

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
DECEMBER 3, 2020**

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Chair Brian Baily called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1st Floor Conference Room, of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

PRESENT: Commissioners Chair Baily; Vice Chair Matt Linscott; Don Davis; Taylor Bradish; Dave Frankenbach; Sheryl Reeve; and Suzanne Glasoe

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Assistant Planning Director Josh Pilch; Planner II Halee Sabourin; Planner II Tessa Vogel; Administrative Manager Jeannie Welter; and Administrative Assistant III Elizabeth Jensen

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: November 19, 2020. Hearing no changes or objections, the Chair declared the minutes approved as written.

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.

CHANGES IN AGENDA:

File V0025-20 – Street Setback and Height Variance – Granite Hill, LLC:
Staff informed Commissioners application for above mention file was withdrawn.

PUBLIC HEARINGS:

CONDITIONAL USE PERMITS

File MOD0004-20 – Modification of a Planned Unit Development - Valiant, LLC is requesting a modification of terms to file C832-05 to allow for the removal of 59,503 SF of the 69,696 SF of dedicated open space to be divided into six lots on a 1.60 acre lot (Golden Tee Estates, Block 2, Lot 21A). The property is zoned Recreation. The project is located off Jim Brown Way in Section 31, Township 58 North, Range 1 East, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: None of the commissioners declared any conflicts of interest or disclosures.

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

APPLICANT PRESENTATION: Project Representative Marty Taylor, James A. Sewel & Associates, stated the project is following the regulations already in place and they are within the required 10% minimum open space. The project is not increasing the allowed density. Mr. Taylor also addressed public comments.

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 Bradish moved to recommend approval of this project FILE MOD0004-20, a modification of terms to file C832-05 to allow for the removal of 59,503 SF of the 69,696 SF of dedicated open space to be divided into six lots on a 1.60 acre lot, 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 Bradish further moved to adopt the following findings of fact and conclusions of law as amended, removing Condition A-6. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Glasoe seconded the motion.

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

Background:

A. Site data:

- Open Space
- Lot 21A, Block 2 of Golden Tee Estates
- Size: 1.60 acres
- Zone: Recreation
- Land Use: Resort Community (<=2.5 AC)

B. Access:

- Jim Brown Way
 - i. Road Class: Local
 - ii. County Maintained: No

iii. Road Owner: Private

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Parcel is within SFHA Shaded Zone X, per FIRM panel 16017C0735E, effective date 11/18/2009. No further floodplain review is required on this proposal.

D. Services:

- Water: TIC, LLC Utilities
- Sewage: TIC, LLC Utilities
- Fire: Northside Fire District
- Power: Avista Utilities (natural gas) & Northern Lights, Inc. (electricity)

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Currently common open space; will be common open space and six (6) lots.
North	Resort Community	Recreation	Residential
East	Resort Community	Recreation	Common open space
South	Resort Community	Recreation	Residential
West	Resort Community	Recreation	Residential

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

- **BCRC 12-256: Design Standards for Planned Unit Developments; Common Open Space**
 - *At least ten percent (10%) of the gross land area of a residential PUD shall be reserved as common open space, exclusive of streets, parking areas, and utility easements and other improvements which would detract from the function of the "common open space", as defined below. The required common open space must fall into one or more of the following categories:*
 1. *Wildlife habitat or wildlife corridors, as identified by the Idaho department of fish and game or U.S. fish and wildlife service. These areas might be stream corridors, waterways subject to*

artificial high water marks, as defined, which shall not exceed fifty percent (50%) of the total required common open space, waterways, wetlands, grasslands, stands of mature timber, areas with snags, wintering areas, nesting and roosting sites, waterfront areas and travel corridors between habitat blocks and sources of food and water.

2. *Areas with native vegetation, including native grassland, unique vegetative communities as identified by the Idaho conservation data center.*
 3. *Recreational areas, including trails, sports courts and wildlife viewing areas, and other similar recreational uses.*
 4. *Historic or culturally significant areas as determined by the Idaho state historical society.*
 5. *Areas within a scenic byway.*
 6. *Actively managed pasture, farm or timbered land in the A/F and rural districts. Accessory agricultural structures are allowed within the common open space.*
- The only modification to file C832-05, the original conditional use permit for a large-scale planned unit development (PUD), that the applicant is requesting is to remove 59,503 SF from the 69,696 SF that is Lot 21A, Block 2 of Golden Tee Estates to be divided into six (6) lots consistent with the terms and conditions of the PUD. The remaining common open space will be 10,193 SF or roughly 14.6% of original Lot 21A.

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 not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

I. Agency Review

On **November 03, 2020** the following agencies were routed for comment.

- Avista Utilities:
 Bonner County Road & Bridge Department: no response
 Idaho Department of Environmental Quality: no response
 Idaho Department of Lands – Sandpoint: no response
 Idaho Department of Water Resources: no response
 Northern Lights, Inc.: no response
 Northside Fire District: no response
 Panhandle Health District: no response
 TIC, LLC Utilities: no response
 U.S. Army Corp of Engineers: no response

J. Public Notice & Comments

On November 03, 2020 neighbors within 300' of the subject property were routed for comment.

Summary of Comments from Public Comments Received

- Residents purchased homes at the Idaho Club because of the open spaces for recreation within the property boundaries.
- Open space is dedicated for a reason and should not be eliminated for the enrichment of financial accounts of a corporation.
- There is little area within the Idaho Club community besides the streets and golf course which is restricted to golfers.
- It is important for the welfare of the residents that what is available and platted as open space be kept as such, especially the open space that is suitable for recreation.
- Changing the dedicated open space into 6, ¼ acre home lots would greatly detract from the initial vision, feel and purpose of the Idaho Club.
- The original plat of open wildlife access, with tasteful development, community atmosphere centered around the golf course would be greatly altered.
- Crowding in 6 new homes devalues the open aesthetic look and feel that bring people to the Idaho Club.
- A suggestion would be to do 3 or 4 lots, keeping the strands of trees and groom the remaining open area into a neighborhood gathering spot. This would allow development to expand without the overcrowding which would be much more desirable.

Findings of Fact

1. The subject lot is Lot 21A, Block 2 of Golden Tee Estates, a common open space lot.
2. The lot is zoned Recreation and has a land use designation of Community Resort.
3. Lot 21A is accessed off Jim Brown Way, a private road.
4. 59,503 SF of the 69,696 SF of Lot 21A is being removed to be subdivided into six (6) lots.
5. The proposed six (6) lots will range in size from 0.187 acres (7,578 SF) to 0.349 acres (15,203 SF) with a common open space lot of 10,193 SF remaining.
6. The PUD from file C832-05 allows for a reduced lot size minimum per Condition A-7(3).
7. The lot is served by TIC, LLC Utilities for water and sewer, Northside Fire District, Avista Utilities (natural gas) and Northern Lights, Inc. (electricity).
8. The original PUD, C832-05, was approved with conditions by the Bonner County Planning & Zoning Commission at the March 09, 2006 public hearing and by the Board of County Commissioners at the April 12, 2006 public meeting.

9. Short plat SS0004-20 was approved on November 18, 2020 with the condition that file MOD0004-20 shall be approved and issued prior to the final plat recording of file SS0004-20.

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.

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.
- 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 All terms and conditions of file C832-05 shall be complied with EXCEPT for those modified or removed by file MOD0004-20.

VARIANCES

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 V0024-20 - Lot Size Minimum Variance – Jennifer Kerry is requesting a lot size minimum variance to allow for a 5.24 acre lot where 10 acres is required for a future land division of a 40.41 acre parcel. The property is zoned Agriculture/Forest-10. The project is located off Cohage Road in Section 2, Township 58 North, Range 1 East, 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: Planner II Tessa Vogel 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’s father Vernon Kerry stated the reasons for wanting the variance, noting that someone is interested in purchasing 35 acres and it is currently under contract for sale pending the result of this hearing.

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 DENY: Commissioner Davis recommended to deny this project FILE V0024-20 for a lot size minimum variance to allow for a 5.24 acre lot where 10 acres is required, based upon the following conclusions: Project fails to meet Conclusions 1 and 2, project meets Conclusion 3 in that it is not a detriment to public health, safety and welfare. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Davis further moved to adopt the following findings of fact and conclusions of law as stated. This action does not result in a taking of private property. Commissioner Linscott 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:

- Residential
- Unplatted
- Size: 41.7 acres
- Zone: A/F-10
- Land Use: Ag/Forest (10-20 AC)

B. Access:

- Cohage Road
 - i. Road Class: Local
 - ii. County Maintained: No
 - iii. Road Owner: Private
 - iv. Travel Surface
 1. Approx.. 16’ wide
 2. Gravel/dirt

C. Environmental factors:

- Site does contain mapped slopes of 15-29% in grade. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Per Jason Johnson, CFM: *Parcel is within SFHA Zone X, per FIRM panel 16017C0545E, effective date 11/18/2009. No further floodplain review is required on this proposal.*

D. Services:

- Water: Individual well
- Sewage: Individual septic
- Fire: Northside Fire District
- Power: Northern Lights, Inc.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC)	A/F-10	Residential
North	Ag/Forest Land (10-20 AC)	A/F-10	Multiple 5 acre tracts - 1 residence - two (2) 20 acre tracts

Compass	Comp Plan	Zoning	Current Land Use & Density
East	Ag/Forest Land (10-20 AC)	A/F-10	19 acres – timber – residence – Vern Kerry
South	Ag/Forest Land (10-20 AC)	A/F-10	40 acres – timber – no residence – George Trust
West	Ag/Forest Land (10-20 AC)	A/F-10	160 acres – timber – Stimson Lumber Company

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: *The east boundary of the requested property is Cohage Road - limiting the acreage west of the road to 5.24 acres. The Bonner County Land Use Plan discourages lot lines crossing existing or planned roadways. The properties immediately north of the requested variance property are 5 acres in size. The property slopes generally southwest at less than 10% slope making for generally acceptable building sites. The requested variance would leave 36.46 acres thereby allowing only 3 additional parcels under the current zone.*

Staff: *Cohage Road does run through the western portion of the subject property per the County map and is 5.24 acres according to the site plan by J.R.S. Surveying, Inc. The Bonner County Comprehensive Plan does not state that it discourages lot line crossing existing or planned roadways.*

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

Applicant: *Cohage Road was built design for acreage and under no direction from the owner. The current zone of A/F 10 was the zone generally applied to the surrounding properties.*

Staff: *Per BCRC 12-660(D)(2)(g) resulting lots shall not be divided by boundary of any city, county, zoning designation, railroad right-of-way, or public right-of-way. As Cohage Road is a private road easement, it does not limit the acreage of a single lot. A lot can be divided by a private easement.*

- (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 proposed variance is in harmony with the acreage of the properties to the north. Cohage Road (East boundary) is a private road but easement exist for all properties - guaranteeing access.*

Staff: *Two (2) 5-acre parcels border the subject property to the north.*

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 **November 03, 2020.**

Bonner County Road & Bridge Department: no response
 Idaho Department of Environmental Quality: no response
 Idaho Department of Lands – Sandpoint: *The Department of Lands has no comment on this proposal. Thank you for the opportunity to review.*
 Idaho Department of Water Resources: no response
 Northern Lights, Inc.: no response
 Northside Fire District: no response
 Panhandle Health District: 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 **November 03, 2020.** No public comments were submitted at the time of this staff report.

Findings of Fact

1. The subject property is an unplatted 41.7 acre parcel.
2. The property is zoned Agricultural/Forestry-10 (A/F-10) and has a land use designation of Agriculture/Forest Land (10-20 acres) (Ag/Forest (10-20 AC)).
3. The property has a dwelling and a residential detached garage both from 1975 per Bonner County Assessor records.
4. No building permits or building location permits for the existing structures are on file with the Bonner County Planning Department.
5. Cohage Road is a private, gravel road not within a public right-of-way.
6. There are no wetlands, surface water, or special flood hazard areas present on site.
7. The property does have slopes of 15-29% in grade.
8. The applicant is wanting to create a 5.24 acre lot where 10 acres is required.
9. The property was first described in 2013 per the Warranty Deed under Inst. #846517 recorded July 02, 2013 where Marilyn Joan George, surviving Trustee of the Marilyn George and Arlis Harvey Living Trust conveyed the property unto

Vernon Kerry after it was split from parcel RP58N01E020001A (the other 40 acres is now parcel RP58N01E020455A).

10. The applicant acquired the property in 2015 per the Gift Deed under Inst. #875858 recorded July 06, 2015 where Vernon and Michele M. Kerry conveyed the property unto Jennifer N. Kerry (applicant).
11. The applicant did not create the original parcel design nor did they put Cohage Road in its current location.
12. Per Jason Johnson, the Bonner County Planning Certified Floodplain Manager, "Parcel is within SFHA Zone X, per FIRM panel 16017C0545E, effective date 11/18/2009. No further floodplain review is required on this 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** 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)

AMENDMENT & 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 AM0015-20 & ZC0011-20 – Comprehensive Plan Map Amendment and Zone Change – Bonner County is initiating a Comprehensive Plan map amendment from Forest to Resort Community and a Zone Change from Forest 40 to Recreation. The project is located along the shoreline starting at North Horton Creek Rd and continuing on through to North Cape Horn Rd. in portions of Sections 21, 28, 27, and 34, Township 61 North, Range 4 West, Boise-Meridian.

STAFF/APPLICANT PRESENTATION: Assistant Director Josh Pilch presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is not consistent with Bonner County Revised Code.

PUBLIC/AGENCY TESTIMONY: The following individuals spoke on the record requesting that this file be carried over for further review: Thomas Clevenger, Candace Mumm, Tom Ranzi, and Ann McKinstry.

APPLICANT REBUTTAL: None

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

After deliberation Director Ollerton withdrew the application.

PUBLIC WORKSHOP

File AM0016-20 – Bonner County Revised Code - Title 12 - Text Amendment – Bonner County is initiating a Text Amendment to Title 12 to include the following proposed changes: Amend Title 12 Chapter 6 to reorganize Chapter 6 in its entirety; delete the Short Plat and Condominium project procedures; and amend requirements and standards of plats.

STAFF PRESENTATION: Planner Staff presented a summary of the proposed changes for Title 12 Chapter 6.

DISCUSSION:

Discussions regarding:

- Clarification on the definitions of lot measurements;
- Clarification of right of ways regarding lot division;
- Two year holding period and size requirements. Possible removal of section C item 7;
- Section D: financing of a lot or parcel;
- Removal of section regarding lot sizes in several sections;
- Revisions referencing non-conforming lots

The Commissioners requested to schedule another workshop for this file to be held January 7, 2021 at 5:30 pm.

COMMISSIONER & STAFF UPDATES:

Discussion regarding Commissioner attendance for upcoming hearings.
Discussion of reduction of staff in the office and workload for staff.

Commissioner Davis motioned to adjourn the meeting. Commissioner Glasoe seconded the motion.

At 9:17 p.m., the Chair declared the hearing adjourned until December 17, 2020.

Respectfully submitted,



Milton Ollerton, Planning Director

The above Minutes are hereby approved this 7th day of January, 2021.

Bonner County Planning and Zoning Commission



Don Davis, Chair