

**BONNER COUNTY COMMISSIONERS/PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
AUGUST 24, 2022**

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: Chair Dan McDonald; Vice Chair Steve Bradshaw; Commissioner Jeff Connolly

ABSENT: None

ALSO PRESENT: Planner I Chad Chambers; Planner I Daniel Britt; Civil Attorney Bill Wilson; and Hearing Coordinator Jenna Crone.

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.

File MOD0008-21 - Riser Creek Marina (Modification of Conditional Use Permit C925-09) are requesting a modification to a previously issued Conditional Use Permit C925-09 (for upland accommodations for a limited scope commercial moorage operation) to now allow for two additional parking spaces for two permitted charter vessels on a 0.95 acre property zoned Recreation. The project is generally located off State Highway 200 in Section 1, Township 56 North, Range 1 East, Boise-Meridian. On June 2, 2022, the Zoning Commission denied this project. On June 30, 2022, the Planning Department received a letter of appeal requesting this file be sent to the Board of County Commissioners to be heard de novo.

STAFF PRESENTATION: Planner I Daniel Britt presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is not consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant Laurence Smith gave a history of the property and what is being requested for the property.

PUBLIC/AGENCY TESTIMONY: The following members of the public spoke on the record: John King, Larry Smith, and Toby McLaughlin.

STAFF REBUTTAL: Planner I Daniel Britt addressed the site plan and comments made by the applicant.

APPLICANT REBUTTAL: Laurence Smith addressed comments made by staff.

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

MOTION TO DENY: Commissioner Connolly moved to deny this project FILE MOD0008-21, requesting a modification of a Conditional Use Permit C925-09, previously approved for a mooring operation in 2009, to now include one additional parking space, based upon the following conclusions of law found in the Staff Report: the site plan does not show sufficient space to accommodate additional parking spaces required for the expansion of the marina operation, structures on the property are not meeting the required setbacks, traffic circulation for the proposal is not meeting the code, the site plan is incomplete, the proposal is not meeting other state agency's requirements. The decision is 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 (or as amended during the hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the zone change is to:

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code.

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.

Findings of Fact

- The proposed site plan as submitted indicates that there is insufficient space to add additional parking to the property. The site doesn't allow for traffic to circulate on site as required by code. The site plan indicates that the current placement of the travel trailer blocks access to at least two parking spaces, as a result ITD right of way would need to be utilized to access these spaces. This however is not allowed according to ITD permit #1-21-173. "Residential &

Commercial traffic must not impede highway traffic (no stopping and/or backing up on the in the highway or Right or way/ shoulder)

- The shed on the property is currently not meeting setback standards as required in File #C925-09 Condition A-3. The site plan shows the shed to be 2 ¾ feet from the southern property line where 5 feet is required. Also, the street setback as shown is 9 feet where 25 feet is required, and a dimension was not provided for the waterfront setback.
- The traffic circulation as indicated on the submitted site plan shows the state highway right of way will be utilized. Per the Idaho Transportation Department encroachment permit #1-21-173 special provisions section of the permit restricts the right of way from being use for marina operations "No using ITD right of way as part of the marina or private operations/ recreations"
- The site plan does not show the entire property so a determination can't be made as to if there is adequate land for the parking expansion.
- The proposal is not meeting the requirement of IDAPA 41.01.200.02.
 - a. Any marinas, whether public or private, providing moorage for vessels equipped with on-board wastewater facilities shall provide sewage waste disposal facilities. These facilities shall consist of a pump station that is capable of adequately cleaning waste retention tanks on the largest boat that could reasonably use the moorage. Such plans must be approved by the Department of Environmental Quality. (3-27-07)

Conclusions of Law:

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

Conclusion 1

The proposed modification of the conditional use permit is **not** in accord with the Bonner County comprehensive plan.

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|-----------------------|-------------------------|------------------------------------|
| •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 Bonner County Revised Code Title 12, Chapter 2 procedures, Subchapter 2.2, Chapter 3, Subchapter 3.3 public use table, Chapter 4 development standards, Subchapter 4.4, Chapter 7 environmental standards, Subchapter 7.1 and 7.2, and is **not** in compliance with the above criteria.

Conclusion 3

The proposed use **will** create a hazard and **will** be dangerous to persons on or adjacent to the property.

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.

File CUP0030-21 – Conditional Use Permit - Idaho Land LLC-RV Park are requesting a conditional use permit for a 20-unit RV Park on 4.17 acres. The property is zoned Rural-5. The project is located off Clagstone Road and Al's Welding Road in Section 24, Township 54 North, Range 5 West, Boise-Meridian. On June 2, 2022, the Zoning Commission approved this project. On July 5, 2022, the Planning Department received a letter of appeal requesting this file be sent to the Board of County Commissioners to be heard de novo.

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: Stephen Doty addressed the points made in the appeal of the file and explained to the Commissioners his plan for the project.

APPELLANT REPRESENTATION: Norm Semanko, Parsons Behle & Latimer, discussed the difference between an RV Park and a Single-Family Dwelling as defined by the Bonner County Revised Code and discussed the application filed by the applicant with IDWR.

PUBLIC/AGENCY TESTIMONY: The following members of the public spoke on the record: Jeanette Walker, Marsha Stephens, Dave Britten, Penny Lamb, Wade Cameron and Asia Williams.

STAFF REBUTTAL: Planner I Daniel Britt addressed comments made by the public regarding adequate water and fire suppression for the proposed project.

APPLICANT REBUTTAL: Stephen Doty, Applicant, addressed comments made by the public regarding water usage and fire suppression.

Chair McDonald called for a recess at 3:38 p.m.

Chair McDonald resumed at 3:43 p.m.

APPELLANT REBUTTAL: Norm Semanko discussed RV Parks versus Single Family Dwelling RVs.

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

MOTION TO APPROVE: Commissioner Bradshaw moved to approve this project, FILE CUP0030-21, requesting a conditional use permit for an RV Park, 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 (or as amended during the hearing) and direct planning staff to draft written findings and conclusions to reflect this motion, have Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

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.

Findings of Fact

1. The property is zoned Rural-5. Where RV parks are conditionally allowed in this zone upon having meant the required standards per BCRC 12-497.
2. The property is accessed off Clagstone Road and Al's Welding Road. Both roads are Bonner County owner and maintained gravel travel surfaces.
3. The property has been reviewed against the required standards of BCRC 12-497 with conditions added to ensure full compliance with Bonner County Revised Code.
4. Fire protection is provided Spirit Lake Fire District.
5. Electricity is provided by Inland Power.
6. The site has an individual well.
7. A speculative site evaluation has been done for the proposed septic system.
8. The proposal is for 20-unit RV park.
9. The site is 4.17 acres.

Conclusions of Law:

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

Conclusion 1

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

- Property Rights •Population •School Facilities, Transportation
- Economic Development •Land Use •Natural Resources

- Hazardous Areas •Public Services •Transportation
- Recreation •Special Areas or Sites •Housing
- Community Design •Implementation

Conclusion 2

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

Conclusion 3

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

Conditions of approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall 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** Prior to issuance of a building location permit, the owner of the proposed multi-family structure shall obtain an address for the dwelling from Bonner County that meets the provisions of Bonner County Revised Code, Title 13. (For multi-family CUPs)
- A-7** A landscaping plan showing compliance with this section will be required with the Building Location Permit.
- A-8** The project will be designed to the standards in BCRC 12-497 A. 1800 square feet per space.
- A-9** Proper signage indicating directional traffic in and out of the park.
- A-10** Water rights to be approved and permitted by the Idaho Department of Water Resources.
- A-11** Approval of septic system from Panhandle Health District.
- A-12** Site plan submitted & adopted on June 2, 2022 and signed by the Chair.

The Chair declared the hearing adjourned at 3:50 p.m.

Respectfully submitted, this 19th day of September 2022,



Jacob Gabell, Planning Director