide and paved; these roads will be built to Bonner County public road standards located within a 60 foot wide public right of way.

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake. (NHD)
- Floodplain: Parcel contains SFHA Zone X per FIRM panel 16017C0430F, dated July 7, 2014. No further flood review needed.

**D. Services:**

- Water: Individual wells, Well report dated 4/17/2021
- Sewage: Coolin Sewer District. 3/15/21 "will serve" letter was submitted.
- Fire: Coolin Cavanaugh Bay 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	Resort Community	Recreation (Rec)	Residential
North	Resort Community	Recreation (Rec) Rural Service Center (Rsc)	Residential Residential and Commercial
East	Rural Residential	Rural 5	Vacant
South	Rural Residential	Rural 5 / Rural 10	Residential / Vacant
West	Resort Community	Recreation (Rec)	Residential

**Standards Review:**

BCRC	Required	Provided
Minimum Lot Size, BCRC 12-411	20,000 square feet	68,044.4 square feet (average)
Depth to width, BCRC 12-621	Maximum 3:1	≈3:1 or less depth-width ratio
Water supply, BCRC 12-623(B)(1)	Water supplied by individual well on each lot	Well report by Monks Hydro-Geoscience confirms well capacities
Sewage disposal, BCRC 12-623(C)	Sewage disposal as approved by PHD	Will-serve letter from Coolin Sewer District
Fire Plan/Fire risk assessment, BCRC 12-623(D)	Assessment of fire risk Fire protection plan Defensible space plan	Assessment of fire risk Fire protection plan Defensible space plan
Road name, BCRC 12-624(A)	Shall have unique road names	Wagner Drive, Conifer Court, and Pulaski Road
Road standards, BCRC 12-624(D)	Road networks shall be designed and constructed to public	Condition B-5

BCRC	Required	Provided
	road standards set forth in Title 2	
Legal access, BCRC 12-624(C)	Legal access meeting road standards per BCRC 12-624(B)	Condition B-5
Direct frontage, BCRC 12-624(D)	All proposed lots less than five (5) acres gross shall have direct frontage on, and direct access to, a public right of way.	All proposed lots will front a public road Condition B-5
Natural hazards, BCRC 12-626(A)	Shall meet the requirements of chapter 7, "Environmental Standards"	Development will comply
Environmental Standards, BCRC 12-626(B)		
Grading, Stormwater, Erosion Control BCRC 12-720 et. seq.	Professional Stormwater Plan	Condition B-6
Wetlands, BCRC 12-730 et. seq.	Shall meet the requirements of chapter 7, "Environmental Standards"	Does not contain any mapped wetlands
Wildlife, BCRC 12-740 et. seq.	Mitigation measures as determined by IDFG or U.S. Fish and Wildlife	See comments provided by IDFG
Preliminary plat requirements, BCRC 12-642	Plat contents	Plat does not show location of current well and proposed sewage disposal method, Condition A-2

**A. Stormwater plan:** An engineered grading & stormwater management plan was required pursuant to BCRC 12-720.2(A). The plan was provided by 7B Engineering. Bonner County Engineering has reviewed the plan and issued a letter of incompleteness, see Condition B-6.

**B. Agency Review:** The application was routed to agencies for comment on July 20, 2021.

Panhandle Health District	US Fish and Wildlife Services
US Army Corps of Engineers	Idaho Department of Environmental Quality
Idaho Department of Water Resources	Coolin Sewer District
Bonner County Road and Bridge	Coolin-Cavanaugh Bay Fire District
Department of Fish and Game	Northern Lights
Department of Lands - Coolin	

Idaho Department of Fish & Game provided a 4-page comment, see the attached letter for their comments and recommendations.

Idaho Department of Lands – Coolin replied on October 13, 2021. Their comment stated their agency has not issued the County a public easement on the road (Eastriver Road) that the proposed subdivision would utilize for access.

**All other agencies replied "No comment" or did not reply.**

**C. Public Notice & Comments:** Several public comments were received, see the public letters for more details. The comments received included concerns about: traffic impacts, lack of water supply in the area, lack of available public resources, and impact on emergency fire resources.

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#### **Findings of Fact**

1. The applicant is requesting subdivision of ±47.63 acres.
2. The site is zoned as Recreation.
3. The development will include 21 residential lots ranging in size from 1.122 to 15.865 acres.
4. The site does contain wetlands.
5. The site does not contain other special or hazardous environmental areas.
6. Access will be provided by Eastriver Road and public roads constructed as part of the subdivision.
7. Water will be provided by individual wells; sewer will be provided by Coolin Sewer District, per 3/5/21 "will serve" letter.
8. The site will be served by Coolin Cavanaugh Bay Fire District, Northern Lights, and Bonner School District #83.

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#### **Conclusions of Law:**

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

##### Conclusion 1

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

##### Conclusion 2

The site **is** physically suitable for the proposed development.

##### Conclusion 3

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

##### Conclusion 4

The public and private services, including but not limited to sewer services, solid waste, fire protection, emergency services, and school facilities and transportation,

which will serve the proposed subdivision **are** adequate for the needs of future residents or users.

##### Conclusion 5

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

##### Conclusion 6

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

##### Conclusion 7

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

##### Conclusion 8

The proposed subdivision **is** in accord with the Bonner County comprehensive plan.

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

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#### **Conditions of Approval:**

##### **Required plat notes:**

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

- A-1** All easements and instrument numbers for ingress, egress and utility, pertaining to this subdivision shall be shown on the face of the plat.
- A-2** Location of current well, proposed sewage disposal method, and current buildings on either parcel.

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

- B-1** A final plat shall be recorded.
- B-2** A digital copy of the final plat shall be submitted to the Bonner County Planning Department satisfying the requirements of BCRC 12-649.

- B-3** The preliminary plat shall be valid for a period not to exceed two (2) calendar years from the date of approval. At any time prior to the expiration date of the preliminary plat, the applicant may make a written request to the Planning Director for an extension of the preliminary plat for a period up to two (2) years. The Board of County Commissioners may consider such request for extension at any regular business meeting. The extension request must be approved or denied prior to the expiration date of the preliminary plat.
- B-4** The applicant shall install, prior to ground disturbing activities, all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department, prior to ground disturbing activities, a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install, upon completing ground disturbing activities, and shall maintain thereafter, all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department, upon completing ground disturbing activities, a signed statement and stormwater system as-builts from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. All stormwater facilities shall be installed and functioning as designed or a suitable guarantee of completion shall be in place.
- B-5** A complete road plan shall be submitted to, and approved by the Bonner County Road and Bridge Department engineer. The plan shall meet the Bonner County Road Standards Manual requirements and legal access standards.
- B-6** A complete grading/stormwater plan shall be submitted to, and approved by, the Bonner County Engineering Department.
- B-7** Correct the adjacent street name from Eastside River Road to Eastriver Road.

**CONDITIONAL USE PERMITS**

**Appeal - File CUP0011-21 – Conditional Use Permit – Communication Tower - Nathan & Lisa Weis** are requesting to revise their original application for a Conditional Use Permit for the construction of a new 73’ monopole communications tower, not to exceed 75’ in height to support new panel antennas, MW dishes and other associated equipment for Inland Cellular on a 5-acre parcel. The applicant is also proposing to build a 30’ x 30’ fenced compound which will include an 8’ x 12’ equipment building, and H-frame for power and telephone connections. The applicants previously proposed to construct a 80’ communications tower to allow for a future 43’ collocation, amounting to a potential height of 114’ to be housed in a 30’ x 30’ compound, including an 8’ x 12’ equipment building and H-frame for power and telephone connections. The property is zoned Rural 5-acre. The project is located off Eastshore Road in Section 9, Township 61 North, Range 4

West, Boise-Meridian. At the hearing on September 2, 2021, the Bonner County Planning & Zoning Commission denied this project. On October 4, 2021, the Planning Department received an appeal requesting this file be forwarded to the Board of County Commissioners for a de Novo hearing.

**STAFF PRESENTATION:** Staff Planner Chad Chambers presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Applicant Nathan Weis gave a detailed summary of the project and why he is requesting this Conditional Use Permit. He further stated some of the benefits for the area if this project were approved.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record: Brett Kellogg, Dan Deymonaz, Mary Porter submitted exhibits 1, 2, & 3, Ed Porter, and Trisha Bowlin.

**APPLICANT REBUTTAL:** Mr. Weis responded to public comments regarding the collocation with Verizon, stating they do not cover the same area he is seeking to cover, other carries in the area, work done prior to permitting by the County, MEPA, setbacks, viewshed, and stated the tower is not 5G. He further stated there is a need in the area for service.

Applicant’s legal counsel, Anne WaTanabe responded to public comments stating Verizon is not opposed to this tower, size of the tower, location of the tower, and stated collocation is up to the individual carrier.

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

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**BOARD OF COUNTY COMMISSIONERS**

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**MOTION:** Commissioner Bradshaw moved to approve this project FILE CUP0011-21, conditional use permit for the construction and operation of a new communications tower/facility to be used for Inland Cellular on a 5-acre parcel zoned Rural 5-acre, 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Connolly seconded the motion.

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

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**Background:**

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**A. Site data:**

- Unplatted
- Size: ≈5-acre parcel
- Zone: Rural 5-acre (R-5)
- Land Use: Rural-Residential

**B. Access:**

- The property is accessed by Eastshore Road, a County owned and maintained road.

**C. Environmental factors:**

- Site does contain mapped slopes between 15-29%. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake.
- Bonner County Floodplain Review: *Parcel is within SFHA Zone X, per FIRM Panel 16017C0150F, Effective Date 07/07/2014.*

**D. Services:**

- Water & Sewage: per the application "N/A – no water or sewer is associated with the proposal."
- Fire: the property does not appear to be in a mapped fire district.
- Power: Northern Lights Inc.
- 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-acre	Rural-Residential
North	Rural-Residential	Rural 5-acre	Rural-Residential
East	Rural-Residential	Rural 5-acre	Bare forest land (Northeast) Rural Residential (Southeast)
South	Rural-Residential	Rural 5-acre	Bare forest land
West	Rural-Residential	Rural 5-acre	Bare forest land

**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
- BCRC 12-335, Public Use Table

- BCRC 12-4.2, Performance standards for all uses
- BCRC 12-4.3, Parking standards
- BCRC 12-4.4, Sign standards
- BCRC 12-4.5, Design standards
- BCRC 12-4.6, Landscaping and screening standards
- BCRC 12-4.88, Communication Towers
- BCRC 12-7.2, Grading, stormwater management and erosion control

**G. Comprehensive Plan Land Use Designation**

The Rural-Residential comprehensive land use designation 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."

**H. BCRC 12-488: Communication Towers**

- A.** Communication towers and attendant facilities shall be enclosed by a fence not less than six feet (6') in height.
- ✓ **Staff:** The proposed tower/facility fence is 6' in height (7' including the barbed wire).
- B.** The base of any tower shall not be close to any property line than a distance equal to the tower height.
- ✓ **Staff:** Per updated site plan submitted, the communication tower setbacks are 78.62' to the northern property line and 178.82' to the eastern property line respectively.
- C.** The commission shall consider the public convenience and necessity of the communication tower and any adverse effect the facility would have upon properties in the vicinity and may require such reasonable restrictions and conditions of development as to uphold the purpose and intent of this title and the comprehensive plan.
- ✓ **Staff:** In general, the Rural-Residential comprehensive land use designation permits residential development as "lower densities reduce potential impacts to resources and exposures to loss of property or lives". A condition of approval has been added to the file requiring the applicant illustrate the necessity of the communication tower in the area (see condition **A-8**).
- D.** Communication towers shall be built to telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.

- ✓ **Staff:** Construction plans were prepared by an Idaho licensed architect, and per the architect will be built to industry standards.  
Per the 'TRANSMITTING NOTES' - '**APPLICABLE BUILDING CODES AND STANDARDS' (Sheet Number G - 1):**

"TELECOMMUNICATIONS INDUSTRY ASSOCIATION (TIA) 222-G, STRUCTURAL STANDARD FOR STRUCTURAL ANTENNA TOWER AND ANTENNA SUPPORTING STRUCTURES"

**E.** Communication towers shall be constructed to accommodate other future communication services where technically feasible ("collocation").

- ✓ **Staff:** Per the General Notes (**Sheet Number G -1**), prepared by an Idaho Licensed Architect '**TOWER/POLE NOTES'**:

"2. PROVIDE SUPPORTS FOR THE ANTENNA COAX CABLES TO THE ELEVATION OF ALL INITIAL AND FUTURE ANTENNAS, ANTENNA COAX CABLES ARE TO BE SUPPORTED AND RESTRAINED AT THE CENTERS SUITABLE TO THE MANUFACTURER'S REQUIREMENTS"

**F.** Communication towers shall meet all operational, construction and lighting standards of the federal aviation administration.

- ✓ **Staff:** Per the application, "the tower does not require FAA lighting and no other outdoor lighting is associated." The FAA was notified twice and did not respond with any specific recommendations or requirements for lighting.

**G.** Communication towers shall not penetrate any airspace surface on or adjacent to any public or private airfields as set forth at [subchapter 5.2](#) of this title.

**Staff:** Per the TOWAIR results provided by the applicant:

**DETERMINATION Results**

Structure does not require registration. There are no airports within 8 kilometers (5 miles) of the coordinates you provided.

**Your Specifications**

**NAD83 Coordinates**

Latitude 48-39-00.6 north  
Longitude 116-51-05.5 west

**Measurements (Meters)**

Overall Structure Height (AGL) 22.9  
Support Structure Height (AGL) 22.3  
Site Elevation (AMSL) 817.8

**Structure Type**

MTOWER - Monopole

The location (coordinates) of the property was verified using Google Maps.

- H.** Upon termination of use of a communication tower for a period of not less than one year, the landowner and/or tower operator/applicant shall remove the tower along with all supporting equipment, apparatus and foundation.

**I.** Flammable material storage shall be in accordance with international fire code standards.

- ✓ **Staff:** No flammable material storage was proposed for this project.

**J.** Communication towers shall not be used for signage, symbols, flags, banners or other devices or objects attached to or painted or inscribed upon any communication facility for the purposes of displaying a message of any kind, except as required by a governmental agency. (Ord. 501, 11-18-2008)

- ✓ Signage proposed in this project meets sign standards in BCRC 12-4-4.

**I. Stormwater plan:** A stormwater management plan was required pursuant to BCRC 12-7.2 (E) which states that "new building construction or development which occurs on or within three hundred feet (300') of a slope within 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 provisions of title 11 of this code, as amended; (Ord. 524 1-11-2012)."

**J. Agency Review:** The following agencies were notified of the original application for the communication tower on **May 18, 2021**:

Panhandle Health District	Idaho Department of Water Resources
North of the Narrows Fire	U.S. Fish and Wildlife Service
Northern Lights Inc.	Idaho Department of Lands (Sandpoint)
Applicable School District #83	U.S. Forest Service
Bonner County Schools - Transportation	Idaho Department of Environmental Quality
Idaho Department of Fish and Game	Federal Aviation Admin

**Notice - agency comments for May 18, 2021:**

The following agencies commented:

Department of Environmental Quality, June 8, 2021:

- "DEQ has no environmental impact comments at this stage of the project."

The following agencies replied "No Comment":

Panhandle Health District, May 28, 2021

**K. Public Notice & Comments**

All other agencies did not reply.

The following agencies were notified of the updates to the communication tower application on **August 3, 2021**:

Panhandle Health District	Idaho Department of Water Resources
Northern Lights Inc.	U.S. Fish and Wildlife Service
Applicable School District #83	Idaho Department of Lands (Sandpoint)
Bonner County Schools – Transportation	U.S. Forest Service
Idaho Department of Fish and Game	Idaho Department of Environmental Quality
Federal Aviation Admin	Bonner County Road & Bridge

**Notice – agency comments for August 3, 2021:**

Department of Environmental Quality, August 26, 2021:

- “DEQ submitted comments for this project on June 8, 2021. After reviewing the revision, we have no changes to our original comments.”

The following agencies replied “No Comment”:

Panhandle Health District, August 11, 2021

U.S. Fish and Wildlife Service, September 17, 2021

All other agencies did not reply.

**Findings of Fact**

1. The subject property is accessed by Eastshore Road, a county owned and maintained road.
2. The property is in the Rural-Residential comprehensive land use designation and Rural 5-acre zoning district.
3. There are no mapped wetlands on the property and one (1) soil type, Klotch gravelly sandy loam which is not prime farmland soil.
4. The proposed communication tower will be 73’ high, not to exceed 75’. The site plan shows the setback to the northern property line at 78.62’, and a 178.82’ setback to the eastern property line. This meets the standard per BCRC 12-488 (B).
5. The proposed fencing that encloses the tower/facility meets the 6’ minimum standard as prescribed by BCRC 12-488(A).

6. There are no minimum off-street parking standards for communication towers per BCRC 12-431. Per the application, the proposed facility/tower will be visited once a month for maintenance.

**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.

Conclusion 4

The proposed use **will not** adversely affect properties in the vicinity.

Conclusion 5

The proposed use **is** a public convenience and is a necessary facility.

**Conditions of approval:**

- 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.

**Appeal - File CUP0013-21 – Conditional Use Permit – Communication**

**Tower - Weis Towers, LLC** are requesting to revise the original application for a Conditional Use Permit to construct a 190' self-supporting communications tower in a 100' x 100' compound. The proposed 190' tower would be situated within a 100' x 100' enclosed compound which will house a 8' x 12' equipment building and H frame for power and telephone connections. The revised application shows the 190' self-supporting tower is to remain the same, but the site plan and location of the compound, equipment building, and tower have changed. The new proposed equipment compound will be 75' x 75' and the revised site plan shows the compound 40' further to the north. The property is zoned A/F-10. The project is located off Mud Gulch Road and Poloma Lane in Section 16, Township 58 North, Range 4 West, Boise-Meridian. At the hearing on September 2, 2021, the Bonner County Planning & Zoning Commission denied this project. On October 4, 2021, the Planning Department received an appeal requesting this file be forwarded to the Board of County Commissioners for a de Novo hearing.

**STAFF PRESENTATION:** Staff Planner Chad Chambers presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Applicant Nathan Weis gave a detailed summary of the project and why he is requesting this Conditional Use Permit. He further stated some of the benefits for the area if this project were approved.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record: Mary Malone, Mike Souza, and Kim Souza.

**APPLICANT REBUTTAL:** Applicant legal counsel Anne WaTanabe responded to public comments stating discrimination is unlawful. She further responded to the following, visual impacts, location, noise, and service area.

Mr. Weis responded to comments relating to heights, stating you need to get above the trees. He also responded to the location of the tower and service coverage area.

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

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**BOARD OF COUNTY COMMISSIONERS:**

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**MOTION:** Commissioner Connolly moved to approve this project FILE CUP0013-21, conditional use permit for the construction and operation of a new communications tower/facility to be used for Inland Cellular on a 14.90-acre parcel

zoned Agricultural/forestry 10-acre, 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

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

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**Background:**

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**A. Site data:**

- Size: 14.90-acre parcel
- Zone: Agriculture/forestry 10-acre (A/f-10)
- Land Use: Ag/Forest Land

**B. Access:**

- The property is accessed by Mud Gulch Road, a privately owned and maintained road.

**C. Environmental factors:**

- Site does contain mapped slopes between 15-29% and slopes 30% or greater. (USGS)
- Site does contain mapped Freshwater Forested/shrub wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake.
- There are four (4) soils on site including: Bonner silt loam (prime farmland), Bonner gravelly silt loam (not prime farmland), Selle fine sandy loam (prime farmland), and Pywell-Hoodoo complex (prime farmland soil).
- JRJ, 5.11.2021: Parcel is within SFHA Zone X, per FIRM Panel 16017C0440E, Effective Date 11/18/2009.No further floodplain review is required on this proposal.

**D. Services:**

- Water & Sewage: per the application "N/A – no water or sewer is associated with the proposal."
- Fire: the property is not located within a fire district.
- Power: Northern Lights Inc.
- School District: Bonner School #83

**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)	Currently vacant
North	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10)	Rural residential
East	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10)	Rural residential
South	Ag/Forest Land (10-20 AC)	Agricultural/forestry 10 (A/f-10)	Rural residential
West	Remote Ag/Forest (40+)	State land	Idaho State land

**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
- BCRC 12-335, Public Use Table
- BCRC 12-4.2, Performance standards for all uses
- BCRC 12-4.3, Parking standards
- BCRC 12-4.4, Sign standards
- BCRC 12-4.5, Design standards
- BCRC 12-4.6, Landscaping and screening standards
- BCRC 12-4.88, Communication Towers
- BCRC 12-7.2, Grading, stormwater management and erosion control

**G. Comprehensive Plan Land Use Designation**

The comprehensive land use designation for Ag/Forest Land "recognizes areas where steeper slopes prevail (30% Land Use Component Bonner County Comprehensive Plan CHAPTER 6-4 or greater) and transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services."

**H. BCRC 12-335: Public Use Table**

Use	Zoning District								
	F	A/F	R	S	C	I	RSC	REC	AV
Communication towers	C (3)	C (3)	C (3)	C	C	C	C	C	C

"(3) Where access to the site is by road, the road shall be located within a recorded easement or public right-of-way, and constructed to the appropriate standard set forth in title 2 of this Code or [appendix A](#) of this title, except where subject to the terms of an approved special use permit issued by a State or Federal agency."

✓ **Staff:** per the application, an "existing Public ROW – Mud Gulch Road & new private driveway provides access to the subject lease area"

Per email correspondence with the applicant’s representative:

**State of Idaho Easement No. 4044 – Instrument No. 928629**

"Based on the information available in the public record, the State of Idaho granted an easement to Reforestation, Inc. in January of 1969. A certificate and affidavit of that easement is attached as document 928629. The map and image attached seems to show Mud Gulch Road extending westerly from Jack Pine Flats County Road (now called East Side Road) over the two parcels that are owned by the State of Idaho.

Reforestation then granted that right to all other parties, successors and owners of the land in which it sold – of which the parcel owned by Weis Towers, LLC is one (there are several). We can provide the chain of title if the County requests."

**State of Idaho Easement No. 4044 – Instrument No. 928629**

**Recorded Easement – Instrument No. 153236**

"REFORESTATION, INC., Washington corporation, for value received does hereby grant to the owners of record, and to those purchasers under contract whose deed from Reforestation will become of record, in severalty, and upon the same tenure as their interest appear of record, of each and every part of:

- SouthEast Quarter (SE1/4) of Section 8, Township 58 North, Range 4 W
- SouthWest Quarter (SW1/4) of Section 9, Township 58 North, Range 4 W
- SouthHalf (S1/2) SouthEast Quarter (SE1/4) Section 9, Township 58 North, Range 4W
- NorthHalf (N1/2) of Section 16, Township 58 North, Range 4 W
- All of Section 17, Township 58 North, Range 4 W
- EastHalf (E1/2) of Section 19, Township 58 North, Range 4 W
- NorthHalf (N1/2) NorthWest Quarter (NW1/4) of Section 21, Township 58 North, Range 4 W: All in Bonner County State of Idaho.

more particularly described on the attached map marked Exhibit A, attached hereto and made a part thereof.

and their successors and assigns, an easement for road purposes for ingress and egress, over and across all roads presently existing or heretofore reserved by the grantor herein in deeds executed and to be placed of record, or already of record within the above described property. Said easement to be for the benefit of and appurtenant to each and every part of the subject legal description."

**Recorded Easement – Instrument No. 153236**

**I. BCRC 12-431: Parking Standards:**

**Applicant:** "One parking area will be located on the driveway extension for technician parking."

- ✓ **Staff:** There are no parking standards for communication towers.

**J. BCRC 12-488: Communication Towers**

**E.** Communication towers and attendant facilities shall be enclosed by a fence not less than six feet (6') in height.

- ✓ **Staff:** The proposed tower/facility will be 6' in height, 7' including the barbed wire.

**F.** The base of any tower shall not be close to any property line than a distance equal to the tower height.

- ✓ **Staff:** Per the proposed communication tower site plan, the proposed setbacks from the property line are 38'-7" (East), 257'7" (West), 195'2" (North) and 204'7" (South). The applicant is requesting a deviation from the required BCRC setbacks per BCRC 12-488 (B) from the easterly parcel (owned by the State of Idaho).

**G.** The commission shall consider the public convenience and necessity of the communication tower and any adverse effect the facility would have upon properties in the vicinity and may require such reasonable restrictions and conditions of development as to uphold the purpose and intent of this title and the comprehensive plan.

- ✓ **Staff:** In general, the comprehensive plan for Ag/Forest Land "recognizes areas where steeper slopes prevail (30% or greater) and transportation is provided by private roads or U.S. Forest Service or state roads...residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services." A condition of approval has been added to the file requiring the applicant illustrate the necessity of the communication tower in the area (see condition **A-8**).

**H.** Communication towers shall be built to telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.

- ✓ **Staff:** Construction plans were prepared by an Idaho licensed architect, and per the architect will be built to industry standards. Per the General

Notes (Sheet Number G-1), '**APPLICABLE BUILDING CODES AND STANDARDS'**:

"TELECOMMUNICATIONS INDUSTRY ASSOCIATION (TIA) 222-G, STRUCTURAL STANDARD FOR STRUCTURAL ANTENNA TOWER AND ANTENNA SUPPORTING STRUCTURES"

**I.** Communication towers shall be constructed to accommodate other future communication services where technically feasible ("collocation").

- ✓ **Staff:** Per the General Notes (Sheet Number G-1), prepared by an Idaho Licensed Architect '**TOWER/POLE NOTES'**:

"2. PROVIDE SUPPORTS FOR THE ANTENNA COAX CABLES TO THE ELEVATION OF ALL INITIAL AND FUTURE ANTENNAS, ANTENNA COAX CABLES ARE TO BE SUPPORTED AND RESTRAINED AT THE CENTERS SUITABLE TO THE MANUFACTURER'S REQUIREMENTS"

**J.** Communication towers shall meet all operational, construction and lighting standards of the federal aviation administration.

- ✓ **Staff:** Per the application, "the tower does not require FAA lighting and no other outdoor lighting is associated." The FAA was notified twice about the proposed communication tower and did comment about lighting requirements.

**K.** Communication towers shall not penetrate any airspace surface on or adjacent to any public or private airfields as set forth at [subchapter 5.2](#) of this title.

- ✓ **Staff:** Per the TOWAIR results provided by the applicant:

DETERMINATION Results

**Structure does not require registration. There are no airports**

Your Specifications

**NAD83 Coordinates**

Latitude	48-22-56.8 north
Longitude	116-51-03.6 west

**Measurements (Meters)**

Overall Structure Height (AGL)	59.1
Support Structure Height (AGL)	57.9
Site Elevation (AMSL)	740.7

**Structure Type**

LTOWER - Lattice Tower

**L.** Upon termination of use of a communication tower for a period of not less than one year, the landowner and/or tower operator/applicant shall remove the tower along with all supporting equipment, apparatus, and foundation.

**M.** Flammable material storage shall be in accordance with international fire code standards.

- ✓ **Staff:** No flammable material storage was proposed for this project.

**N.** Communication towers shall not be used for signage, symbols, flags, banners or other devices or objects attached to or painted or inscribed upon any communication facility for the purposes of displaying a message of any kind, except as required by a governmental agency. (Ord. 501, 11-18-2008)

- ✓ Signage proposed in this project meets sign standards in BCRC 12-4.4.

**K. Stormwater plan:** A stormwater management plan was required pursuant to BCRC 12-7.2 (E) which states that “new building construction or development which occurs on or within three hundred feet (300’) of a slope within 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 provisions of title 11 of this code, as amended; (Ord. 524 1-11-2012).”

**L. Agency Review**

Panhandle Health District	Idaho Department of Water Resources
Coolin Cavanaugh Bay Fire	U.S. Fish and Wildlife Service
Northern Lights Inc.	Idaho Department of Lands (Sandpoint)
Bonner School District #83	U.S. Forest Service
Idaho Department of Fish and Game	Federal Aviation Admin
Idaho Department of Environmental Quality	

**The following agencies commented:**

**Idaho Department of Fish and Game, June 2, 2021:**

“We have reviewed the above proposal to construct a 190-foot, self-supporting, Communication Tower and associated ground-based equipment within an enclosed 100 x 100-foot lease area.

“Construction techniques do not require guy wires, FAA obstruction lighting will not be necessary, and pole is less than 200 feet tall; these practices should help minimize collision risk to birds...

Due to the proximity to Priest River (>1 mile), piscivorous birds of prey, such as osprey or bald eagle, may attempt to nest on the tower. These birds are federally protected under the Migratory Bird Treaty Act. If a nest must be removed, we recommend waiting until hatching fledges in the fall. Maintenance crews should contact the U.S. Fish and Wildlife Service North Idaho Field Office prior to disturbing nests. We recommend designing the tower to discourage nesting.

We do not anticipate significant adverse impacts to fish or wildlife due to the proposed communication towers”

**Department of Environmental Quality, June 8, 2021:**

“DEQ has no environmental impact comments at this stage of the project.”

**Idaho Department of Fish and Game, August 18, 2021:**

“Despite revisions to the original application, our previous comments (attached) remain relevant to the project”

**Department of Environmental Quality, August 26, 2021:**

“DEQ submitted comments for this project on June 8, 2021. After reviewing the revision, we have no changes to our original comments”

**U.S. Fish and Wildlife Service, September 17, 2021:**

“See the attached signed form indicating no comments on application CUP0013-21.”

**Idaho Department of Lands, October 13, 2021:**

“Our office would like to remind the company that no new easements will be issued to encumber state lands, unless discussions are held ahead of time. On the highlighted portion below, I don’t believe there is an existing transformer box, but any equipment installed on endowment land needs to be within the existing easement areas or on private property. Any trenching or access roads to the tower site shall not be on state endowment lands.”

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

- Panhandle Health District
  - May 28, 2021
  - August 11, 2021

**All other agencies did not reply.**

**M. Public Notice & Comments**

Public comment, rec’d June 8, 2021

The public comments for this file were broadly concerned about setbacks, visual impacts, property values, use and potential damage to existing private roads.

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**Findings of Fact**

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1. The 14.90-acre parcel property is accessed by Mud Gulch Road, a privately owned and maintained road.
2. The property is in the Ag/Forest Land comprehensive land use designation and in the Agricultural/forestry zoning district.
3. There are mapped Freshwater Forested/shrub wetlands on the property and four (4) soil types, Bonner silt loam (prime farmland), Bonner gravelly silt loam (not prime farmland), Selle fine sandy loam (prime farmland), and Pywell-Hoodoo complex (prime farmland soil).
4. The proposed fencing that will encloses the tower/facility meets the 6' minimum standard as prescribed by BCRC 12-488(A).
5. There are no minimum off-street parking standards for communication towers per BCRC 12-431. Per the application, the proposed facility/tower will be visited once a month for maintenance.

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**Conclusions of Law:**

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

Conclusion 1

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

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

Conclusion 2

This proposal 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.

Conclusion 4

The proposed use **will not** adversely affect properties in the vicinity.

Conclusion 5

The proposed use **is** a public convenience and is a necessary facility.

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**Conditions of approval:**

- 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 setbacks shall be met in accordance with the approved site plan.
- 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 provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
- A-6** The applicant must obtain an approved Building Location Permit prior to constructing the self-supporting tower.

The Chair declared the hearing adjourned at 4:29 p.m.

Respectfully submitted, this 10<sup>th</sup> day of November 2021,

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Milton Ollerton, Planning Director