

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
MAY 21, 2020**

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Chair Davis called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 3rd Floor BOCC Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho and via online webinar.

PRESENT: Commissioners Chair Don Davis; Vice Chair Brian Bailey; Taylor Bradish; Trevor Kempton; Sheryl Reeve; Suzanne Glasoe (via Zoom); and Matt Linscott

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton (via Zoom); Planning Operations Manager Josh Pilch (via Zoom); Planner II Halee Sabourin (via Zoom); Planner I Tessa Vogel; and Administrative Manager Jeannie Welter

CHANGES IN AGENDA:

Hearing location is moved to the 3rd floor BOCC room.

CONSENT AGENDA:

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: May 7, 2020. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARINGS:

CONDITIONAL USE PERMIT

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

File CUP0001-20 – Verizon Wireless Communication Tower – Sunrise PL, LLC is requesting a conditional use permit for the installation of a 175' stealth communications tower, outdoor equipment within a 30' x 30' fenced area, approximately 300' of new gravel road, and improvements of 675' of existing road on 7 acres. The property is zoned Recreation. The project is located off Reeder Bay Road onto a private easement in Section 17, Township 61 North, Range 4 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Staff Planner Halee Sabourin presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project representative Derek Budig gave a summary of his project. He explained to the commission where the tower would be placed and informed them the tower will have the capability of accommodating additional carriers as well.

PUBLIC/AGENCY TESTIMONY: Terry Frost spoke on the record regarding safety and power concerns.

APPLICANT REBUTTAL: Mr. Budig responded to public comments stating communication towers are regulated federally and further explained the placement of the tower and how it would be powered.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

Motion by the governing body:

MOTION: Commissioner Linscott moved to approve this project FILE CUP0001-20 for the installation of a 175' stealth communications tower, outdoor equipment within a 30' x 30' fenced area, approximately 300' of new gravel road, and improvements of 675' of existing road, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Linscott further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as amended, striking A-10 and changing A-3 as follows "All county setbacks shall be met except where approved by Administrative Variance VA0006-20". This action does not result in a taking of private property. Commissioner Reeve seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Background:

A. Site data:

- Vacant
- Unplatted
- Size: 7 acres
- Zone: Recreation
- Land Use: Resort Community (<=2.5 AC)

B. Access:

- Access is provided by a private, 30' wide easement off Reeder Bay Road, a 100' wide, county maintained r-o-w with a 40' travel surface.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Soils: Glaciercreek-Humic, Not Prime Farmland, moderately well drained
- Floodplain: Flood Hazard Zone: 'D' Source: FEMA

D. Services:

- Water: Granite-Reeder Water & Sewer
- Sewage: Granite-Reeder Water & Sewer
- Fire: West Priest Lake Fire
- Power: Northern Lights
- School District: Bonner School #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Vacant
North	Resort Community	Recreation	Vacant
East	Resort Community	Recreation	Residential
South	Remote Ag/Forest	Forest 40	U.S. Government - Public
West	Resort Community	Recreation	Vacant

F. Standards review

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.

This project shall conform to BCRC 12-488: Communication Towers Standards subsections A through J, before issuance of a building location permit. See conditions of approval.

This project shall conform to BCRC 12-7.2: Stormwater and Erosion Control Standards before issuance of a building location permit. See conditions of approval.

G. Comprehensive Plan Land Use Designation: The comprehensive plan designation of Resort Community provides for urban-like densities for areas centered around the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

H. Stormwater Plan: A stormwater management plan was required pursuant to BCRC 12-7.2. See conditions of approval.

I. Agency Review

- | | |
|---|---------------------------------------|
| Panhandle Health District | Idaho Department of Water Resources |
| Granite-Reeder Water & Sewer District | U.S. Forest Service |
| West Priest Lake Fire District | Bonner County Road Department |
| Northern Lights Inc. | U.S. Army Corps (Coeur d'Alene) |
| Idaho Department of Environmental Quality | Idaho Department of Lands (Sandpoint) |
| Federal Aviation Admin | U.S. Fish and Wildlife Service |
| Idaho Department of Fish and Game | |

The following agencies commented:

Bonner County Road and Bridge - Matt Mulder, April 14, 2020

The approach onto Reeder Bay Rd for the access to the tower site is not currently approved for commercial use. The applicant shall file for a commercial encroachment permit, after which Road & Bridge staff will inspect the existing access to determine if any changes or upgrades are needed to bring the approach up to the commercial access standards established in the Bonner County Roads Standards Manual. This process will need to be completed before the applicant will be able to obtain their building location permit.

Idaho Department of Fish and Game - Charles Corsi, May 13, 2020

Noted the potential for birds to nest in structure - some of which are federally protected. Advised if nest need to be removed, they should wait until hatchlings fledge in the fall. Also, maintenance crews should contact the U.S. Fish and wildlife Service prior to disturbing nests. Recommends lighting should be minimal to avoid disturbance to nocturnal birds. Overall, they do not anticipate significant adverse impacts.

The following agencies replied "No Comment":

Panhandle Health District

All other agencies did not reply.

J. Public Comments: None received at the time of staff report.

Findings of Fact

1. Parcel is vacant, unplatted, 7 acres
2. Zone: Recreation
3. Land Use: Resort Community (<=2.5 AC)
4. Access is provided by a private, 30' wide easement off Reeder Bay Road, a 100' wide, county maintained r-o-w with a 40' travel surface.

5. Site does contain mapped slopes. (USGS)
6. Site contains 15% or greater slopes but less than 30%.
7. Site does not contain mapped wetlands. (USFWS)
8. Site does not contain a river/stream/frontage on lake
9. Soils: Glaciercreek-Humic, Not Prime Farmland, moderately well drained
10. Floodplain: Flood Hazard Zone: 'D' Source: FEMA
11. Fire: West Priest Lake Fire
12. Power: Northern Lights
13. School District: Bonner School #83
14. The site will be unmanned, therefore no potable water or sewage disposal facilities are required.
15. Subject to VA0006-20's approval for reduced setbacks.
16. Meets the specific standards for Communication Towers in BCRC 12-488

Conclusions of Law:

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

Conclusion 1

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

- | | | |
|-----------------------|-------------------------|------------------------------------|
| •Property Rights | •Population | •School Facilities, Transportation |
| •Economic Development | •Land Use | •Natural Resources |
| •Hazardous Areas | •Public Services | •Transportation |
| •Recreation | •Special Areas or Sites | •Housing |
| •Community Design | •Implementation | |

Conclusion 2

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

Conclusion 3

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

FOR PUBLIC UTILITY COMPLEX FACILITIES ONLY:

Conclusion 4

The proposed use **will not** adversely affect properties in the vicinity.

Conclusion 5

The proposed use **is** a public convenience and is a necessary facility.

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 except where approved by the Administrative Variance VA0006-20.
- 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** Upon termination of use of a communication tower for a period of not less than one year, the landowner and/or tower operator/applicant shall remove the tower along with all supporting equipment, apparatus and foundation. BCRC 12-488(H)
- A-7** Communication towers shall not be used for signage, symbols, flags, banners or other devices or objects attached to or painted or inscribed upon any communication facility for the purposes of displaying a message of any kind, except as required by a governmental agency. BCRC 12-488(J)
- A-8** Communication towers shall be constructed to accommodate other future communication services where technically feasible ("collocation"). BCRC 12-488(E)
- A-9** Prior to obtaining a Building Location Permit the applicant shall obtain a commercial encroachment permit from Bonner County Road and Bridge.
- A-10** Prior to construction of the communication tower, the applicant shall obtain a building location permit from the Bonner County Planning Department.
- A-11** The submitted stormwater plan shall be reviewed at the time of Building Location Permit review.

VARIANCE

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

File V0005-20 – Bulk Variance – Gary Cartisano – is requesting a 12.5-foot front yard setback, where 25 feet is required, to allow for the construction of a new gable roof replacing an existing hip roof to control snow and allow for storage use above car stalls. The 1.28 acre parcel is zoned Rural-5. The project is located off Bottle Bay Road in Section 25, Township 57 North, Range 2 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Staff Planner Tessa Vogel presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Gary Cartisano gave a brief summary of his project.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

Motion by the governing body:

MOTION: Commissioner Kempton moved approve this project FILE V0005-20 for a bulk variance to allow for the construction of a new gable roof to replace the existing hip roof within the twenty-five foot (25') setback where the existing structure sits at twelve and one-half feet (12.5') inside of the twenty-five foot (25') front yard setback, 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. Commissioner Kempton further moved to adopt the following findings of fact and conclusions of law as written. 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. Commissioner Bailey seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Background:

A. Site data:

- Parcel Area: 1.28 acres
- Use: Residential
- Zone: Rural-5 (R-5)
- Land Use Designation: Rural Residential

B. Access:

- Bottle Bay Road
 - i. Road Class: Collector
 - ii. Owner: County
 - iii. Surface Type: Asphalt

C. Environmental factors:

- a. Floodplain: Parcel is partially in SFHA Zone AE. Entire project site is in SFHA X, per FIRM Panel #16017C0720E, effective date 11/18/2009.
- b. Slopes: 15-29% and 30% and greater
- c. Soil Type: Vay-Ardtoo Association, 35 to 65 Percent Slopes
 - i. Not Prime Farmland
 - ii. Well Drained
- d. Wetlands: None

D. Services:

- Water: Individual well
- Sewage: Individual septic system
- Fire: Selkirk Fire District
- Power: Avista Utilities

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural-5	Common Area
North	Rural Residential	Rural-5	Residential
East	Rural Residential	Rural-5	Residential
South	Rural Residential	Rural-5	Residential
West	Lake Pend Oreille		

F. Standards review

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

- (a) **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.**

Applicant: *This existing garage was built by prior owners on a steep lot. The garage encroaches 12.5 feet into the county road 25-foot setback area. Applicant seeks to remove the existing hip roof design and install a new gable roof to prevent snow from blocking access to garage doors and improving snow management at driveway. Applicant seeks to increase roof height by 3 feet 2 inches to allow storage use over parking stalls in garage. Garage footprint and stairway covered areas will remain as-is. Other recent variances in the neighborhood which are similar include; V320-03, V230-97, V199-94, and three homes south of mine V321-03 support this request.*

Staff: Only the roof height, not the roof width and length are proposed to be increased. The covered walkway is not proposed to be changed. The applicants purchased the property in 1999 and the existing detached garage was built in 1985 according to Bonner County Assessor records.

- (b) **Special conditions and circumstances do not result from the actions of the applicant.**

Applicant: *Applicant seeks to improve the building function and aesthetic design with only a 3 foot 2 inch height increase of the building structure. The garage was built many years ago before applicant purchased the property.*

Staff: Building permit 1984-0281 for a garage was applied for by Edward Imdiere. The site plan submitted shows a front yard setback of nineteen (19) feet. A building permit (1984-0282) was issued for a single family dwelling for Edward Imdiere as well on the subject property.

- (c) **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.

Applicant: *The applicant is seeking to improve snow management away from the driveway and Bottle Bay Road. The existing footprint of the garage and covered walkway will not be expanded. The height of the roof would be increased by 3 feet 2 inches. There would be no impact on any public health, safety, welfare, or cause any impact to adjoining properties.*

Staff: Bonner County Road & Bridge submitted a comment in support of this variance. Selkirk Fire Department had no recommendations of approval for the proposal.

G. Stormwater plan: A stormwater management plan was not required at the time of the variance, pursuant to BCRC 12-721.2(B), due to there being no to little proposed ground disturbance.

H. Agency Review: The application was routed to agencies for comment on **March 17, 2020.**

Avista Utilities: *No response*
 Bonner County Road & Bridge: *Road & Bridge supports the variance as proposed. The existing structure has proven to cause no problems for our operations and we have no objections with the upgrade on the existing footprint. The applicant has discussed this project with us in advance and we are comfortable with the proposal.*
 Idaho Department of Environmental Quality: *No comment*
 Idaho Department of Lands – Navigable Waters & Mining: *No comment*
 Idaho Department of Lands – Sandpoint: *No comment*
 Panhandle Health District: *No comment*
 Selkirk Fire District: *Sagle Fire has no recommended conditions of approval.*
 U.S. Army Corps of Engineers: *No response*

I. Public Notice & Comments: The application was routed to neighbors within 300 feet of the subject property on **March 17, 2020.** The following comment was received.

On March 31, 2020 Chris Hopper commented; (In opposition of) *"I am opposed to the expansion into the 25' setback as it would place the structure far too close to the road, creating issues for snow plow/road maintenance, as well as impaired open vision for driving safety and overall displeasing aesthetically as well as exceptional for existing road and neighborhood.*

On May 06, 2020 Royal & Jana Shields commented; (in favor of) *"Gary Cartisano has been a tidy, considerate neighbor for many years. He has made his home more appealing and now intends to do this with his garage. His architect has presented a beautiful rendering of his proposal. We strongly support his variance request."*

Findings of Fact

1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-234 Variances, Standards for Review of Applications, and BCRC 12-400, et set., Density and Dimensional Standards.
2. The subject property is a 1.28 acre, unplatted parcel located in the Rural-5 Zone.
3. The subject property is accessed off Bottle Bay Road, a county owned and maintained road.
4. The subject property has slopes of 30% or greater over the majority of the property with 15-29% slopes along the western border of the property which also borders Lake Pend Oreille.
5. The applicant purchased the property in 1999 per the warranty deed under Instrument #542204.
6. The subject property was created in the seventies and first described in the warranty deed under Instrument #177957 dated August 1976. The applicant was not part of the parcel design.
7. The dwelling was built in 1985 per Bonner County Assessor's records and is considered to be non-conforming.
8. The site is served by an individual septic system, individual well, Selkirk Fire District, and Avista Utilities.
9. The proposed roof replacement will not encroach into the front yard setback of the Bottle Bay Road any further than the existing garage already encroaches, which is twelve and one-half (12.5) feet, as the footprint and overhang of the roof line is not being enlarged. Only the height of the roof is being enlarged by three feet two inches (3'2").
10. Bonner County Road & Bridge is in support of the proposed variance stating, "*Road & Bridge supports the variance as proposed. The existing structure has proven to cause no problems for our operations and we have no objectives with the upgrade on the existing footprint. The applicant has discussed this project with us in advance and we are comfortable with the proposal.*"

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)

Conditions of approval:

Standard permit conditions:

- A-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.
- A-2** At the time of building location permit, the applicant shall submit the proper documentation for a building location permit to the Bonner County Planning Department for review and approval.

OPEN LINE DISCUSSION:

Staff updates

At 6:58 p.m., the Chair declared the hearing adjourned until June 4, 2020.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 4th day of June, 2020.

Bonner County Planning and Zoning Commission


Don Davis, Chair