

**BONNER COUNTY HEARING EXAMINER  
PUBLIC HEARING MINUTES  
July 19, 2023**

**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 Jake Gabell, Assistant Planning Director Travis Haller, 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 July 5, 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 S0001-23, Replat of Crystal View Subdivision Blocks A & B.** The applicants are requesting to replat Blocks A & B of Crystal View Subdivision and an unplatted parcel into 22 lots. The property is zoned Alpine Village. The project is located off Crystal Springs Road in Section 20, Township 58 North, Range 2 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:** Lance Badger, Schweitzer Mountain Properties LLC, addressed a scrivener's error in Condition #5 pertaining to roads, and discussed the proposed project.

**PUBLIC/AGENCY INPUT:** The following members of the public spoke on the record: Patrick Pardon, Greg Wilson, Steve Syrcle, Ken Wilkinson, Will Meyer, Cheryl Kochevar and John Kochevar.

**APPLICANT REBUTTAL:** Legal Representative for Schweitzer Mountain LLC addressed concerns brought up during public comment regarding road congestion and maintenance, and easements.

**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 S0001-23, Replat of Crystal View Subdivision Blocks A & B, requesting a creation of 22 residential lots and 4 tracts located in the west half of Section 20, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

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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:** 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.

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 findings of fact 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. This action does not result in a taking of private property. The action that could be taken to obtain approval of the preliminary plat is to complete the Conditions of Approval as adopted.

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### Findings of Facts:

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1. The applicants are requesting to replat Blocks A and B of Crystal View Subdivision, recorded May 16, 1996, as Instrument #485137, into 22 residential lots ranging in size from 8,049 sq. ft to 27,906 sq. ft., and four tracts, Tracts A-D, ranging in size from 6,291 sq. ft to 34,403 sq. ft.
2. The subject site consists of two unplatted parcels and Blocks A and B of Crystal View Subdivision, Instrument #485137, for a total approximate 50 acres. However only approximately 11 acres are being requested to be subdivided, with two remainder parcels of approximately 33 acres and 6.5 acres.
3. The subject properties have a zoning designation of Alpine Village and a land use designation of Alpine Community.
4. This project is a part of the Schweitzer Mountain Resort Planned Unit Development, an expandable PUD, as approved through Bonner County Resolution No. 96-78.
5. The PUD 4-90 was designed and approved with "zero lot-line setbacks", and full (100%) lot coverage.
6. The PUD 4-90 was designed and approved with deviations to minimum required lot sizes, lot design depth to width ratio standards and angle of intersection with the street standards.
7. The PUD 4-90 was designed and approved to contain both public and private roads that can be publicly or privately maintained.
8. The site is currently accessed off Crystal Springs Road, an Independent Highway District owned road with a speed limit of 25 miles per hour.
9. The subject site consists of slopes greater than 30% grade.
10. The lots will be served by Mountain Utility Company, LLC. The agency provided a will-serve letter verifying their capacity to serve the 22 proposed lots.

11. The lots will be served by Resort Water Co. (formerly known as Mountain Utility Company, LLC.) The agency provided a will-serve letter verifying their capacity to serve the 22 proposed lots.
12. The site is served by Schweitzer Fire District, Northern Lights, Inc., Lake Pend Oreille School District #84, Pend Oreille Hospital District and Bonner County Ambulance District.
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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### Conditions of Approval:

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1. The project is proposed to be served by the Resort Water Co. for water services and Schweitzer Utility Company, LLC. d.b.a. Mountain Utility Company (MUC) for sewer services. While a will serve letter was received from MUC for water and sewer hookup. A will serve letter was not received from Resort Water Co.

The applicant shall submit a revised will-serve letter from Resort Water Co. stating the company's ability and willingness to provide services to all 22 residential lots in order for the project to proceed as proposed.

2. Per BCRC 12-620, any easements, specific constraints on building placement, other than easements, and land areas reserved, shall be shown and plainly marked on the plats.
3. Per BCRC 12-6243.D, a Fire Suppression Plan was submitted as part of this application. The fire protection plan submitted as part of the application states, "The Resort Water Company (RWC) Schweitzer Public Water system will serve the proposed development. This system will include a fire hydrant system, with hydrants spaced throughout the subdivision, capable of supplying 1,500 gallons per minute (gpm) for a minimum of two (2) hours. The Preliminary Engineering Report (PER) for Water Service to Crystal View Subdivision, submitted with the preliminary plat application provides further details on the ability of the water system to provide adequate fire flow capacity." In addition to that, one of the following shall be satisfied:
  - a. Prior to final plat, an approved water and fire hydrant system capable of providing one thousand (1,000) gallons per minute for a minimum of two (2) hours where a community water system exists or is proposed 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, as adopted by the state fire marshal, and such later editions as may be so published and adopted by the state fire marshal, or as amended, modified or superseded, and incorporated herein by reference with a copy on file with the office of the clerk of the board of county commissioners, and hereinafter referred to as IFC.

- b. A note on the final subdivision plat stating: "At the time of building location permit or building permit, the lot owner shall install a minimum two thousand (2,000) gallon water storage system, meeting IFC standards". Refill on demand is not required to meet IFC standards.
  - c. A note on the final subdivision plat stating: "The installation of an approved IFC residential fire suppression sprinkler system is required in all newly constructed residences".
  - d. Prior to final plat, a manmade or natural water source with a dry hydrant capable of delivering adequate water supply as prescribed by IFC.
  - e. A note on the final subdivision plat stating: "At the time of building permit or building location permit, the lot owner shall install an approved fire suppression method to the satisfaction of Bonner County".
4. Per BCRC 12-624.A, all new roads created for subdivisions shall be designated by unique road names, unless such roads are determined to be and are designed to be extensions of existing roads. Upon further review of the project, the proposed road names will be verified for uniqueness. Road names will require a modification if not found to be unique.
5. Per BCRC 12-624.D, all proposed lots less than five (5) gross acres shall have direct frontage on, and direct access to, a public right of way. However, the project falls within the PUD 4-90, and was designed and approved to contain both public and private roads that can be publicly and privately maintained.

The applicant is pursuing the vacation the Crystal Springs Road, a public road with the Independent Highway District. If the agency grants vacation of the road, the roads providing access to the lots within the subdivision shall be developed to meet the Bonner County Private Road standards as noted in BCRC, Title 12, Appendix A. The applicant proposes that the road, if vacated to be private, will be maintained by the subdivision's Homeowner's Association. If the road vacation is not approved, the road shall remain public and additional review may be required by the Independent Highway District or the Bonner County Road and Bridge Department.

The application for the project has been reviewed by the Independent Highway District. The agency's letter notes, *"The IHD has reviewed the request and finds that the request does not impact the District. If all current requirement and conditions are met the District has no comments."*

The applicant is required to comply with the conditions/ regulations of the Independent Highway District and make any access improvements to the development, as may be required by the agency upon further review of the project.

6. Per BCRC 12-642.B.10, the preliminary plat shall show all parcels of land intended to be dedicated for public use or reserved for the use of all property owners with the purpose indicated.

Plat note states, *"THE INTENDED USE OF THE LOTS SHOWN ON THIS PLAT IS SINGLE-FAMILY RESIDENTIAL. SCHWEITZER MOUNTAIN PROPERTIES LLC RESERVES THE RIGHT TO CONVEY ONE LOT WITHIN THE SUBDIVISION FOR THE PURPOSE OF CONSTRUCTING THEREON FOR A COMMUNITY CENTER."* The preliminary plat, as proposed does not specify which lot is for community use. Please make corrections to either this note or show which lot is intended for community use.

7. Per BCRC 12-643.I, the preliminary plat shall be valid for a period not to exceed two (2) years from the date of approval. At any time prior to the expiration date of the preliminary plat, an applicant may make a written request to the planning director for a single extension of the preliminary plat for a period up to two (2) years. The board 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.
8. Per BCRC 12-644, after the preliminary plat is approved, the subdivider shall have an improvement plan for the subdivision prepared by a registered civil engineer. Two (2) copies of the improvement plan shall be filed with the county engineer. This plan shall include the following:
- a. The subdivision name and number, geographic grid (township, range and tier, section number and location within the section), north arrow, date and scale no smaller than one hundred feet to the inch (1" = 100').
  - b. The plan and profile of all proposed roads showing final grades and cross sections of roads in accord with the requirements contained in title 2 of this code.
  - c. The plan and profile of proposed sanitary and stormwater systems with grades and sizes indicated. Drain calculations may be required.
  - d. A grading plan, showing stormwater drainage for each lot.
  - e. Any other improvements such as curbs, gutters, sidewalks, bridges, lift stations, fire hydrants, street lighting, etc., as required, and in accord with the requirements contained in title 2 of this code.
9. After the approval of the improvement plan has been obtained from Bonner County, the subdivider may begin construction of improvements on site as approved. After the completion of the improvements on site, the applicant's engineer shall submit inspection reports of the built improvements to the County for review.

The plan has been reviewed by the Bonner County Engineering Department against the standards of the Boner County Revised Code, Title 12, Chapter 7, per review memo dated June 5, 2023.

Per BCRC 12-644.B, the county engineer, or his representative, shall check inspection reports of the applicant's engineer and shall perform a final inspection and additional inspections (if called for). Construction and inspection of road improvements shall be completed in accord with the requirements contained in Title 2 of the Bonner County Revised Code or Appendix A of Title 12 of the Bonner County Revised Code.

10. Per BCRC 12-644.C, in lieu of completing all improvements as required before final plat recording, the subdivider shall enter into a surety agreement with the board agreeing to complete the improvements in accordance with surety agreement conditions and preliminary and final plat approvals. A cash deposit, certificate of deposit, corporate surety bond written by an insurance company licensed in Idaho having a rating from AM Best & Company of "A" or better, letter of credit issued and backed by a federal or state chartered bank, is required equivalent to one hundred fifty percent (150%) of the project engineer's estimated cost of construction of the improvements for the purpose of guaranteeing completion of the work and repair of any defects in improvements which occur within one year of the first acceptance of the completed work by the board. Sureties guaranteeing the work and repair of any defects in improvements which occur within one year after first acceptance of the completed work by the board may be reduced by the board by one-half (1/2) for that one year. The surety agreement 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 surety agreement, the subdivider may make a written request to the planning director for a single extension of the surety agreement for a period up to two (2) years. The board may consider such request for extension at any regular business meeting. The extension request must be approved or denied by the board prior to the expiration date of the surety agreement.

11. Per BCRC 12-646, BCRC 12-647 and BCRC 12-648, the final plat shall conform to these sections of the Bonner County Revised Code.

12. Per BCRC 12-7.2, the applicant submitted a stormwater management and grading plan, April 2, 2023, prepared by an Idaho licensed professional engineer, Scott G. McNee, PE 8835, from Ardurra. The plan has been reviewed by the Bonner County Engineering Department against the standards of the Bonner County Revised Code, Title 12, Chapter 7, per review memo dated June 5, 2023.

The plan shall be updated to meet the requirements of the Bonner County Revised Code, Title 12, Section 12-7.2 as noted in the review memo and resubmitted to Bonner County for further review. The project shall further comply with any subsequent modifications of these conditions by the Bonner County Engineering Department upon further review of the project or based on the site conditions.

13. Per BCRC 12-762, 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.

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**File V0007-23 - Variance - Lot Size Minimum.** The applicant is proposing to create one (1) 0.67 acre lot where a one (1.0) acre lot is required, a +/- 33% deviation. The parcel is zoned Suburban (S). The project is located off Sherwoods Road in Section 3, Township 56N, Range 2W, Boise-Meridian.

Kinzo Mihara, legal representative for the applicant requested the Hearing Examiner waive Staff's presentation.

**APPLICANT PRESENTATION:** Kinzo Mirhara, Legal Representation for the applicant briefly summarized the variance request.

**CO-APPLICANT PRESENTATION:** Jeremy Featherston agreed with Mr. Mihara.

**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 V0007-23, requesting a lot size minimum of 0.67-acres where 1-acre is required for the purposes of a lot line adjustment, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law:

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**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.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further move to adopt the following findings of fact 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 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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**Findings of Fact**

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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 Suburban.
3. The property is described as Lot 14 of Tamarack Estates according to the plat thereof, recorded in Book 4 of Plats, page 38, records of Bonner County, Idaho.
4. The property has an existing single-family-dwelling with an attached garage.
5. Slopes present on the lot are 0-29.9% grade, with very few slopes of 30% or greater.
6. The applicant obtained the property on May 17, 1991 per Warranty Deed, Instrument # 389975, reconveyed in a Community Property Agreement under Instrument #817679, recorded on November 3, 2011, in a Quitclaim Deed on November 30, 2011 under Instrument #818929, and in a Warranty Deed on April 26, 2022 under Instrument #1004459.

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**Conditions of approval:**

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**Standard permit conditions:**

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**A-1** Only the site plan for the proposed lot line adjustment has been reviewed for variance standards to allow for deviance in lot size minimum. All other development shown must comply with Bonner County Revised Code excepting the modified property site herein.

**A-2** The granting of this variance shall not supersede any deed restrictions.

**A-3** Per BCRC 12-720.2 (E) a stormwater management plan shall be required for all new building construction or development which occurs on or within 300' of a slope with 15% or greater incline.

**A-4** A Lot Line Adjustment shall be filed with and approved by the Bonner County Planning Department.

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**File CUP0009-23 – Conditional Use Permit – Hoodoo Valley Baptist Church.**

The applicants are requesting the expansion of an existing church and the construction of a new church building. The property is zoned Agricultural/Forestry 10. The project is located off Spirit Lake Cutoff in Section 4, Township 55 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 PRESENTATION:** Tim Bayes, shared the reason for the expansion of the current facility.

**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 CUP0009-23 requesting an expansion of an existing church and construction of a new church building, 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:

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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

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

### 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 or will not be dangerous to persons on or adjacent to the property.

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 findings of fact as set forth in the Staff Report and direct the 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. The property is zoned Agricultural/Forestry 10, where churches are conditionally allowed upon meeting the required standards per BCRC 12-335 and Subchapter 4.2.
2. The property is accessed by Spirit Lake Cutoff, a Bonner County owned and maintained paved 50' right of way.
3. Spirit Lake Cutoff is 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 IDEQ Public Drinking Water.
6. Sewage disposal is provided by an individual septic system.
7. The site is approximately 4.10 acres.
8. The church has been in continuous use since 1981 and is currently considered to be a nonconforming use as outline in BCRC 12-341.
9. The new church building is 11,350 square feet, bringing the total building square footage for church use to  $\approx$ 15,000 square feet.

### **Conditions of approval:**

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

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- 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 12-335 Public Use Table standards for Churches, grange halls, public or private community facilities 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.

### **STAFF UPDATES:**

- The Planning Director shared that a text amendment was recently approved by the Board that changes the definition of a street/driveway.

At 3:22 p.m., the Hearing Examiner declared the hearing adjourned until August 2, 2023.

Respectfully submitted,

  
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Jacob Gabell, Planning Director

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The above Minutes are hereby approved this 2<sup>nd</sup> day of August, 2023.

  
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Jacquelin Rucker, Hearing Examiner