

**BONNER COUNTY HEARING EXAMINER
PUBLIC HEARING MINUTES
July 5, 2023**

CALL TO ORDER: Hearing Examiner Jackie Rucker called the public hearing to order at 1:30 p.m. in the 1st Floor Conference 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 Jake Gabell, Assistant Planning Director Travis Haller, Senior Planner Swati Rastogi, Planner I Alex Feyen and Hearing Coordinator Jenna Crone.

PLEDGE OF ALLEGIANCE

CHANGES IN AGENDA: None

APPROVAL OF MINUTES: Hearing Examiner Rucker approved the minutes as written June 21, 2023.

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 this proposal.

File S0002-23 Providence Subdivision. The applicants are requesting to plat an approximately 40-acre parcel into 117 residential lots. The property is zoned Suburban. The project is located off of Providence Road, a Bonner County owned public road, in the Area of City Impact of the City of Kootenai in Section 01, Township 57 North, Range 2 West, Boise-Meridian. The project proposes to be served by the City of Sandpoint for water services, Kootenai Ponderay Sewer District for sewer services and Avista Utilities. The project is located within Northside Fire District.

STAFF PRESENTATION: Senior Planner Swati Rastogi presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT REPRESENTATIVE: Gary Shickendanz, Providence Subdivision Representative, gave a brief overview of the history of the progress.

Dan Tadic, HMH Engineering, gave an overview of the comments received from the agency review of the project and went over stormwater management plans, utilities, and wetland delineation.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: Tessa Vogul, Ray Calhoun, Brian Wallace, Ray Calhoun, Daniel McBride, Robert Rutan, John Juneau, Leslie Holbert, Barbara Juneau, George Johnson, Al Bozzo, Betty Bozzo, Jeff Williams, Leilani Williams, Heather Bouse, Ryan Harris, Jeremy Wellser, Jeanelle Shields, Ashley Gerstenberger, Larry Hofmann, Grace Bauer and Lisa Moline.

APPLICANT REPRESENTATIVE REBUTTAL:

- Dan Tadic, HMH Engineering, addressed questions brought up during public comment regarding traffic on Hwy 200, Wetlands Delineation, potable water system pressure, and Stormwater management plans.
- Mike Hammock, Providence Subdivision Representative, addressed comments regarding infrastructure, and ITD plans to widen Hwy 200.

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

DECISION: Hearing Examiner Rucker recommended that the Zoning Commission conduct a public hearing for File S0002-23, Providence Subdivision, pursuant to the public hearing noticing requirements and procedures of Chapter 2, Subchapter 2.6 of Title 12, based upon the extent of public comment and other contested factors in the case which warrant a hearing in front of the Zoning Commission.

Findings of Facts:

1. The subject site exists as a vacant unplatted parcel of land.
2. The area of the site is approximately 39.75 acres.
3. The site is zoned Suburban and has a land use designation of Urban.
4. The site fronts on and has a direct access to Providence Road, a Bonner County owned and maintained public right-of-way.
5. Majority of the site contains no slopes or slopes of less than 15% grade. Site contains minimal slopes of over 30% grade along the north eastern boundary. (US Geological Survey)
6. Site contains PEM1C and PFO1C mapped wetlands. (National Wetland Inventory, US Fish and Wildlife Service)
7. Site does not contain any mapped waterbodies, streams, lakes or rivers. (National Hydrography Dataset, US Geological Survey)
8. Site contains the following types of soils: (US Department of Agriculture)
 - a. Odenson silt loam – classified as “prime farmland if drained” with a drainage classification of “poorly drained”.
 - b. Mission silt loam – classified as “prime farmland if drained” with a drainage classification of “somewhat poorly drained”.
9. Parcel is located within Flood Zone X (Unshaded) and not located within floodway, per FIRM Panel 16017C0710E, effective date 11/18/2009.
10. No local, state or federal agencies have identified any critical wildlife habitats on or within the vicinity of the subject property.

11. The project is proposed to be served by the City of Sandpoint for water services and Kootenai Ponderay Sewer District for sewer services.
12. The project is proposed to be served by Avista Utilities.
13. The site is located within the area of service of Northside Fire District.
14. The site is located within Lake Pend Oreille School District #84.
15. The site is located within Bonner County Ambulance District and Pend Oreille Hospital District.
16. Per BCRC 12-412, the minimum required lot size required is 10,000 sf. Within Suburban District where all urban services are available; 1 acre with the availability of only urban water services and the absence of urban sewer services; and 2.5 acre where no urban services are available.

File CUP004-23 – Conditional Use Permit – Mini-Storage, Boat Storage, & Rental Warehouse. The applicant is requesting a Conditional Use Permit for Mini-Storage, Boat Storage & Rental Warehouse. The parcel is zoned Rural Service Center (RSC). The project is located off Missouri St in Section 10, Township 59N, Range 4W, 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 PRESENTATION: James Westberg, Applicant, made himself available for questions from the Hearing Examiner.

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.

DECISION TO APPROVE: Hearing Examiner Rucker approved this project FILE CUP004-23 for a mini storage, rental warehouses, and boat storage, 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. Examiner Rucker further adopted the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) 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.

Findings of Fact

1. The property is zoned Rural Service Center, where mini storages, boat storage, and rental warehouses are conditionally allowed upon meeting the required standards per BCRC 12-333 and Subchapter 4.2.
2. The property is accessed by both Missouri Street and Cavanaugh Bay Road, Bonner County owned maintained paved 50' right of ways.
3. Missouri Street and Cavanaugh Bay Road are constructed that meets Title 2 road standards and provides adequate access for emergency vehicle.
4. Power is provided by Northern Lights Utilities.
5. Water is provided by individual well.
6. Sewage disposal is provided by Coolin Sewer District.
7. The site is approximately 1.64 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 3, Subchapter 3.3 BCRC Chapter 4, Subchapter 4.2 Title 12, Chapter 7, Subchapter 7.2 Title 12, Bonner County Revised Code.

Conclusion 3

The proposed use **will not** create a hazard and/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 as shown on 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 shall follow BCRC 12-333 Commercial Use Table standards for mini storage/rental warehouses and boat storage as found in this staff report.
- A-7** The applicant shall follow BCRC 12-4.3, Parking Standards as found in this staff report.
- A-8** The applicant shall follow BCRC 12-4.4, Sign Standards as found in this staff report.
- A-9** The applicant shall follow BCRC 12-4.5, Design Standards as found in this staff report.
- A-10** The applicant shall follow BCRC 12-4.6, Landscaping and Screening Standards as found in this staff report.
- A-11** The applicant shall obtain Building Location Permits for all future structures.

File V0008-23 – Variance – Nemeth. The applicant is requesting a 10-foot setback from the road where a 25-foot setback is required. The parcel is zoned Agricultural/Forestry 10 (A/F-10). The project is located off Phelan Rd in Section 19, Township 55N, Range 3E, 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.

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.

DECISION TO DENY: Hearing Examiner Rucker denied this project FILE V0008-23, for a reduced setback of 10', where 25' is required, based upon the **foregoing conclusions of law**. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further adopt the following findings of fact and conclusions of law as amended. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the variance is to:

1. File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Appeal the Hearing Examiner's decision to the County Commissioners.

Findings of Fact

1. The proposal was reviewed for compliance with BCRC 12-234 Variances, and standards for review of applications, BCRC 12-400, et seq.
2. The property is zoned Agricultural/Forestry-10.
3. The property is described as Lot 2 of Stevens Elk Ranch, according to the plat thereof, recorded in Book 9 of Plats at Page 60, records of Bonner County, Idaho.
4. The property is currently vacant. Building Location Permits have been submitted for a single-family-dwelling, and the pole barn in question.
5. Slopes present on the lot are 0-29.99% grade with few slopes greater than 30%.
6. The applicant obtained the property on June 14, 2021 per Warranty Deed, Instrument # 985141.

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** 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** 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.

At 4:02 p.m., the Hearing Examiner declared the hearing adjourned until July 19, 2023.

Respectfully submitted,



Jacob Gabell, Planning Director

The above Minutes are hereby approved this 19th day of July 2023.



Jacqueline Rucker, Hearing Examiner