

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
JULY 16, 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 1<sup>st</sup> Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

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

**ABSENT:** None

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

**CHANGES IN AGENDA:**

An executive session was added to the end of the public hearings.

**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: July 2, 2020. Hearing no changes or objections, the Chair declared the minutes approved as written.

**PUBLIC HEARINGS:**

**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 V0011-20 – Lot Size Minimum Variance – John & Stacey Mueller** are requesting a lot size minimum variance to create two 6-acre parcels, and one 7-acre parcel, where 10 acres is required. The 19.5 acre parcel is zoned Rural-10. The project is located off Wrenco Loop Road in Section 28, Township 57 North, Range 3 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Linscott disclosed a friend of his has provided a comment regarding this project. He

stated this does not create a conflict for him regarding this project. The Chair noted there were no other disclosures or conflicts.

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

**APPLICANT PRESENTATION:** Applicant John Mueller stated this project is for his own personal reasons. He has no intention of buying up ten-acre properties and dividing them into five acres.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record in opposition of the project:

Enid Trenholm (Exhibit A)	William Gadsby	Max Singleton
Pam Schurgan	Keith Holden	Tim Sass

**APPLICANT REBUTTAL:** The applicant responded to the comments made by the public. Director Ollerton also responded to comments relating to the number of public comments and timeline of staff report in relation to the public comment period.

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

**MOTION:** Commissioner Kempton moved to deny this project FILE V0011-20 for lot size minimum variance allowing the applicant to create three substandard lots in a Rural-10 zone. The decision is 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 amended. This action does not result in a taking of private property. Commissioner Reeve seconded the motion. 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 Planning and Zoning Commission's decision to the County Commissioners.

**VOTED** upon and the Chair declared the motion carried, 5-1. Commissioners Bailey, Reeve, Bradish, Kempton, and Linscott voted in favor of the motion. Commissioner Glasoe voted in opposition of the motion.

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**Background:**

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**A. Site data:**

- Parcel Area: 19.5 acres
- Use: Residential
- Zone: Rural-10
- Land Use Designation: Rural Residential

**B. Access:**

- Wrenco Loop Road
  - i. Owner: Bonner County (public)
  - ii. Road Class: Local
  - iii. Surface Type: Pavement

**C. Environmental factors:**

- Floodplain: SFHA X
  - i. Per FEMA 16017C0690E
- Floodway: NA
  - i. Per FEMA
- Soil Type(s): Pend Oreille Silt Loam, 5 To 45 Percent Slopes
  - i. Not Prime Farmland
  - ii. Well Drained
- Slopes: Some slopes indicated as rock outcroppings
- Wetlands: Follows Smith Creek

**D. Services:**

- Water: Individual Well
- Sewage: Individual septic system with drain field
- Fire: West Side Fire District
- Power: Northern Lights

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural-10	Residential Use
North	Rural Residential	Rural-10	5 and 10 acre Residential & Vacant land
East	Rural Residential	Rural-10	5 and 10 acre Residential & Vacant land
South	Rural Residential	Rural-10	5 and 10 acre Residential & Vacant land
West	Rural Residential	Rural-10	5 and 10 acre Residential & Vacant land

**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: [Insert specific findings addressing each of the standards.]

- (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:** With North Wrenco Road dividing my property and separating some ±4 acres, I would like to separate this from my existing property and include a balance of acreage to bring the sum of this proposed new property

to 6 acres. I do not access this portion of property because of North Wrenco Road and could see where a simple home could be built for a future owner. I also propose to divide an additional 6 acres from the proposed West Boundary of the proposed 6 acres which would include the existing house and structures as a residence for my mother. I would then take the remaining 8 acres and build a modest home for me and my family.

**STAFF:** North Wrenco Road following along Smith Creek, does split the property as indicated leaving nearly four acres on the opposite of the roadway.

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

**Applicant:** No special circumstances would be required to facilitate this change as their (sp) is adequate and favorable conditions for a road/driveway to be graded in without and (sp) requirement of special engineering or excavating/shoring to the proposed Eastern and Western property.

**STAFF:** The applicant purchased the property at Instrument #924190 recorded 7/06/2018 as it currently exists including topography, Smith Creek and roadway dividing the property. The applicant did not create this circumstance.

- (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:** All properties to the north, south, east and west have existing 5-acre parcels/properties either bordering my existing property and or just beyond bordering properties. 5-acre parcels are very common in the Wrenco Loop, North Wrenco Road and Johnny Long Area.

**STAFF:** There are numerous 5-acre parcels in the area as shown on the County map. Most are in the section north of this property. There have been no agency comments received and two public comments from neighbors.

- G. Stormwater plan:** A stormwater management plan was not required at the time of the variance, pursuant to BCRC 12-721.2(B).

- H. Agency Review:** The application was routed to the following agencies for comment on **June 16, 2020**.

Panhandle Health – No Response  
 West Side Fire District – No Response  
 Idaho Department of Environmental Quality – *No Comment*  
 Northern Lights, Inc. – *No Response*  
 School District #84 – *No Response*  
 Bonner County Schools transportation – *No Response*

Bonner County GIS Dept – No Response  
ID Dept of Water Resources – No Response  
Bonner County Road and Bridge – No Response  
US Army Corps – No Response  
Idaho Department of Fish and Game – No Response  
US Forest Service – No Response

**I. Public Notice & Comments:** The application was routed to neighbors within 300 feet of the subject property for comment on **June 16, 2020**. As of the date of this report, four public comments were received, from immediate neighbors. See file for letters.

### 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 12-323 B Rural District.
2. The subject property is 19.5 acres located in the Rural-10 Zone.
3. The subject property is designated as Rural Residential in the comprehensive plan.
4. The subject property is accessed off Wrenco Loop, a county maintained road.
5. The property has mostly no slopes with a couple rock outcroppings.
6. The property is divided by North Wrenco Road and Smith Creek.
7. The applicants purchased the property in 2018 per the warranty deed under Instrument #924190.
8. The applicant did not participate in the original creation of the parcel.
9. The site is to be served by an individual septic system, individual well, Westside Fire District, and Northern Lights.
10. The proposed land division will create three substandard lots in the Rural-10 zone: two ±6-acre lots and one ±8 acre lot.
11. The proposed project will not be a detriment to the public health, safety, or welfare as no agency comments have been received.

### 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** 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)

### 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 V0009-20 – Front & Side Yard Setback Variance – Jason Evans** is requesting a 15'-6" front yard setback, where 25' is required, and a 3'-7" side yard setback, where 5' is required, to bring into compliance an existing detached, 2-car garage on a 0.14 acre lot. The property is zoned Recreation. The project is located off Lake Street in Section 5, Township 59 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 not consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Applicant Jason Evans gave a summary of his request. He responded to the individual public comments that were received by the Planning Department prior to the hearing.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record: Lane McGary and Paul Levernier

**APPLICANT REBUTTAL:** The applicant responded to public comments received during his presentation.

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

**MOTION:** Commissioner Bradish moved to approve this project FILE V0009-20, where the applicant is requesting a 15'-6" front yard setback, where 25' is required, and a 3'-7" side yard setback, where 5' is required, to bring into compliance an existing detached, 2-car garage on a 0.14 acre lot, 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 Bradish further moved to adopt the following findings of fact and conclusions of law as written or as amended. 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 Kempton seconded the motion.

**VOTED** upon and the Chair declared the motion carried, 5-1. Commissioners Bradish, Bailey, Reeve, Linscott, and Kempton voted in favor of the motion. Commissioner Glasoe voted in opposition of the motion.

## Background:

### A. Site data:

- Residential Use
- Platted
- Size: 0.14 acres
- Zone: Recreation
- Land Use: Resort Community (<=2.5 ac)

### B. Access:

- The project is located off Lake Street, a dirt/gravel road, 20'-25' travel width, 30' R-O-W

### C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain frontage on Priest Lake.

### D. Services:

- Water: Outlet Bay Water & Sewer
- Sewage: Outlet Bay Water & Sewer
- Fire: West Priest Lake Fire District
- Power: Northern Lights Inc.
- School District: Bonner School District #83

## E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community (<=2.5 ac)	Recreation	Residential
North	Resort Community (<=2.5 ac)	Recreation	Residential
East	Resort Community (<=2.5 ac)	Priest River	Waterfront
South	Resort Community (<=2.5 ac)	Recreation	Residential
West	Resort Community (<=2.5 ac)	Recreation	Residential

## 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:

- (d) **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: "Very small 44' wide lot with a 1960's cabin located only approx.. 58' from Lake St. to the west. We continue to renovate the old original cabin and are trying to keep the original rustic feel of the place. There is no garage store cars, boats recreational toys, etc. The lot is too narrow to build a garage on either side of the cabin. I received a variance to reduce the front yard setback 30% to 17.5' in lieu of the 25', but the builder did not locate the north property pin and set the garage based on the south property pin, not realizing that Lake Street starts to jog to the east there. The result is that the south side is within the originally requested variance but the north side encroaches into the setback a couple of feet. There is no excuse for this completely avoidable mistake. The builder talked me into letting them build the garage in January and didn't take the time to clear the snow to make sure they located the property pins. I should have verified the layout prior to them starting but wasn't able. The south side yard setback was also incorrectly measured from the exterior wall rather than the eave, so it encroaches into the side yard setback 1'-5" on the south side yard. In short, I can't meet these two setbacks now that the structure was incorrectly built."*

**Staff:** Staff has researched to verify subdivision development, found no building permits and determined the home was built in 1951 based on the Assessor's Office. Outlet Beach, a subdivision recorded in 1939 created 24 small lots varying up to 50 feet in width and many less than 200 feet in length. The applicant did not create the lot dimensions nor was party to the planning of the lots.



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

*Applicant: "I, the applicant, made the misstate of relying on a builder to layout the new garage building and should not have allowed the building construction to take place in January with the challenges of snow removal and properly locating the property pins. I was unable to quality control the layout and could not physically be present. This is an embarrassing request because we have already received a variance and it should have been built according to clearly required setback. The attached dimensioned as-built drawings show the extent of the setback encroachments."*

**Staff:** The applicant is responsible for the activities and development of their own property. The applicant already obtained an approved variance and initiated a Building Location Permit and failed to call in for an initial inspection and failed said inspection. The purpose of an initial inspection is to ensure compliance with setbacks and other requirements before construction.

**(f) 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: "For reference, several cabins along Lake Street have garages that are within 10' of Lake Street and in some cases less distance. I understand these were likely built before these new regulations were in place. Most cabins along Lake Street have a garage to store their boats, lawn maintenance equipment, bikes, etc, so it would be to the neighborhoods benefit as well that we as cabin owners have a safe place to store our belongings that is out of the weather and sight of the neighborhood in general. The proposed garage will be of a size and style that will complement the surrounding cabins and accessory structures. Cedar board and batten siding to match the existing cabin will be used. The other cabins along Lake Street that have garages closer than the 25' front set back have not been in conflict with the public interest and are not noticeable as most of the setbacks vary. Our cabin is towards the end of the road and with the variance set back of 17.5' would not be noticeable in my opinion and still provide for plenty of room between Lake St and the garage. Again, I fully recognize there is no excuse for this blatant mistake on my part and plead with you for allowing this additional setback forgiveness on the front and on side yard encroachment in lieu of tearing down my new garage." [See additional responses to the Comprehensive Plan Goals and Objectives.]*

**Staff:** The previous variance was not approved with a side yard setback variance. The BCRC requires 5' min in the recreational zone. This request is not accompanied with mitigation measures to prevent undue hardships on neighboring properties regarding stormwater runoff and snow storage that would result from the encroachment of the side yard setback. Road & Bridge

had no concerns regarding the front yard setback encroachment. See conditions of approval for possible mitigation solutions.

**G. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

**H. Agency Review:** The application was routed to agencies for comment on June 16, 2020.

Panhandle Health District  
Outlet Bay Water & Sewer District  
West Priest Lake Fire District  
Northern Lights Inc.  
Bonner County Schools – Transportation  
Idaho Department of Fish and Game  
Idaho Department of Environmental Quality

Idaho Department of Water Resources  
U.S. Fish and Wildlife Service  
Bonner County Road Department  
U.S. Army Corps  
Idaho Department of Lands, Nav. Waters  
Idaho Department of Lands (Sandpoint)

**The following agencies commented:**

Bonner County Road Department (Matt Mulder) – July 1, 2020

"Road & Bridge has no objections to the proposed 15' setback for this garage. The setback is far enough that it will not affect our maintenance operations."

**The following agencies replied "No Comment":**

Idaho Department of Environmental Quality  
Panhandle Health District

**All other agencies did not reply.**

**I. Public Notice & Comments:** The following public comments were received:

Hanksville, LLC – July 1, 2020

No concerns with the reduction, but noted the reduction of parking on the subject property affects R&B and their personal property. Winter work and the area stated off on the subject property affected snowplowing and they have had an increase in people parking in their yard in the hammerhead turnaround. See letter for more details.

Lane & Jan McGary – June 22, 2020

Not in favor due to: concern of rainfall and snow storage which limit their property's parking, the Evans are parking behind the garage and the vehicles extend to the road's edge limiting access to other properties, and information from Evans may be incorrect – ground work and corner poles were established before any snowfall. Additionally, they contacted the contractor to request from Evans that the building be shifted and their request was denied.

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## Findings of Fact

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1. This proposal was reviewed for compliance with the criteria and standards set forth at Section BCRC 12-238 Administrative Variances, BCRC 12-234 Variances, and Standards for Review of Applications, BCRC 12-400, et seq., Development Standards if affected by variance.
2. The property is zoned Recreation.
3. The width of the lot is  $\pm$  44 feet.
4. Existing cabin is 28 feet wide preventing adding to the sides.
5. Proposed garage is 672 square feet.
6. The sewer is provided by Outlet Bay Water & Sewer.
7. The variance request is against County maintained road Lake Street and South property line.
8. No concerns from Bonner County Road and Bridge.
9. The narrow lot size and cabin placement were not created by the applicant.
10. The applicant originally applied for a Declaration of Exempt Structure DES2019-0130 which required an administrative variance (VA0005-19) for a 17.5' front yard setback. However, the applicant added a bathroom which requires a Building Location Permit. The applicant applied for BLP2020-0021 on January 29, 2020.

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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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## Conditions of approval:

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### Standard permit conditions:

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- 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** The variance does not replace the need for permits. The applicant shall obtain approved permits as required by Bonner County Planning Department.
- A-3** The applicant shall submit a snowfall mitigation plan, preventing run-off on to the neighboring property, to the satisfaction of Bonner County's Planning Department.

## 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 V0010-20 – Dimensional Variance – David & Lisa Fisher** are requesting a variance to allow for a 1,676 square foot accessory dwelling unit, where 900 square feet is required, on a 1.56 acre parcel. The property is zoned Suburban. The project is located off Campbell Point Court in Section 30, Township 56 North, Range 3 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. Ms. Vogel presented a public comment, that was outside of the public comment period, to the Planning and Zoning Chair to determine if it will be considered admissible and allowed to be submitted to the record. The Chair determined this public comment will be admissible as part of the record. The Chair read the comment into the record. After the determination of the Chair, Ms. Vogel responded to the comment.

**APPLICANT PRESENTATION:** Applicant representative Eric Brubaker provided a brief history and summary of the project. He stated this issue was not created by the current property owners.

**PUBLIC/AGENCY TESTIMONY:** Chair Davis determined the public comment from Jen Lanaville, received by the Planning Department after the public comment period

had already ended, as admissible and instructed staff to add it to the official record. Chair Davis read the comment into the record.

The following individuals spoke on the record in opposition of the project:

Randy McLain                      Dani Wyrick                      Susan Dimick

**APPLICANT REBUTTAL:** Mr. Brubaker responded to public comments. Ms. Vogel stated this application is not for a vacation rental it is a request for an accessory dwelling unit size standard variance.

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

**MOTION:** Commissioner Kempton moved to deny this project FILE V0010-20, a dimensional variance to allow for a 1,676 square foot accessory dwelling unit, where 900 square feet is required, based upon the following conclusions: Does not meet the requirements of Conclusion 1, does meet the requirements for Conclusions 2 & 3. The decision is 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 amended. This action does not result in a taking of private property. Commissioner Glasoe seconded the motion. 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 Planning and Zoning Commission's decision to the County Commissioners.

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

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**Background:**

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**A. Site data:**

- Residential
- Unplatted
- Size: 1.56 acres
- Zone: Suburban
- Land Use: Transition

**B. Access:**

- Campbell Homestead Road
  - i. Road Class: Local
  - ii. Not County maintained
  - iii. Privately owned

**C. Environmental factors:**

- Floodplain
  - i. SFHA AE Zone
    1. FIRM Panel: 16017C0925E
    2. Effective Date: 11/18/2009
- Wetlands: Freshwater emergent
- No slopes greater than 15% in grade present

**D. Services:**

- Water: Laclede Water District
- Sewage: Septic (PHD permit #03-09-9490)
- Fire: Selkirk Fire District
- Power: Avista Utilities

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Transition	Suburban	Residential
North	Transition	Suburban	Residential/Vacant
East	Transition	Suburban	Residential
South	Lake Pend Oreille		
West	Transition	Suburban	Residential

**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:

- (g) **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:** "N/A existing permitted structures. Proposed for ADU or simple subdivision or conformance plat as required by code."

**Staff:** The variance is for the existing guest home.

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

**Applicant:** "Previous property owner constructed but did not fully convert to storage."

**Staff:** There is a building location permit (BLP2005-0908) on file with the Bonner County Planning Department for a change of use from a single family dwelling to a guest house under previous property owners, Gary & Holly Tuininga.

- (i) **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:** "There will be no impacts as this is an existing circumstance and the purpose of the application is to create conformance with ordinances. There is a community water system and any requirements of PHD for the plat or BLP will be met."

**Staff:** The structure this variance is being applied for is existing. To conform with the ordinances of the Bonner County Revised Code the ADU would either need to meet the requirement of having 900 square feet of living space or be approved for a variance to deviate from this established requirement.

**G. Stormwater Plan:** A stormwater management plan was not required, pursuant to BCRC 12-720.3 because the proposal does not result in the creation of additional impervious surface, as defined.

**H. Agency Review:** The application was routed to agencies for comment on **June 16, 2020**.

Avista Utilities: no response

Bonner County Road & Bridge Department: "Road & Bridge has no comments on this dimensional variance."

Idaho Department of Environmental Quality: "DEQ has no comments on project V0010-20."

Idaho Department of Lands – Sandpoint & Navigable Waters: "The Department of Lands does not have comments for this application. Thank you for the opportunity to review."

Laclede Water District: no response

Panhandle Health District: no response

Selkirk Fire District: no response

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 for comment on **June 16, 2020**. No comments were received at the time of this staff report.

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## Findings of Fact

1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-234 Variance, Standards for Review of Applications, and BCRC 12-400, et seq., Density and Dimensional Standards.
2. The subject property is 1.56 acres in the Suburban Zone and has a land use designation of Transition.

3. The subject property is accessed off Campbell Homestead Road, a privately owned and maintained road.
4. The subject property borders Lake Pend Oreille to the south and has soil types Bonner gravelly ashy silt loam (0%-4% slopes), Mission silt loam (0%-2% slopes), and Wrencoe silty clay (0%-2% slopes).
5. There are freshwater emergent wetlands present onsite.
6. Special flood hazard area zone AE is present on the property.
7. The existing dwelling that is proposed to be permitted as an ADU is 1,676 square feet.
8. There are multiple building location permits on file with the Bonner County Planning Department there were all applied for by past property owners Holly & Gary Tuininga – BLP2003-0069 (accessory building), BLP2005-0907 (single family dwelling (SFD) with an attached garage), and BLP2005-0908 (change of use from SFD to ADU).
9. The change of use permit (BLP2005-0908) was not completed as approved, leaving the "guest house" out of compliance with the approved BLP and today's ordinances for Bonner County.
10. The approval of the requested variance would bring the subject property into compliance with the Bonner County Revised Code, which became out of compliance once the change of use permit was not completed as approved.
11. The applicants obtained the property in 2015 per the warranty deed under Instrument #880473, recorded October 9, 2015.
12. The site is served by individual septic system (PHD permit #03-09-9490), Laclede Water District, and Avista Utilities.

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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** 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)

### **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 V0012-20 – Waterfront Setback Variance – Craig & Jill Looper** are requesting a 27' waterfront setback, where 40' is required, to allow a portion of a house and deck to be built in the setback. The property is zoned Recreation. The project is located off Bull Trout Road in Section 3, Township 60 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:** Planning Operations Manager Josh Pilch presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Applicant Jill Looper gave a brief history and summary of the project. She spoke about the topography of the property.

**PUBLIC/AGENCY TESTIMONY:** Greg Turner spoke on the record regarding this file.

**APPLICANT REBUTTAL:** The applicant Jill Looper responded to public comments.

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

**MOTION:** Commissioner Kempton moved to deny this project FILE V0012-20, a 27' waterfront setback, where 40' is required, based upon the following conclusions: Fails to meet Conclusion 2, meets Conclusions 1 and 3. The decision is 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 amended. This action does not result in a taking of private property. Commissioner Reeve seconded the motion. 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 Planning and Zoning Commission's decision to the County Commissioners.

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

### **Background:**

#### **A. Site data:**

- Single family home
- Platted
- Size: 0.98AC
- Zone: Recreational
- Land Use: Resort Community

#### **B. Access:**

- Bull Trout Rd.

#### **C. Environmental factors:**

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does have frontage on lake

#### **D. Services:**

- Water: Existing lake water pump
- Sewage: Community Drain field
- Fire: Coolin Cavanaugh Bay fire District
- Power: Northern Lights
- School District: #83

#### **E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreational	Single family home
North	Resort Community	Recreational	Single family home
East	Resort Community	Recreational	Single family home
South	Resort Community	Recreational	Single family home
West	Resort Community	Recreational	Lake

#### **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:

- (j) **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.**

**Staff:** *The site has steep slopes and a large rock out croppings*

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

**Staff:** The applicants original home builder placed the foundation in the wrong place and the applicants have subsequently discovered he did extremely erroneous work and have incurred over \$150,000 in expenses directly attributed to the former general contractor (including removal of previous cabin on the property, excavation, footings and foundation work), and for us to start over and/or fix the mess we have been left with, it could cost upwards of an additional \$100,000 based on estimates received from other general contractors.

**(l) 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.**

The proposal is not in conflict with public interest. The proposal aims at being compatible with the adjoining subdivision lots and design along the water front.

**Staff:** Based on the information provided staff finds nothing detrimental to the public health, safety, or welfare.

**G. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

**H. Agency Review:** The application was routed to agencies for comment on June 15, 2020

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Army Corps (Coeur d'Alene)
Coolin-Cavanagh bay fire district	Northern lights
Fish and Wildlife Service	Forest Service
Applicable School District #83	Bonner County Schools – Transportation
Dept. of Fish and Game	Dept. of Lands (Sandpoint)
Dept. of Env. Quality	
School District #83	
Dept. of Lands, Nav. Waters	

**The following agencies commented:**

*Idaho fish and game  
Panhandle Health District  
Idaho department of water resources*

**The following agencies replied "No Comment":**

*DEQ – No Comment*

**All other agencies did not reply.**

**I. Public Notice & Comments**

The following public comments were received:

Danny and Michele Langsdorf – see the file  
Paul and Denise Schafer – see the file  
John and Patricia Turner – see the file

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**Findings of Fact**

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1. The property does have steep slopes.
2. Issues with the foundation location are the fault of a third party.

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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** 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)

**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 V0015-20 – Front & Side Yard Setback Variance – Rex & Melendie Pettingill** are requesting a 19' front yard setback, where 25 feet is required, and a 19' side yard setback, where 40' is required, on Lot 2 of the Gooding Subdivision. The 5 acre parcel is zoned A/F-10. The project is located off Butler Creek Road in Section 9, Township 55 North, Range 2 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner  
BONNER COUNTY PLANNING AND ZONING COMMISSION PUBLIC HEARING MINUTES – July 16, 2020  
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Bradish disclosed he works for the Department of Lands and this is his area of responsibility. He further stated he has not conflict relating to the file. The Chair noted there were no other 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:** Applicant Rex Pettingill stated the neighbors are supportive of this project. He stated it is a very difficult lot to build on.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

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

**MOTION:** Commissioner Kempton moved to approve this project FILE V0015-20 a front and side yard variance for a 19' front yard setback where 25' is required and a 19' side yard setback where 40' 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. 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, 5-1. Commissioners Bailey, Bradish, Kempton, Linscott, and Reeve voted in favor of the motion. Commissioner Glasoe voted in opposition of the motion.

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## Background:

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### A. Site data:

- Residential
- Lot 2, Gooding subdivision
- Size: 5 acres
- Zone: A/F-10
- Land Use: Ag/Forestry (10-20 ac)

### B. Access:

- Lone Pine Road
  - i. Road Class: Local
  - ii. Not County maintained
  - iii. Privately owned

### C. Environmental factors:

- Not within a floodplain (Zone X)
- Water: Butler Creek (perennial)
- Wetlands: Freshwater forested/shrub wetlands
- Slope: 15-29% grades and 30% and greater grades

### D. Services:

- Water: Individual well
- Sewage: Individual septic
- Fire: Selkirk Fire District
- Power: Norther Lights, Inc.

### E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forestry (10-20 ac)	A/F-10	Residential
North	Ag/Forestry (10-20 ac)	A/F-10	Residential
East	Ag/Forestry (10-20 ac)	A/F-10 & 20	Residential/Vacant
South	Remote Ag/Forestry (40+ ac)	Forestry-40	State of Idaho Land
West	Ag/Forestry (10-20 ac)	A/F-10	Residential/Vacant

### 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:

- (m) **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:** "Most (at least half) of the property consists of steep mountain slopes, roads, or creek bed. In addition, the parcel was created as an irregular shaped triangle, making setbacks even more difficult. The site is at the top of a small hill on the mountainside and flat buildable area is very limited. In addition, the location of several mature trees makes repositioning the small building further from the property lines really challenging."

**Staff:** There are steep slopes around the location of the building and over a majority of the property. Parcels in the vicinity have less steep slopes over their area than the subject parcel.

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

**Applicant:** "None – the parcel was created as part of a subdivision by the previous owner. The previous owner carved off the smallest allowable parcel

*she could legally create – but in the process made an odd triangle parcel consisting of mostly steep slopes, creek bed and forest road.”*

**Staff:** The applicants obtained the property in 2015 per the warranty deed under Instrument #882455, recorded November 20, 2015. The Gooding Subdivision was created in 2011 per the plat map under Instrument #814218, recorded August 18, 2011.

- (o) 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:** *“This variance will not result in any conflict of any public interest within the vicinity.”*

**Staff:** While the structure does encroach on the front and side setbacks, it still sits 19’ away from the property lines.

**G. Stormwater Plan:** A stormwater management plan was not required, pursuant to BCRC 12-720.3 because the proposal does not result in the creation of additional impervious surface, as defined.

**H. Agency Review:** The application was routed to agencies for comment on **June 16, 2020**.

Bonner County Road & Bridge Department: *“Road & Bridge has no comments regarding the proposed setback. Butler Creek Road is a USFS road that the County does not maintain.”*

Idaho Department of Environmental Quality: *“DEQ has no comments on project V0015-20.”*

Idaho Department Lands (Sandpoint & Navigable Waters): no response

Idaho Department of Water Resources: no response

Northern Lights, Inc.: no response

Panhandle Health District: *“Panhandle Health District does not have a comment regarding the Front and Side Yard Setback Variance, however, it should be noted that the ADU does not currently have a permitted Septic System. The applicant has applied for a Speculative Site Evaluation, but no work has been done and the application (19-09-143246) expires 7/29/20. Any structure that has pressurized water must have adequate and permitted sewage disposal.”*

Selkirk Fire District: no response

U.S. Army Corps of Engineers: no response

U.S. Forest Service: no response

#### **I. Public Notice & Comments**

The application was routed to neighbors within 300’ of the subject property for comment on **June 16, 2020** and no comments were received at the time of this staff report.

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## **Findings of Fact**

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1. This proposal was reviewed for compliance with the criteria and standards set forth in BCRC 12-234 Variance, Standards for Review of Applications, and BCRC 12-400, et seq., Density and Dimensional Standards.
2. The subject property is Lot 2 of the Gooding Subdivision and is 5 acres in the A/F-10 Zone and has a land use designation of Ag/Forestry.
3. The project is located off Lone Pine Road, a privately owned and maintained road.
4. The subject property borders State of Idaho public land to the south and has soil types Bonner gravelly ashy silt loam (0-4% slopes), Sagle silt loam (5-30% slopes), and Pend Oreille silt loam (5-45% slopes).
5. There are freshwater forested/shrub wetlands present.
6. Butler Creek, a perennial creek, cuts through the property near Butler Creek Road.
7. Butler Creek Road, a USFS road, cuts through the property near the southern portion.
8. Per Bonner County Assessor records, all existing structures were built in the 1940s and 1970s except for the ADU, which was built in 2018.
9. The applicants applied for a building location permit (BLP2019-0517) for an ADU with the Bonner County Planning Department.
10. The approval of this variance would bring the subject property into compliance with the Bonner County Revised Code as it would abate the building violation (BV2019-0031) on file with the Planning Department for the construction of the ADU with a permit.
11. The applicants obtained the property in 2015 per the warranty deed under Instrument #882455, recorded November 20, 2015.
12. The site is served by an individual septic system, individual well, and Northern Lights, Inc.

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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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### Conditions of Approval:

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#### Standard permit conditions:

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- 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 time of building location permit, all necessary documentation shall be submitted to the Bonner County Planning Department for review and approval.

#### ZONE CHANGE

**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 ZC0006-20 – Zone Change from Rural-5 to Recreation – Steele Living Trust** is requesting a Zone Change from Rural-5 to Recreation. The property is zoned R-5 and the Comprehensive Plan designation is Resort Community. The project is located off Willow Bay Road in Section 1, Township 55 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:** Planning Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code and the Bonner County Comprehensive Plan.

**APPLICANT PRESENTATION:** Project representative Travis Haller, Glahe & Associates, Inc. stated they are merely trying to bring the parcel into compliance.

**PUBLIC/AGENCY TESTIMONY:** None.

**APPLICANT REBUTTAL:** None.

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

**MOTION TO RECOMMEND APPROVAL:** Commissioner Linscott moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0006-20, requesting a zone change from Rural-5 to Recreation, 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. 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.

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#### Background:

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##### A. Site data:

- Use: One residential home with attached garage, including one shop.
- Unplatted
- Size: +/- 15.0
- Zone: Rural-5
- Land Use: Resort Community
- Legal per: Instrument # 954237

##### B. Access:

- Main access is off of Willow Bay Road, a paved, county road. Willow Bay Road is off Dufort Road.

##### C. Environmental factors:

- Site does contain a small amount of sloping areas. mapped slopes. (USGS)
- Site does not contain mapped wetlands.
- Site does not contain waterfront or streams. (NHD)
- Entire parcel is within SFHA Zone X, per FIRM Panel 16017C0895E, Effective Date 11/18/2009.
- Soil:
  - Classification: Bonner gravelly ashy silt loam, 0 to 4 percent slopes
  - Type: Prime Farmland
  - Drainage: Well drained

##### D. Services:

- Water: Individual Well
- Sewage: Individual Septic
- Fire: Selkirk Fire
- Power: Northern Lights
- School District: #84

#### E. Comprehensive Plan, Zoning and Current Land Use

Compass Site	Comp Plan	Zoning	Current Land Use & Density
	Resort Community	Recreation	Residential / Forested
North	Resort Community	Recreation	County Road and 7.86 acres used as an RV Site, forested
East	Resort Community	Rural-5	A 5-acre parcel and 2.42 acre parcel, forested
South	Resort Community	Recreation	35.797 acre parcel and a 2.42 acre parcel, forested
West	Resort Community	Recreation	35.797 acre parcel, forested

#### F. Standards review: Bonner County Revised Code

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
  - The application was considered complete and routed to agencies accordingly.

#### Comprehensive Plan Designation:

Resort Community: Resort Community: The 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.

#### Zone Change Request:

The applicant is requesting a zone change from Rural-5 to Recreation. The standards for those districts are below:

#### Existing Zoning:

##### 12-323: RURAL DISTRICT:

A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:

1. Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
2. Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
3. Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

1. R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:

- a. Characterized by slopes that are steeper than thirty percent (30%).
- b. Located within critical wildlife habitat as identified by federal, state or local agencies.
- c. Contain prime agricultural soils.
- d. Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
- e. Within the floodway.
- f. Contain limited access to public services.

2. R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above. (Ord. 501, 11-18-2008)

#### 12-328: RECREATION DISTRICT:

A. The recreation district is established to provide a wide range of recreational uses in areas where if access is by road rather than solely by waterways, the road shall be located within a recorded easement or public right of way, except where subject to the terms of an approved special use permit or a state or federal agency, adequate water and sewer services and fire services. Consideration shall also be given to access to potential public transportation systems. The recreation district is intended to provide for a range of housing types and uses that are accessory and complementary to recreational and residential uses. These purposes are accomplished by:

1. Allowing for a range of housing types provided adequate services are available.
2. Providing for commercial and private resorts which contain provisions for a range of recreational activities.
3. Excluding uses that are not compatible with the desired recreational character of the area.

4. Encouraging conservation development configurations that create permanent open space, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

5. Applying simple design standards that enhance the recreational opportunities and character of the area.

B. Use of this zone is appropriate in areas designated as transition, neighborhood commercial, urban growth area and resort community with the following conditions:

1. Land is physically suitable to accommodate a broad range of residential and recreational uses.

2. Sites are served by adequate sewage disposal service, water supply, roads and other needed public facilities and services. (Ord. 501, 11-18-2008)

**Conclusion:** The existing zoning for Rural District is in conflict with the underlying land use designation of Resort Community. Resort Community is intended to have zones that are compatible with recreational areas and where urban services are provided. However, the overlying zone districts do accommodate for parcel sizes that do not have urban services such as the 2.5-acre minimums.

The surrounding uses and existing neighboring lot sizes indicate this parcel would adequately meet the standards of the recreation district.

The proposal to amend the Zoning Map is in accord with the general and specific goals of the Comprehensive plan and of Bonner County Revised Code.

**G. Stormwater plan:** A stormwater management plan was not required, pursuant to BCRC 12-721.2(B) because the proposal does not result in new impervious surfaces.

**H. Agency Review:** The application was routed to agencies for comment on June 16, 2020.

*Idaho Department of Water Resources  
Bonner County Road & Bridge  
Bonner County GIS  
Northern Lights  
U.S. Army Corps  
Idaho Department of Lands  
Idaho Department of Lands, Nav. Waters  
Idaho Department of Environmental Quality  
Idaho Department of Fish & Game  
Bonner County Schools Transportation  
(All Taxing Districts)*

#### The following agencies replied "No Comment":

*Bonner County Road & Bridge – No Comment, July 1, 2020  
City of Clark Fork – No Comment, June 24, 2020  
Independent Highway District – No Comment, June 24, 2020  
Pend Oreille Hospital District – No Comment, June 29, 2020  
Kootenai-Ponderay Sewer District – No Comment, June 24, 2020  
Division of Aeronautics – No Comment, June 23, 2020*

#### All other agencies did not reply.

**I. Public Notice & Comments:** No public comments were received.

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#### Zone Change Findings of Fact

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1. The property is currently and historically been used for residential purposes.
2. The property is designated Resort Community in the comp plan.
3. Access is provided by Dufort Road and Willow Bay Rd, paved primary transportation routes.
4. Water and sewer are provided by individual well and septic consistent with the proposed larger lot sizes.
5. No adverse comments were received from Road & Bridge and the Idaho Department of Transportation in regards to negative impacts to the safety and function of the road system.

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#### Zone Change Conclusions of Law:

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

##### Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

Property Rights  
Transportation  
Economic Development  
Hazardous Areas  
Recreation

Population  
Community Design  
Land Use  
Public Services  
Special Areas or Sites

School Facilities  
Implementation  
Natural Resources  
Transportation  
Housing

##### Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **was** found to be in compliance.

##### Conclusion 3

The proposal **is** in accord with the purpose of the Recreation zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

**EXECUTIVE SESSION:**

At 10:21 p.m., Commissioner Bailey moved to enter into Executive Session pursuant to Idaho Code §74-206(1)(a) hiring. Commissioner Reeve seconded the motion. Voted upon and the Chair declared the motion carried, unanimously.

The Chair declared the meeting back in open session at 10:39 p.m.

Commissioner Bradish moved to remove the Chair of the Southwest Bonner County Joshua Johnson due to lack of attendance. Commissioner Bailey seconded the motion.

Voted upon and the motion passed unanimously.

**OPEN LINE DISCUSSION:**

Staff updates

Discussion regarding a 5G committee.

At 10:53 p.m., the Chair declared the hearing adjourned until August 6, 2020.

Respectfully submitted,



Milton Ollerton, Planning Director

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The above Minutes are hereby approved this 6<sup>th</sup> day of August, 2020.

Bonner County Planning and Zoning Commission



Don Davis, Chair