

**BONNER COUNTY HEARING EXAMINER  
PUBLIC HEARING MINUTES  
January 18, 2023**

**CALL TO ORDER:** Hearing Examiner Jackie Rucker called the public 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.

**PRESENT:** Jackie Rucker, Hearing Examiner

**ABSENT:** None

**ALSO PRESENT:** Planning Director Jacob Gabell, Assistant Director Travis Haller, Planner I Tyson Lewis, and Hearing Coordinator Jenna Crone.

**PLEDGE OF ALLEGIANCE**

**CHANGES IN AGENDA:** None

**APPROVAL OF MINUTES:** Hearing Examiner Rucker approved the minutes as written for December 28, 2022.

**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 S0006-22 Subdivision: Golden Tee Estates 12<sup>th</sup> Addition – Valiant, LLC.**  
The applicants are requesting to create a 10+ lot subdivision from an approximately 20 acre parcel. The property is zoned Recreation and is located off Highway 200 in Section 2, Township 57 North, Range 1 West, Boise-Meridian.

**STAFF PRESENTATION:** Assistant Planning Director Travis Haller presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT REPRESENTATIVE:** Jeremy Grimm, Whiskey Rock Planning, presented a PowerPoint presentation (Exhibit A) outlining the proposed project and answered questions received in public comment.

**PUBLIC/AGENCY INPUT:** The following members of the public spoke on the record: Reg Crawford and Jennifer Wood.

**APPLICANT REBUTTAL:** Jeremy Grimm addressed questions brought up during public comment.

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

**APPROVAL:** Hearing Examiner Rucker approved project FILE S0006-22, requesting the creation of 30 residential lots and 1 tract on a property zoned Recreation and located in Section 2, Township 57 North, Range 1 West, Boise Meridian, Bonner County, Bonner County, Idaho, 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. This action does not result in a taking of private property. The action that could be taken to obtain the approval of preliminary plat is to complete the Conditions of Approval as adopted.

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**Findings of Fact:**

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1. This subdivision is a part of a previously approved Planned Unit Development proposal – Golden Tee Estates (Planning File No. C832-05).
2. PUD C832-05 provided authorization to deviate from the standards of BCRC Title 12 (Bonner County Revised Code in 2005) that are listed as follows:
  - a. 12-627, Maximum lot coverage, permitting up to 45% coverage on lots of 6,000 square feet or smaller.
  - b. 12-630, rear yard setbacks, permitting not less than 10 feet for lots of 6,000 square feet or less.
  - c. 12-1421, lot size minimum, permitting site area minimums of less than 12,000 square feet.
  - d. 12-2305(9) & (i), public road frontage and access, permitting private roads constructed to a minimum International Fire Code standard and requiring roads be paved.
  - e. 12-2305(b), depth to width and angle of intersection, permitting deviation from the 3: 1 depth to width and near 90° angle of intersection of lot lines to rights-of-way.
3. The subject property is approximately 20 acres of unplatted vacant land located in Section 2, Township 57 North, Range 1 West, Boise Meridian, Idaho.
4. The site is zoned Recreation and has a land use designation of Resort Community.

5. Subject property has access from Highway 200, a state owned and maintained public right-of-way.
6. Recreation zoning permits creation of 12,000 sf. or larger lots provided both urban water and urban sewer services are provided. In this project, all residential lots are proposed to be served by TIC Utilities, LLC. The associated PUD allows deviation to the lot size.
7. The project also proposes creation of one tract – Tract 1, approximately 2.0 acres. The purpose shall be indicated on the plat.
8. The proposed use of single-family residential development is permitted by right in the Recreation zoning district.
9. TIC Utilities has provided a will-serve letter to provide water and sewer service to all lots in the proposed subdivision.
10. The site will be served by Northern Lights, Inc., Northside Fire District, Lake Pend Oreille School District #84, Bonner County Ambulance District and Pend Oreille Hospital District.
11. The site does contain mapped wetlands.
12. The site does contain steep slopes of over 30% grade.
13. The proposed preliminary plat meets/ shall meet the standards of Bonner County Revised Code as indicated in Standards Review and Conditions of Approval.

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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 zoning 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 water, 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.

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### **Conditions of Approval:**

1. Show all easements of record including sufficient recording data to identify conveyance, if not already shown. See BCRC 12-620 and BCRC 12-642.B.9.
2. A fire suppression plan was submitted as part of this application. As per the submitted plan, the applicant intends to provide approved water and fire hydrant system capable of providing more than one thousand (1,000) gallons per minute for a minimum of two (2) hours where a community water system exists or exists as part of the development and is capable of delivering the pressurized water supply necessary for delivering fire flows as prescribed by the International Fire Code per BCRC 12-623.D.1. Prior to final plat approval, a letter of approval of the fire suppression plan from Northside Fire District shall be submitted. Such improvements shall be constructed prior to the recording of the final plat.

This condition of fire suppression shall be denoted on the plat – *"The installation of a residential sprinkler system is required in all newly constructed residences. The landowner shall obtain written approval of the sprinkler system from Northside Fire District and shall install the system consistent with the fire district approval."*

The Defensible Space Plan shall be denoted on the plat per the submitted Fire Hazard Mitigation Plan – *"In areas adjacent to structures, fuel modification provisions apply for the purpose of establishing and maintaining defensible space. Based on the areas rating, a fuel modification distance of not less than 20 feet will be maintained. Lot owners will be responsible for modifying or removing non-fire resistive vegetation on each lot. Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Dead wood and litter shall be removed annually from trees. Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native plant growth to any structure (International Urban-Wildland Interface Code, Section 603)."*

3. The new proposed road shall be provided a unique road name. See BCRC 12-624.A.
4. The associated PUD, C832-05 was approved with a deviation permitted to construct the private roads to a minimum of the International Fire Code Standards and to be paved. The proposed private road shall meet these standards.
5. Correct location description with Subdivision name – *"Located in a portion of Govt. Lots 3, 4 and 6 and the NW Quarter of Section 2, Township 57 North, Range 1 West."* See BCRC 12-642.B.1.
6. Show proposed road as easement and included with Tract 1. Remove bold lines around road easement unless it will not be included in Tract 1, and then name it appropriately. See BCRC 12-642 B.3.
7. Show tentative name of the proposed private road. See BCRC 12-642.B.4.
8. Note proposed method of solid waste disposal on the plat. See BCRC 12-642.B.8.
9. Note all easements of record, including sufficient data to identify conveyance. Note type of easement for proposed road. See BCRC 12-642.B.9.
10. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners with the purpose indicated – Indicate purpose of Tract 1. See BCRC 12-642.B.10.
11. A statement setting forth the intended land use of the parcels, i.e., residential, agricultural, commercial, industrial or other appropriate land use classifications shall be noted on the plat. See BCRC 12-642.B.11.
12. The proposed private road shall be constructed to a minimum of the International Fire Code standards and be paved. The road design and profile shall be reviewed by the Bonner County Engineering Department. Updates shall be made to the plans as required and approval of the plans obtained prior to the recording of the final plat and prior to start of road construction on site. See BCRC 12-642.C.2
13. An improvement plan for the subdivision was submitted. The improvement plan shall be reviewed by the Bonner County Engineering Department. Updates shall be made to the plans as required and approval of the plans obtained prior to the recording of the final plat and prior to the start of construction on site. See BCRC 12-644.A.
14. Applicant's engineer shall provide inspection reports for County Engineer's review and final inspections. See BCRC 12-644.B.
15. The subdivider may enter into a surety agreement with the Board in lieu of completing all improvements as required before final plat recording, agreeing to complete the improvements in accordance with surety agreement conditions and preliminary and final plat approvals. See BCRC 12-644.C.

16. The final plat shall comply with all conditions as listed in BCRC 12-646 and shall show the following on the plat –
  - a. The "initial point" and description thereof, shall be indicated on the drawing and the location and description in conformance with Idaho Code. (BCRC 12-646.C)
  - b. Street lines of all existing or recorded streets, principal property lines, patent lines, Township lines or section lines, intersecting, crossing or contiguous to the subdivision (which should be mathematically tied to the lines of the subdivision by distances and bearings) and the status of adjoining property shall be indicated (name of subdivision or unplatted area). (BCRC 12-646.D)
  - c. The accurate location and description and filing of all monuments shall be in accordance with the Corner Perpetuation and Filing Act, Idaho Code title 55, chapter 16. (BCRC 12-646.E)
  - d. The accurate outline of all property that is offered for dedication for public use, with the purpose indicated thereon and all property owners in the subdivision and conform with the Idaho Code. (BCRC 12-646.H)
  - e. Private restrictions, if any. (BCRC 12-646.I)
  - f. A certificate of a licensed engineer or surveyor of the State to the effect that the plat represents a survey made by him that all of the monuments, shown thereon, actually exist and that their positions are as shown. (BCRC 12-646.K)
17. All endorsements shall be shown on the final plat per BCRC 12-647.
18. Stormwater management report and erosion control plans, prepared by Welch Comer, Engineers and Surveyors were submitted as part of the application. The plans have been reviewed by Bonner County Engineering Department. These plans shall be updated, and resubmitted and approved by Bonner County Engineering Department prior to the recording of the final plat or prior to the start of construction activities on site.
19. After the approval of the preliminary plat, a final plat shall be prepared in conformance with BCRC 12-646, BCRC 12-647 and submitted to the Planning Department for review.
20. A digital copy of the final plat shall be submitted to the Bonner County Planning Department satisfying the requirements of BCRC 12-649.
21. A geotechnical analysis shall be required for proposed building sites, roads, driveways or other development, where any of the following conditions apply:
  - a. Where the natural slope equals or exceeds thirty percent (30%);
  - b. Where soils are highly erodible, or where there are scarps, slumps,

seeps or other geologic features exist that may be unstable, as determined by the Planning Director, Hearing Examiner, Zoning Commission or Board;

- c. Where there is historic knowledge of sloughing, landslides, slumps or other hazardous geological features.

The geotechnical analysis shall be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering. The geotechnical analysis shall be submitted prior to construction and shall explain the geologic and hydrologic features of the area, shall evaluate the suitability of the site for intended uses, shall identify potential problems relating to the geology and hydrology, shall summarize the data upon which conclusions are based, and shall propose mitigation measures. See BCRC 12-762

22.A wetlands delineation report shall be required where any land disturbing activities are within a designated wetland. See BCRC 12-732

23.Submit the Wildlife Corridor Plan showing that it satisfies the Idaho Fish and Game issues contained in the Idaho Fish and Game letter of January 1, 2006, as required in condition of approval, A-14, in the previously approved Conditional Use Permit (Planning File No. C832-05) for the Planned Unit Development proposal – Golden Tee Estates.

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**File V0022-22 – Lot Size Minimum & Depth to Width Variance – Valliant.**

The applicant is requesting to create a lot at 2.9 acres where 5 acres is required and 6.6:1 depth to width ratio where 4:1 is allowed. The property is zoned R-5. The project is located off Bayview Road in Section 19, Township 54 North, Range 02 West, Boise-Meridian.

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

**APPLICANT REPRESENTATIVE:** Jeremy Grimm, Whiskey Rock Planning, presented a PowerPoint presentation (Exhibit A) outlining the proposed project and answered questions received in public comment.

**PUBLIC/AGENCY INPUT:** The following members of the public spoke on the record: Randy Stoltz, Khara Ripley, and Cindy Brannon.

**APPLICANT REBUTTAL:** Jeremy Grimm addressed questions and concerns brought up during public comment.

**STAFF REBUTTAL:** Planner I Tyson Lewis provided information regarding the surrounding parcels and current code requirements.

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

**DECISION TO DENY:** Hearing Examiner Rucker hereby denied this project FILE V0022-22 requesting a minimum lot size and depth to width ratio variance, based upon the following 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. Examiner Rucker further adopted the following findings of fact and conclusions of law as written or as amended during this hearing. 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.

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**Findings of Facts:**

1. The subject property currently exists as an approximately 8.05-acre parcel of unplatted land. It is developed with some residential structures.
2. The property has direct access and frontage on Bayview Road, a county owned and maintained public right-of-way.
3. The property has direct access and frontage on Bayview Road, a county owned and maintained public right-of-way.
4. Site does not contain steep (over 15% grade) mapped slopes. (USGS)
5. Site does not contain mapped wetlands. (USFWS)
6. Site does not contain a river, stream or lake frontage. (NHD)
7. Parcel is within SFHA Zone X per FIRM Panel Number 16017C1175E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.
8. The site is currently served by an individual well, septic system and Northern Lights, Inc. for power.
9. The site is located in the area of service of Sagle Fire District and Lake Pend Oreille School District #84.
- 10.The applicant is requesting a 42% lot size variance from the required 5 acres to the proposed 2.9 acres as well as a depth to width ratio variances from the required 3:1 ratio to the proposed 6.6:1 ratio for the purpose of subdividing the parcel into two lots.
- 11.The request for this variance results from the landowner's preference to subdivide the proposed parcel into two lots or the lack of adequate land area as bought by the applicant to subdivide the parcel in accord with its current zoning designation.

12. The request for this variance is found to be inconsistent with Bonner County Revised Code, Section 12-234. See staff analysis above.

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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** 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/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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**DISCUSSION:**

• **Hearing Examiner and Staff Updates**

- Staff will no longer be recommending an approval/denial in Staff Reports. They will only state whether it is or is not consistent with the BCRC.
- The Planning Director discussed the authority of the Hearing Examiner.
- New Comp Plan Goals, Policies and Procedures will be reflected in future Conditional Use Permit applications.
- We are recruiting for Planning Commission members. There are two vacant seats.

At 3:05 p.m., the Hearing Examiner declared the hearing adjourned until February 15, 2023

Respectfully submitted,

  
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Jacob Gabell, Planning Director

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The above Minutes are hereby approved this 15<sup>th</sup> day of February 2023.

  
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Jacqueline Rucker, Hearing Examiner