

**BONNER COUNTY HEARING EXAMINER  
PUBLIC HEARING MINUTES  
MARCH 20, 2024**

**CALL TO ORDER:** Hearing Examiner Jackie Rucker called the public hearing to order at 1:30 p.m. in the 3<sup>rd</sup> floor meeting room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

**PRESENT:** Jackie Rucker, Hearing Examiner

**ABSENT:** None

**ALSO PRESENT:** Planning Director Jacob Gabell, Assistant Planning Director Travis Haller, Planner I Alex Feyen, Planner I Rob Winningham and Hearing Coordinator Jenna Crone.

**PLEDGE OF ALLEGIANCE**

**CHANGES IN AGENDA:** None

**APPROVAL OF MINUTES:** Hearing Examiner Rucker approved the minutes as written March 6, 2024.

**PUBLIC HEARING:**

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

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** Hearing Examiner Jackie Rucker stated that she had no conflict with these proposals.

**STAFF UPDATES:** None

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**File V0002-24 - Variance - Property Line Setback.** The applicant is requesting a zero (0) foot property line setback where five (5) feet is required. The 0.750 acre property is zoned Rural 5 (R-5). The project site is located off Granite Ridge Drive in Section 3, Township 57 North, Range 2 West, Boise-Meridian.

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

**APPLICANT REPRESENTATIVE:** Brennan Chasse attempted to give a statement via Zoom but was unable to get his microphone to work properly.

**PUBLIC/AGENCY INPUT:** The following members of the public spoke on the record: None

**HEARING EXAMINER INPUT:** The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

Hearing Examiner Rucker approved this project V0002-24, requesting a zero (0) foot property line setback where five (5) feet 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. Examiner Rucker further adopted 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 decision and transmit to all interested parties. 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.

### **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)

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### **Findings of Fact:**

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1. The lot is platted per Book 7 of Plats , Page 132, Instrument No. 659319, Records of Bonner County, Idaho.
2. The lot was purchased by the applicant on July 19, 2022 per Warranty Deed, Instrument No. 1008586, Records of Bonner County, Idaho.
3. Access to the lot is via Granite Ridge Dr. This is a private road with a 15' gravel travel way.
4. The site does contain mapped slopes in excess of 30% per USGS.

5. The site does not contain mapped wetlands per NWI/USFWS.
6. The site does not contain frontage on a river/stream/frontage on a lake.
7. The lot is within SFHA Zone X per FIRM Panel Number 16017C0705E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
8. The lot is served by individual well, individual septic system, Northside Fire District, Northern Lights, Inc. and Lake Pend Oreille School District #84.

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**Conditions of Approval:**

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**Standard Conditions:**

1. The granting of this variance shall not supersede any deed restrictions.
2. Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
3. A Building Location Permit shall be filed with the Bonner County Planning Department prior to development.
4. A geotechnical analysis and a stormwater/grading/erosion control plan shall be submitted prior to any soil disturbance.

***Examiner Rucker closed file V0002-24 at 1:46 P.M.***

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**File V0030-23 - Variance - Shoreline Setback.** The applicants are requesting a zero foot shoreline setback where seventy five feet is required. The 10.61 acre property is zoned Suburban (S). The project is located off Freedom Lane in Section 6, Township 55 North, Range 2 West, Boise-Meridian.

*Rob Winningham addressed that the application request was misinterpreted in that the fence was being considered a structure which would require a seventy-five-foot setback. However, upon further review, it was decided that a fence only needs to meet the setback of forty feet from the shoreline.*

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

**APPLICANT REPRESENTATIVE:** Nate Heaps, the applicant, stated that he has reviewed all of the public comments and noted that only a few of them within the 300 foot buffer. Mr. Heaps addressed concerns about access to the creek, re-

stabilization of landscape and clarified that this variance isn't about whether the fence is allowed, it is a variance for height only.

**PUBLIC/AGENCY INPUT:** The following members of the public spoke on the record: Jan Neil, Kristina Anderson, and Jeff York.

**HEARING EXAMINER INPUT:** The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

**APPLICANT REBUTTAL:** Nate Heaps addressed comments made during public testimony regarding access to the river and utilities.

**DECISION TO APPROVE:** Hearing Examiner Rucker approved this project V0030-23, requesting a zero (0) foot shoreline setback where forty (40) feet is required, to construct a 7 foot fence, 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. Examiner Rucker further adopted 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 decision and transmit to all interested parties. 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.

### **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)

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### **Findings of Fact:**

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1. The site does contain mapped slopes per USGS.
2. The site does contain mapped wetlands per NWI.

3. The site does contain frontage on Cocolalla Creek, a perennial stream, and Cocolalla Lake.
4. Parcel is within SFHA Zone AE and SFHA Zone X per FIRM Panel Number 16017C0950E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
5. The parcel is served by individual well, individual septic system, Selkirk Fire District, Northern Lights, Inc. and Lake Pend Oreille School District #84.
6. Access is via Cocolalla Loop Road. This is a 50'-wide county owned and maintained public right-of-way with a 25'-wide paved travel way.
7. The applicant purchased the parcel on June 1, 2010 per Instrument No. 793255, Records of Bonner County.
8. Thirty six inches (36") fences can not be built into the creek, but can be built perpendicular and up to the shoreline per BCRC 12-712.
9. The subject site is private property and is not a public access.
10. The proposed fence is "small and minimal in impact", per U.S. Fish and Game's comment.

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**Conditions of Approval:**

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**Standard Conditions:**

1. The granting of this variance shall not supersede any deed restrictions.
2. Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
3. A Building Location Permit shall be filed with the Bonner County Planning Department prior to development.
4. The applicant must obtain a Floodplain Development Permit prior to commencing any ground disturbing activity.
5. The applicant must obtain approval for a Stormwater/Grading/Erosion Control Management Plan prior to commencing any ground disturbing activity.

***Examiner Rucker closed file V0030-23 at 2:26 P.M.***

*Examiner Rucker called for a recess at 2:26 p.m.*

*Examiner Rucker continued the hearing at 2:34 p.m.*

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**File CUP0001-24 - Conditional Use Permit - Cabin View Winery.** The applicant is requesting a conditional use permit for a winery subordinate and accessory to farming. The 10-acre property is zoned Agricultural/Forestry 10 (A/F-10). The project is located off Fox Glen Road in Section 29, Township 59 North, Range 1 East, Boise-Meridian.

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

**APPLICANT REPRESENTATIVE:** Jim Mills, the applicant, gave a brief history of his experience with wine making and discussed the plans for expansion.

**PUBLIC/AGENCY INPUT:** The following members of the public spoke on the record: Susanne Glascoe.

**APPLICANT REBUTTAL:** Jim Mills, addressed comments and concerns brought up during public comment regarding growing of grapes on the property and limit to people on the property.

**HEARING EXAMINER INPUT:** The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

The Bonner County Hearing Examiner at the March 20, 2024, public hearing approved the referenced application with conditions.

Hearing Examiner Rucker approved this project FILE CUP0001-24 for a winery subordinate and accessory to farming, 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:**

- 1.** The proposed conditional use permit **is** in accord with the Bonner County comprehensive plan.
- 2.** This proposal **was** reviewed for compliance with the criteria and standards set forth at Title 12, BCRC Chapter 2 Subchapter 2.2, BCRC Chapter 3 Subchapter 3.3, BCRC Chapter 4 Subchapter 4.2-4.6, Chapter 7 Subchapter 7.2 and 7.6, Bonner County Revised Code.
- 3.** The proposed use **will not** create a hazard or **will not** be dangerous to persons on or adjacent to the property.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Examiner Rucker further

adopted 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 decision, 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.

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**Findings of Facts:**

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1. The site is zoned Agricultural/Forestry 10, where wineries subordinate and accessory to farming are conditionally allowed.
2. The site has an individual well and septic system for their current residential use.
3. The site is 10 acres in size.
4. The site is accessed off Fox Glen Road, a privately owned and maintained road. The applicant is granted a deviation from BCRC 12-336 Note 5, as the road does not currently meet Appendix A standards. "Fox Glen Road does not currently meet the width standards for a business access road. It is a single lane road that varies between 12-14 feet in width. However, it would be extremely difficult to have this road widened due to the cost of doing so and that it would overlap onto existing private property of many of my neighbors. There are numerous widened sections along the road for cars to pass each other. As the proposed winery operation will be by appointment only, there will be very little additional traffic on the road."
5. The site is served by Northern Lights Inc. for their current residential use.
6. The site is in the mapped service area of North Side Fire District.
7. The site contains steep slopes of over 30% grade (USGS).
8. The site is located within SFHA Zone X (FEMA).
9. The site does not contain mapped wetlands (NWI, USFWS).
10. The property is accessed by Fox Glen Road, a privately owned and maintained road. North Side Fire District has requested modifications to the site to allow for emergency vehicle turnarounds and to maintain the road and driveway year-round to allow for better access in case of emergencies.
11. The project does not propose development of any structures on the property to accommodate or house a greater number of families than permitted by the standards of Bonner County Revised Code.
12. The project is granted a deviation to the sign requirements set forth in BCRC 12-336 Note 7, to allow the applicant to locate two (2) signs on the property in connection with the proposed use, instead of one sign. The signs will be located on the proposed building and at the entrance to the winery. All signs will be 32 square feet or smaller.

- 13.The project proposes no activity involving the use or storage of flammable or explosive materials on or off site.
- 14.The project proposes no activity involving emittance of harmful radioactivity or electrical disturbance.
- 15.The hours of operation will be limited from 8 AM to 6 PM. Operations are to include, but are not limited to, the production and sales of wine and promotional products, harvesting, crushing, pressing, and bottling. Working hours for the operators may be extended during the harvesting season (September 1st to November 15th). All customer visits will be limited to the traditional hours of operations of 8 AM to 6 PM and will be by appointment only.
- 16.The project does not propose any activities that would seem to contribute to air or water pollution.
- 17.The winery facility is proposed to be operated on an area of ±2,256 square feet.
- 18.The winery has designated approximately 4-acres of the property to the growth of grapes, to be used to produce wine.
19. All buildings in conjunction with the winery will be 75 feet from all property lines.

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**Suggested Conditions of Approval:**

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**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** Per BCRC 12-226.C, 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 Zoning Commission at any regular meeting, or board at any regular meeting, may consider the request for extension. The extension request must be approved or denied prior to the expiration date of the conditional use permit.
- A-4** Per 12-336, Resource Based Use Table, all buildings in conjunction with the winery must be 75 feet from all property lines.
- A-5** Per 12-336, Resource Based Use Table, a minimum of 0.5-acres must be designated for the growth of grapes or other crops used to produce wine.
- A-6** The hours of operation will be limited from 8 AM to 6 PM. Operations are to include, but are not limited to, the production and sales of wine and promotional products, harvesting, crushing, pressing, and bottling. Working



hours for the operators may be extended during the harvesting season (September 1st to November 15th). All customer visits will be limited to the traditional hours of operations of 8 AM to 6 PM and will be by appointment only.

- A-7** Per BCRC 12-420, all structures located on site in conjunction with this Conditional Use Permit will meet the required street and property line setback standards of BCRC Title 12.
- A-8** Per BCRC 12-420, all architectural projections such as canopies, eaves, balconies, platforms, decks, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into any required setback.
- A-9** Per BCRC 12-420, temporary buildings, construction trailers, equipment and materials used in conjunction with construction work for the proposed project may be permitted during the period the construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work.
- A-10** Per 12-432, Parking Standards, the project is required to have space for 3 parking spaces.
- A-11** Per BCRC 12-4.4, only the two proposed signs shall be located at the winery entrance and on the proposed winery building. All signs shall be 32 square feet or smaller. All signs shall meet the sign standards and requirements of Title 11 and Title 12 of the Bonner County Revised Code.
- A-12** Per BCRC 12-452, any structures or development on site permitted through this Conditional Use Permit is required to obtain appropriate Building Location Permits or other approvals from the Bonner County Planning Department prior to the development on site.
- A-13** Per BCRC 12-453.F, any lighting on site shall meet the standards of this section of the ordinance.
- A-14** Per BCRC 12-453.G, any development on site permitted through this Conditional Use Permit shall meet the standards of this section of the ordinance.
- A-15** Per BCRC 12-453.J, any outdoor storage of commercial and industrial materials on site is required to meet the standards of this section of the ordinance.
- A-16** Site contains mapped steep slope of over 30% grade. Any development on site located within or in proximity of the areas of steep slopes is required to meet the standards of BCRC 12-7.6 prior to the start of development on site.
- A-17** This project proposes new development that would result in the creation of impervious surface. The applicant may be required to submit a storm water management, grading and/or erosion control plan in accordance with the

provisions of BCRC 12-7.2 prior to any development on site in conjunction with this Conditional Use Permit.

**Conditions to be met prior to the issuance of this Conditional Use Permit:**

- B-1** All permits must be obtained from Idaho Department of Environmental Quality for a public drinking water and wastewater system and/or documentation from Idaho Department of Environmental Quality that the existing systems are sufficient to serve the winery.
- B-2** All permits and licenses must be obtained by Panhandle Health District for a new septic system, a food establishment license, and proof that the water source meets standards as required by the Idaho Food Code and/or documentation from Panhandle Health District that all requirements have been fulfilled.
- B-3** All permits from Idaho Department of Water Resources must be obtained, and/or documentation from Idaho Department of Water Resources stating that all requirements have been fulfilled.

***Examiner Rucker closed file CUP0001-24 at 3:05 P.M.***

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**File V0026-23 - Variance - Property Line Setback.** The applicant is requesting a 0 foot setback from the property line where 5 feet is required. The 0.27 acre property is zoned Recreation (Rec). The project site is located off Shadow Brook Drive in Section 19, Township 61 North, Range 04 West, Boise-Meridian.

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

**APPLICANT REPRESENTATIVE:** Micaela Jaime, the applicant, stated that the application and Staff presentation explained the situation.

**PUBLIC/AGENCY INPUT:** The following members of the public spoke on the record: None.

**HEARING EXAMINER INPUT:** The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

Hearing Examiner Rucker approved this project V0026-23, requesting a 0-foot property line setback where 5 feet 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. Examiner Rucker further adopted the findings of fact and conclusions of law as set forth in the Staff Report and

directed planning staff to draft written findings and conclusions to reflect this decision and transmit to all interested parties. 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.

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### **Conclusions of Law:**

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**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)

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### **Findings of Fact:**

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1. The property is zoned Recreation.
2. The property is described as 19-61N-4W Elkins Reeder Lot 1 Terrace CPWRS.
3. The property was obtained by the applicants through Warranty Deed, Instrument No. 979476, recorded on March 29, 2021, then reconveyed through Quitclaim Deed, Instrument No. 1025327, recorded on September 18, 2023.
4. The applicants have a Building Location Permit issued for the subject structure, Bonner County Planning file number BLP2022-0178.
5. The property is accessed off of Shadow Brook Drive, a privately owned and maintained road.
6. The property is served by West Priest Lake Fire District and Northern Lights, Inc.
7. The property is served by Granite-Reeder Water and Sewer District for sewage and Elkins Reeder Terrace Community Well for water.

8. The property contains slopes of 0-30+%; 95% of the parcel is between 0-29.9% slope.

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**Conditions of Approval:**

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**Standard Conditions:**

1. Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
2. The granting of this variance shall not supersede any deed restrictions.

***Examiner Rucker closed file V0026-23 at 3:16 P.M.***

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**DISCUSSION:**

- **Hearing Examiner and Staff Updates**
  - There will be three (3) files scheduled for the April 3<sup>rd</sup> hearing.
  - Two files that were heard by the Hearing Examiner were appealed and will be going to the Board of County Commissioners.

At 3:20 p.m., the Hearing Examiner declared the hearing adjourned until April 3, 2024.

Respectfully submitted,



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Jacob Gabell, Planning Director

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The above Minutes are hereby approved this 3<sup>rd</sup> day of April 2024.



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Jacqueline S Rucker, Hearing Examiner