

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
THURSDAY, MAY 6, 2021**

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER:** Chair Bailey called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 3rd Floor BOCC meeting room, Ste. 338, of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

**PRESENT:** Commissioners Chair Brian Bailey; Vice Chair Don Davis; Taylor Bradish; Dave Frankenbach; and Suzanne Glasoe

**ABSENT:** Sheryl Reeve

**ALSO PRESENT:** Planning Director Milton Ollerton; Assistant Planning Director Josh Pilch; Planner II Jason Johnson; Planner I Swati Rastogi; Planner I Chad Chambers; Administrative Manager Jeannie Welter; and Administrative Assistant III Kelcey Utt-Boss; Administrative Assistant III Janna Berard

**CHANGES IN AGENDA:**

Chair Bailey stated File AM0004-21 is being rescheduled for a date and time to be determined. He further stated the hearing file order has changed as follows: S0002-21, V0007-21, V0006-21, V0004-21, CUP0006-21, CUP0001-21, and AM0004-21.

**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: April 29, 2021. Hearing no changes or objections, the Chair declared the minutes approved as written.

**PRELIMINARY PLAT**

**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 S0002-21 – Preliminary Plat Subdivision – Valiant Idaho, LLC** is requesting a preliminary plat creating 17 residential lots and 2 open space lots in accordance with an already approved PUD (C832-05) The property is zoned Recreation. The project is located west of the western terminus of Oxbow Road in Section 36, Township 58 North, Range 1 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 Jason Johnson 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 Marty Taylor, James A Sewell & Associates stated the application meets previous Conditional Use Permit and PUD standards, and commented on the Fish and Game agency comment on mitigating wildlife disruption. Mr. Taylor requested condition B-6 be stricken.

**PUBLIC/AGENCY TESTIMONY:** The following individual spoke on the record opposed to the project: Steve Sessions.

**APPLICANT REBUTTAL:** Director Ollerton explained the purpose of condition B-6, recommending its continued inclusion. Mr. Taylor rebutted public comments and maintained his request to strike condition B-6.

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

Commissioner Bradish moved to reopen the hearing for further comment from staff and project representative. Commissioner Franckenback seconded the motion. Voted upon, and the motion passed unanimously.

Director Ollerton stated there are unfinished conditions for the original Conditional Use Permit Planned Unit Development that have not been met and some that are not going to be met. He stated he has been in contact with the applicant directly in conversations related to updating the original PUD.

Mr. Taylor stated the original PUD outstanding Conditions of Approval are irrelevant to this file and once again requested Condition B-6 be stricken.

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

**MOTION:** Commissioner Glasoe moved to recommend approval to the Board of County Commissioners on this project, FILE S0002-21, for a subdivision of ±9.8 acres of land to create (19) lots, including 17 residential lots and two open-space lots, ranging in size from 6612 sf to 4.87 acres, 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 Glasoe further moved to adopt the following findings of fact and conclusions of law as written and amend to strike Condition B-6. The action that could be taken to obtain the plat is to complete the Conditions of

Approval as adopted. This action does not result in a taking of private property. Commissioner Davis 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: Vacant land
- 19 lots proposed; 17 residential & 2 open space
- Size: ±9.8 acres
- Zone: Recreation (Rec)
- Land Use: Resort Community (<=2.5 AC)

### **B. Access:**

- The proposed westerly extension of the private Oxbow Drive will be developed with a 26 foot wide, paved, fire code compliant roadway located within a 30 foot wide private right of way.

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

- Site does not contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake. (NHD)
- Floodplain: Parcel contains SFHA Zone X and hatched Zone X per FIRM Panel 16017C0735E, Effective Date 11/18/2009. No further flood review needed.

### **D. Services:**

- Water: TIC, LLC Utilities. 2/21/21 "will serve" letter was submitted.
- Sewage: TIC, LLC Utilities. 2/21/21 "will serve" letter was submitted.
- Fire: North Side Fire
- Power: Avista (natural gas) and Northern Lights (electricity).
- School District: Bonner School #84

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

| <b>Compass</b> | <b>Comp Plan</b>            | <b>Zoning</b>    | <b>Current Land Use &amp; Density</b> |
|----------------|-----------------------------|------------------|---------------------------------------|
| Site           | Resort Community (<=2.5 AC) | Recreation (Rec) | Vacant                                |
| North          | Resort Community (<=2.5 AC) | Recreation (Rec) | Residential                           |
| East           | Resort Community (<=2.5 AC) | Recreation (Rec) | Residential                           |
| South          | Resort Community (<=2.5 AC) | Recreation (Rec) | Vacant                                |
| West           | Resort Community (<=2.5 AC) | Recreation (Rec) | Residential                           |

## F. Standards review

| BCRC  | Required   | Provided  |
|---|--|---|
| Minimum Lot Size, BCRC 12-411                             | 12,000 square feet   | 22467.8 square feet (average)<br>Deviations authorized in the PUD (C832-05)   |
| Depth to width, BCRC 12-621                               | 3:1  | ≈2:1 or less, except Lots 14-16, which are all over 3:1 depth-width ratio; PUD authorized this deviation (C832-05: Condition A-7(5)). |
| Urban services, BCRC 12-623(A)                            | All "urban services", as defined in BCRC 12-821  | All "urban services", as defined in BCRC 12-821   |
| Water supply, BCRC 12-623(B)(4)                           | Connection to an existing public or private water system   | Will-serve letter from TIC UTILITIES, LLC; preliminary Water and Sewer Plan   |
| Sewage disposal, BCRC 12-623(C)                           | Sewage disposal as approved by PHD   | Will-serve letter from TIC UTILITIES, LLC; preliminary Water and Sewer Plan   |
| Fire Plan/Fire risk assessment, BCRC 12-623(D)            | Assessment of fire risk<br>Fire protection plan<br>Defensible space plan   | Assessment of fire risk<br>Fire protection plan<br>Defensible space plan  |
| Road name, BCRC 12-624(A)                                 | Shall have unique road names   | Oxbow Road  |
| Road standards, BCRC 12-624(B)                            | Road networks shall be designed and constructed to private road standards set forth in Appendix A of BCRC.                   | Engineered road plan submitted in compliance with BCRC Appendix A.  |
| Legal access, BCRC 12-624(C)                              | Legal access meeting road standards per BCRC 12-624(B)   | Engineered road plan submitted in compliance with BCRC Appendix A and BCRC 12-624(B).   |
| Direct frontage, BCRC 12-624(D)                           | All proposed lots less than five (5) acres gross shall have direct frontage on, and direct access to, a public right of way. | All proposed lots will front on a private road (C832-05: Condition A-7(4)).   |
| Natural hazards, BCRC 12-626(A)                           | Shall meet the requirements of chapter 7, "Environmental Standards"  | Development will comply   |
| Environmental Standards, BCRC 12-626(B)                   |  |   |
| Grading; Stormwater, Erosion Control BCRC 12-720 et. seq. | Professional Stormwater Plan   | Provided professional Stormwater Plan   |
| Wetlands, BCRC 12-730 et. seq.                            | Shall meet the requirements of chapter 7, "Environmental Standards"  | Development will comply   |

| BCRC                                       | Required  | Provided                      |
|--|---|-------------------------------|
| Wildlife, BCRC 12-740 et. seq.             | Mitigation measures as determined by IDFG or U.S. Fish and Wildlife | See Comments provided by IDFG |
| Preliminary plat requirements, BCRC 12-642 | Plat contents   | Application deemed complete   |

**G. Stormwater plan:** An engineered road & stormwater management plan was required pursuant to BCRC 12-720.2(A). The plan is provided by James A. Sewell and Associates, LLC. The plan calls for temporary erosion controls during development. Plans for permanent erosion and stormwater controls, as well as their maintenance, are also included. Details can be found in the submitted plan.

**H. Agency Review:** The application was routed to agencies for comment on February 18, 2020.

|   |                              |
|---|------------------------------|
| Avista Utilities                          | Northern Lights, Inc.        |
| Bonner County Road & Bridge Department    | Northside Fire District      |
| Idaho Department of Environmental Quality | Panhandle Health District    |
| Idaho Department of Lands - Sandpoint     | TIC, LLC Utilities           |
| Idaho Department of Water Resources       | U.S. Army Corps of Engineers |
| Idaho Transportation Department           | School District #84          |
| Bonner County Schools Transportation      | Idaho Fish and Game          |

Idaho Department of Environmental Quality responded with a standard 5-page comment sheet of recommendations. The Idaho Department of Environmental Quality (DEQ) does not review projects on a project-specific basis.

Idaho Fish & Game provided attached comments and recommendations.

**All other agencies replied "No comment" or did not reply.**

**I. Public Notice & Comments:**

*No public comment was received on this proposal.*

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**Findings of Fact**

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1. The site is ±9.8 acres.
2. The site is zoned as Recreation.
3. The development will include (19) lots, including 17 residential lots and two open-space lots, ranging in size from 6612 sf to 4.87 acres.
4. The does contain wetlands.
5. The site does not contain other special or hazardous environmental areas.
6. Access will be provided by the proposed westerly extension of the private Oxbow Drive, which will be developed with a 26 foot wide, paved, fire code compliant roadway located within a 30 foot wide private right of way.
7. Water and sewer will be provided by TIC, LLC Utilities, per 2/21/21 "will serve" letter.

8. The site will be served by Northside Fire, Avista Utilities, and Bonner School District #84.
9. Some features of this proposal, including some proposed depth-to-width ratios, minimum lot sizes, and the usage of a private road, are dependent on a previously approved PUD (C832-05). Not all of the Conditions of Approval of this PUD have been fulfilled.
10. The PUD (C832-05) was based on a higher density than is proposed in this case. This would indicate a need to revise the conditions of approval of PUD C832-05 to reflect the new and lessened development intensity.
11. PUD C832-05 needs to be revised, as a condition of this preliminary approval.

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## **Conclusions of Law:**

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

### Conclusion 1

The proposed subdivision **is** in accord with the purposes of this Title and of the zone district in which it is located.

### Conclusion 2

The site **is** physically suitable for the proposed development.

### Conclusion 3

The design of the proposed subdivision **will not** adversely impact Bonner County's natural resources, as identified in the comprehensive plan. Any adverse impacts or potential for impacts shall be mitigated as a condition of approval.

### Conclusion 4

The public and private services, including but not limited to water, sewer services, solid waste, fire protection, emergency services, and school facilities and transportation, which will serve the proposed subdivision **are** adequate for the needs of future residents or users.

### Conclusion 5

The proposed subdivision **will not** cause circumstances to exist that will cause future residents or the public at large to be exposed to hazards to health or safety.

### Conclusion 6

The design of the proposed subdivision or related improvements **will** provide for coordinated access with the county system of roads and with adjacent properties, and **will not** impede the use of public easements for access to, or through the proposed subdivision. The proposed transportation system **is** designed to adequately and safely serve the future residents or users without adversely impacting the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

Conclusion 7

The proposed subdivision **is** designed to comply with the design criteria for subdivisions set forth in Subchapter 6.2 of this chapter.

Conclusion 8

The proposed subdivision **is** in accord with the Bonner County comprehensive plan.

- |                       |                         |                                    |
|-----------------------|-------------------------|------------------------------------|
| •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         |                                    |

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**Conditions of approval:**

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**Required plat notes:**

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The following notes shall be recorded on the face of the final plat:

- A-1** All easements and instrument numbers for ingress, egress and utility, pertaining to this subdivision shall be shown on the face of the plat.
- A-2** "The roads within this subdivision are private, and have not been constructed to county standards for maintenance. The roads shall be maintained at the sole expense of the property owners until such time as it is constructed to county standards for maintenance at no expense to the taxpayers and is dedicated to the public by the lot owners and accepted into the county's maintenance system by the Bonner County Board of Commissioners."

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**Standard and site-specific plat conditions:**

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- B-1** A final plat shall be recorded.
- B-2** A digital copy of the final plat shall be submitted to the Bonner County Planning Department satisfying the requirements of BCRC 12-649.
- B-3** The preliminary plat shall be valid for a period not to exceed two (2) calendar years from the date of approval. At any time prior to the expiration date of the preliminary plat, the applicant may make a written request to the Planning Director for an extension of the preliminary plat for a period up to two (2) years. The Board of County Commissioners may consider such request for extension at any regular business meeting. The extension request must be approved or denied prior to the expiration date of the preliminary plat.
- B-4** 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 and stormwater system as-builts from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. All stormwater facilities shall be installed and functioning as designed or a suitable guarantee of completion shall be in place.

**B-5** Roads providing access to the proposed subdivision shall be constructed in accord with submitted road plan.

~~**B-6** Prior to final plat recording and prior to beginning construction, the subdivider shall submit an amendment to the existing PUD for this site (C832-05) or a new PUD, to reconcile the reduced impacts of this subdivision proposal with the conditions of approval for C832-05. This is necessary, as some features of this proposal, including some proposed depth to width ratios, minimum lot sizes, and the usage of a private road, are dependent on the previously approved PUD (C832-05).~~

## **VARIANCES**

**File V0007-21 – Variance – Street Setback & Waterfront Bulk Increase - Mary Westberg** is requesting a 10 foot easement setback where 25 feet is required for reconstruction of a home; a zero easement setback where 25 feet is required for construction of an attached two car garage and a bulk increase of 175 sq ft inside the 40 foot shoreline setback. The parcel is zoned Recreation (Rec). The project is located off S Mackinaw Rd in Section 10, Township 60N, Range 4W, 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 Swati Rastogi 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 Marty Taylor, James A Sewell & Associates stated the project will help the landowner. Mr. Taylor presented a more detailed motion.

**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 Frankenback moved to approve this project FILE V0007-21 requesting street setback variance for reconstruction of the existing dwelling from the required 25 feet to 10 feet, a street setback variance for an attached two-car garage from the required 25 feet to 0 feet, and a bulk increase variance for an increase in the deck area from 794 square feet to 969 square feet, 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 Frankenback 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 Glasoe seconded the motion.

Upon further discussion, Commissioner Frankenback amended his motion as follows: Amend Condition A-1 to read "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 and the development shall be accomplished in accordance with the site plan". Glasoe 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:** [acreage, # of lots, site use. etc.]

- Parcel Area: 0.74 acres
- Zone: Recreation (REC)
- Use: Dwelling (built in 1959), Waterfront Boat Dock and Waterfront Pier (built in 1985), Residential Utility Shed (built in 2009) and a Boat Lift (built in 2015.)
- The property was platted as Lot 37 in Block 1 of State Subdivision – Hunt Creek in 2013 and is recorded in Plat Book 10 at Page 159 through Instrument #840099.

### **B. Access:**

- The property has access from South Mackinaw Road that is designated as a privately maintained Local Road by Bonner County Road and Bridge Department.

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

- Site contains both 15-29% and over 30% mapped slopes. (USGS)
- The site does not contain any mapped wetlands. (USFWS)
- Site fronts on Priest Lake.

### **D. Services:**

- Water: The site drafts from Priest Lake
- Sewage: Subsurface Individual System
- Fire: West Pend Oreille Fire District
- Power: Northern Lights
- School District: Bonner School #83 District

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

| <b>Compass</b> | <b>Comp Plan</b>               | <b>Zoning</b> | <b>Current Land Use &amp; Density</b> |
|----------------|--------------------------------|---------------|---------------------------------------|
| Site           | Resort Community (0-2.5 acres) | Recreation    | Dwelling                              |
| North          | Resort Community (0-2.5 acres) | Recreation    | Dwelling                              |
| East           | Remote Ag/Forest (40+ acre)    | Forest 40     | Forest Land                           |
| South          | Resort Community (0-2.5 acres) | Recreation    | Dwelling                              |
| West           | Priest Lake                    | Priest Lake   | 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:

- (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 overall property includes slopes averaging nearly 40 percent. In addition, the lot is bisected by the South Mackinaw Road 30 foot wide access easement. Slope constraints and the access location severely restrict the building envelop making it not possible to comply with all setbacks. (See highlighted building envelop on as-built site plan, attached.)"*

**Staff:** South Mackinaw Road divides the property in two parcels of land. The west half (approximately) of the subject property has mapped slopes of over 30%, as per Unites States Geological Survey (USGS).

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

*Applicant: "The property was developed with a residence around 1959. The state platted the property in 2013 creating an easement that bisects the lot resulting in a building envelop as shallow as nine feet. The applicants acquired the property in 2016. These conditions and circumstances do not result from the actions of the applicant."*

**Staff:** The property was platted in 2013 as Lot 37 of Block 1 of State Subdivision – Hunt Creek. It was acquired by the applicant in 2016 through Instrument #893340.

- (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 house location increases the lake front setback promoting the public's interest. The 32 lineal feet of garage frontage along the easement will maintain a 10 foot to 12 foot setback from the actual road travelway. Thus, sufficient area will be reserved allowing for the continued private maintenance of South Mackinaw Road. Consequently, the project as designed will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject lot." [See additional responses to the Comprehensive Plan Goals and Objectives.]*

**Staff:** There have been 3 public comments received in favor of this proposal.

Idaho Department of Environmental Quality say that they do not review projects on a project-specific basis but encourage the applicant to review their environmental guide for local governments.

Idaho Department of Fish and Game raise concerns regarding the increase of bulk of the structure within the 40 feet waterfront setback which may impact the water quality of Priest Lake negatively. The agency suggests creating an effective stormwater management plan to mitigate the negative impacts of any excess runoff into Priest Lake.

**G. Stormwater plan:** A stormwater management plan was required pursuant to BCRC 12-720.2.

**H. Agency Review:** The application was routed to agencies for comment on March 30, 2021.

Bonner County Floodplain Review  
Bonner County Road and Bridge  
Idaho Department of Environmental Quality  
Idaho Department of Fish and Game  
Idaho Department of Lands – CDA  
Idaho Department of Lands – Navigable Waters and Mining  
Idaho Department of Lands – Coolin  
Panhandle Health District  
Northern Lights, Inc.  
West Pend Oreille Fire District  
U.S. Army Corps of Engineers

**The following agencies commented:**

|                                     |                |
|-------------------------------------|----------------|
| Department of Environmental Quality | April 19, 2021 |
| Idaho Department of Fish and Game   | April 19, 2021 |

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

|  |                |
|--|----------------|
| Bonner County Road and Bridge Department | April 09, 2021 |
|--|----------------|

**All other agencies did not reply.**

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

The following public comments were received:

*"We are all for you building what you want to build where you want to build it."*

-Jack Robinson, March 29, 2021

*"Thank you for the very thoughtful and informative email about your proposed future cabin building project. We certainly appreciate and have personally experienced the challenges of building on Mackinaw Road. We are happy to support you and wish you the best in pursuing your cabin dream."*

-Barbara Braff, March 28, 2021

*"We are in favor of granting the easement setback variances as requested".*

-Jeff and Tina Johnson, April 08, 2021

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## **Findings of Fact**

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1. The proposal was reviewed in compliance with the criteria and standards set forth in BCRC 12-238, BCRC 12-328, BCRC 12-412.
2. The subject property is 0.74 acres in size and is located in the Recreation District (REC).
3. The property fronts on Priest Lake.
4. The property is accessed from South Mackinaw Lane, designated as a privately owned Local Road by the Bonner County Road and Bridge Department.
5. The property is currently developed with a Dwelling (built in 1959), Waterfront Boat Dock and Waterfront Pier (built in 1985), Residential Utility Shed (built in 2009) and a Boat Lift (built in 2015.)
6. The property was platted as Lot 37 in Block 1 of State Subdivision – Hunt Creek in 2013 and is recorded in Plat Book 10 at Page 159 through Instrument #840099.
7. The applicant bought the property in 2016 through Instrument #893340.
8. The property has mapped steep slopes (over 30%), as per USGS.

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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 and the development shall be accomplished with the site plan. Glasoe seconded.

**A-2** A Building location permit complete with a stormwater management plan and erosion.

**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 V0006-21 – Variance – Front Yard & Waterfront Setback and Bulk Increase – Rolf Paulson** is requesting a 15 foot street setback where 25 feet is required, a 35 foot shoreline setback where 40 feet is required and a bulk increase in order to build a two-story residence to replace the current cabin. The parcel is zoned Rural 5 (R-5). The project is located off Bailey Ln in Section 10, Township 62N, Range 4W, 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 Swati Rastogi 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 Rolf Paulson gave a brief summary of his project stating they would like to maintain as many trees as possible on their property.

**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 approve this project FILE V0006-21 requesting a street setback variance from the required 25 feet to 15 feet, shoreline setback variance from the required 40 feet to 35 feet and a bulk increase variance, on a property zoned Rural 5 District and addressed as West 110 feet of Lot 29 of Sandpiper Shores Subdivision in Section 10, Township 62 North, Range 4 West, Boise Meridian, 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. 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 Frankenbach 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:**

- Parcel Area: 0.24 acres
- Use: Residential Dwelling
- Zone: Rural 5 (R-5)
- Land Use Designation: Rural Residential

### **B. Access:**

- Bailey Lane
  - i. Public right-of-way.
  - ii. Road Class: Local Road
  - iii. Surface Type: Asphalt

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

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site contains a river/stream/frontage on Priest lake.
- Soil Type: Pywell-Hoodoo complex, 0 to 1 percent slopes
  - i. Farmland Classification: Prime farmland if drained.
  - ii. Drainage Class: Very poorly drained.

### **D. Services:**

- Water: Sandpipers Shores Master Utility. Community well.
- Sewage: Sandpipers Shores Master Utility sewer system. Treatment, lagoon and draining field.
- Fire: North of the Narrows Fire
- School District: Bonner School #83

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

| <b>Compass</b> | <b>Comp Plan</b>  | <b>Zoning</b> | <b>Current Land Use &amp; Density</b> |
|----------------|-------------------|---------------|---------------------------------------|
| Site           | Rural Residential | Rural 5 (R-5) | Residential                           |
| North          | Rural Residential | Rural 5 (R-5) | Productivity Forest Land              |
| East           | Rural Residential | Rural 5 (R-5) | Residential                           |
| South          | Rural Residential | Rural 5 (R-5) | Priest Lake                           |
| West           | Rural Residential | Rural 5 (R-5) | 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:

- (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: "Brief History: 1. Original plot for lot 29 had the north boarder extending 200 feet from the cul-de-sac to the water's edge (1966). 1979, developer Orville Bailey pushed sand out into the lake and created additional parcels by creating an east side property line at 110 ft along the canal. Lot 29 was then split into 29A and 29B. This was done during the off-season when nobody was there to see this activity. Unknown how Mr. Bailey received approval for this. Dr. Eric Paulson was unable to fight this as it was done. Lots 29A north boarder is now only 50 ft. The placement of a reasonable sized cabin on the lot would require the removal of trees and placing the new structure very close to the neighbor on 29B. Approval of this variance would not require any tree removal. Neighbor at 28B is hopeful this variance will be approved. Neighbor at lot 28 is also agreeable as there is good separation with trees."*

**Staff:** Area of the subject property is 0.24 acres and is currently zoned as Rural 5 (R-5). It was developed with a dwelling built in 1975, a residential detached garage built in 1975, Waterfront Boat Deck built in 2000 and a Boat Lift built in 2015. It abuts a cul-de-sac to the north and a canal to the south. The required setbacks from the north property line and the south property line are 25 feet and 40 feet respectively.

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

*Applicant: "As described above, the previous developer of Sandpiper Shores created the conditions that make a building site difficult on Lot 29A."*

**Staff:** Lot 29 as originally platted in June 1970, with the Sandpiper Shores Subdivision plat, consists of the subject property as well as part of the adjacent lot that is described as Lot 29 less west 110 feet of Sandpiper Shores Subdivision. The adjacent property was recorded in its current form through

instrument #393104 in 1991, thereby splitting Lot 29 into two pieces – the subject property and the adjacent lot. Later, the subject property was recorded in its current form through instrument #522233 in 1998.

- (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 approval of this variance will not impact the use of the lot or the neighborhood in any way. Rejection of this variance will result in a replace cabin built close to the neighbor's cabin in lot 29B thereby reducing the value of both properties. Additionally, trees will need to be removed." [See additional responses to the Comprehensive Plan Goals and Objectives.]*

**Staff:** Idaho Department of Environmental Quality say that they do not review projects on a project-specific basis but encourage the applicant to review their environmental guide for local governments.

Idaho Department of Fish and Game raises concern over the proposed bulk increase. The department states *"Additional bulk in this case will increase square footage well within the 40' minimum setback, and have the possibility to negatively affect the water quality of Priest Lake. Priest Lake homeowners regularly express concerns about both the water quality of the lake and fisheries within it. If variances to Code become regularly allowed for, we would expect that to lead to modified shorelines, increased nutrient inputs to the lake, declines in water quality, and subsequent negative affects to the fishery."*

One public comment was received in support of the variance request stating that the small size and the odd shape of the lot creates unique conditions on the property and that denial of the request would create an unfair burden on the property owner.

**G. Stormwater plan:** A stormwater management plan was required pursuant to BCRC 12-720.2 due to proximity of the site to Priest Lake, as well as updating the lot coverage.

#### **H. Agency Review**

The application was routed to agencies for comment on April 06, 2021.

Idaho Department of Environmental Quality  
Idaho Department of Fish & Game  
Idaho Department of Lands – Coolin  
U.S. Army Corps of Engineers  
U.S. Forest Service

Bonner County Floodplain Review  
Bonner County Road & Bridge  
North of the Narrows Fire District  
Panhandle Health District

#### **The following agencies commented:**

*Idaho Department of Environmental Quality*  
*Idaho Department of Fish and Game*

*April 27, 2021*  
*April 23, 2021*



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

*None.*

**All other agencies did not reply.**

**I. Public Notice & Comments**

The following public comments were received:

*Mark Elison Hoversten, PhD, AICP, FASLA (Certified Planner)      April 22, 2021*

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**Findings of Fact**

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1. The proposal was reviewed in compliance with the criteria and standards set forth in BCRC 12-411, BCRC 12-711 and BCRC 12-238.
2. The subject property is 0.24 acres in size and is located in the Rural 5 (R-5) zone.
3. The property is accessed through Bailey Lane.
4. The property was platted in 1970. However, it was split in two parcels in 1991 through instrument #393104, creating the subject property as it exists in its current form. The property was later bought by the applicant in 1998.
5. The property is developed with a dwelling (built in 1975), a residential detached garage (built in 1975), Waterfront Boat Deck (built in 2000) and a Boat Lift (built in 2015).
6. The property abuts a cul-de-sac to the north and a canal to the south. The required setbacks from the north property line and the south property line are 25 feet and 40 feet respectively.

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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** A Building location permit complete with a stormwater management plan and erosion control shall be approved prior to building.

**File V0004-21 – Variance – Front Yard Setback - Michael & Tina Kosmicki** are requesting a 10' front yard setback where 25' is required for the construction of a detached garage. The parcel is zoned Rural 5 (R-5). The project is located off Wooded Acres Dr in Section 35, Township 57N, Range 3W, 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 Chad Chambers 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 Tina Kosmicki stated their intentions to make the property their full time residence and commented on future access to the property.

**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 approve this project FILE V0004-21, variance to permit the applicants to construct a detached garage with a 10' street setback where a 25' street setback 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 Bradish 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 Frankenbach 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:**

- The site is currently used as a residence. The applicants are applying for a variance to construct a detached garage with a 10' setback where a 25' setback is required for any structure to the property line.
- Platted Parcel
- Size: 0.41 acres
- Zone: Rural 5 acre (R-5)
- Land Use: Rural-Residential (5-10 AC)

### **B. Access:**

- Access is provided by Wooded Acres Drive, a road owned and maintained by the county.

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

- Site does not contain mapped slopes of 15% or greater. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does contain a river/stream/frontage on lake (Pend Oreille River is north of the property)
- JRJ, 4.12.2021: Parcel is within SFHA Zone X and Zone AE, per FIRM Panel 16017C0925E, Effective Date 11/18/2009; FIRM Panel 16017C0695E, Effective Date 11/18/2009. Per site plan, project site will be within SFHA Zone X. No further floodplain review is required on this proposal.

### **D. Services:**

- Water: community well
- Sewage: Westwood Acres
- Fire: Selkirk Fire, Rescue & EMS
- Power: Avista
- School District: Bonner School District #84

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

| <b>Compass</b> | <b>Comp Plan</b>            | <b>Zoning</b> | <b>Current Land Use &amp; Density</b> |
|----------------|-----------------------------|---------------|---------------------------------------|
| Site           | Rural-Residential (5-10 AC) | Rural-5 (R5)  | Residential                           |
| North          | Rural-Residential (5-10 AC) | Rural-5 (R5)  | Pend Oreille River                    |
| East           | Rural-Residential (5-10 AC) | Rural-5 (R5)  | Residential                           |
| South          | Rural-Residential (5-10 AC) | Rural-5 (R5)  | Residential                           |
| West           | Rural-Residential (5-10 AC) | Rural-5 (R5)  | 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:

- (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 ordinance standard is a 25ft offset from the front property line to any structure. We purchased the home approximately 3 years ago. Due to the grade of the lot and the location of the house on the property (not our decision), the current driveway slope is about 10% from the road down to the home. Driveway is unusable in winter if you make it down it, you must take a "run at it" to hope you make it and then you are entering the road, which is a safety hazard depending on who is on the road. This is also the case in the summer if there is any rain or gravel on the driveway. In addition, depending on the amount of snow, there are times when it is not possible to descend safely, and we end up parking on the road. This is not ideal due to interfering with snowplows, and often the previously plowed berms require us to park in the right of way. This will allow us to park off the road and safely enter the road"*

**Staff:** The property appears to slope down from the access road. The original plat approved by the county recorder in 1990 shows block 1 lot 7 as the same 0.41-acre lot as it is today.

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

*Applicant: "We purchased the home approximately three years ago. We have made no modifications to the current parcel or location of the home on the parcel. The house is centered within the property east to west. Due to the location of the house, there is not enough buildable space to the east of the house and maintain the front yard offset of 25 feet. By reducing the front yard offset to 10', the garage can be constructed toward the front of the house and allow for better year around access to off road parking. In addition, due to the slope of the property, the further off the road we go, the lower the garage floor goes, or back wall will be in excess of 16' tall. Ideally, we would go even closer to the road, but we think this distance will remove the safety hazard."*

**Staff:** The property abuts a shoreline and the topography in which the driveway is situated does not result from the actions of the applicant. Per Bonner County records, the existing home was built in 1992. The applicants acquired the property in 2017 per Instrument No. 915451.

- (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: "By granting the variance, it will allow us to build a garage on the property where vehicles could be parked year around to prevent us from parking on the road as well as enter the road safely. This will not be detrimental to public health, safety, welfare, materially injurious to properties near us, and improve safety with respect to vehicular egress from the property and beneficial to public health. It is very compatible to our neighbor to the west, as he did also build a detached garage off the road. The variance will not result in an obstruction of public access. There will not be an impact on adjoining properties such as noise, light, glare, odor, fumes, or vibration. The garage will also not impair visibility of any neighbor to the lake or views in the area. There is not conflict in public interest, and it will not interfere with road maintenance, etc."*

**Staff:** The variance request aligns with the comprehensive plan (otherwise known as "comp plan") goals and objectives insofar as the rural residential comp plan permits residential development. Given there aren't mapped slopes of 30% or greater (which are recognized as poor areas for residential development per the comp plan), the request to construct a detached garage is aligns with the comprehensive plan. Furthermore, the granting the variance is not in conflict with the public interest as we have received no agency or public comments objecting to the construction of a detached garage situated closer to the roadway.

### **G. Stormwater plan**

A stormwater management plan is required pursuant to BCRC 12-720.2 since the detached garage is within 300' of a river (**see condition A-3**).

### **H. Agency Review**

The application was routed to agencies for comment on April 6, 2021.

Panhandle Health District  
Bonner County Road Dept.  
Selkirk Fire, Rescue & EMS  
Avista Utilities  
School District #84  
Dept. of Lands (Sandpoint)  
Dept. of Transportation  
Forest Service

Dept. of Water Resources  
Army Corps (Coeur d'Alene)  
Army Corps (Newport)  
Fish and Wildlife Service  
Dept. of Fish and Game  
Dept. of Env. Quality  
Dept. of Lands, Nav. Waters  
State Historical Society

### **The following agencies commented:**

Bonner County Road & Bridge: "The Road & Bridge Department has no objections to the V0004-21 proposed 10ft setback variance to Wooded Acres Drive. This

setback will be sufficient so as to not interfere with the County's road maintenance operations." – comment rec'd April 9,2021

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

Idaho Department of Lands (IDL), April 6, 2021  
Panhandle Health District, April 13, 2021  
Idaho Department of Fish & Game, April 22, 2021

**All other agencies did not reply.**

**I. Public Notice & Comments**

The following public comments were received:

No comments were rec'd for this file as of April 26, 2021.

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**Findings of Fact**

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1. This proposal was reviewed for compliance in accordance to the standards and criteria set forth by BCRC 12-234 Variances, Standards for Review of Applications, and BCRC 12-400, et seq., Density and Dimensional Standards.
2. The property is 0.41 acres and is located off Wooded Acres Drive in the Rural 5-acre zone.
3. The subdivision and lot (instrument no. 378522) was originally recorded in the book 4 page 97 of plats in the recorder's office on August 1, 1990.
4. The dwelling on the property was built in 1992, and the residential shed, boat slip, waterfront boat deck, boat lift, jet ski lift, and residential paving was added in 2000.
5. A permit was issued in 2018 (permit no. 2018-0582) to increase the size of the deck. Another permit was issued for an addition above the existing garage in 2019 (permit no. 2019-0055). As of 09.03.2020, the house was 85% complete. An email was sent on 12.31.20 to inquire about the progress of the project, and the landowner stated they were hoping to complete the addition by July 2021.
6. The site is served by Westwood Acres sewer and water district, Selkirk Fire District, and Avista Utilities.
7. The existing home on the property has an attached garage.

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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 landowners must apply for a building location permit with the Bonner County Planning Department, prior to the start of constructing the detached garage.
- A-3** Obtain and submit a stormwater management plan to the Bonner County Planning Department as required pursuant to BCRC 12-720.2 since the detached garage is within 300' of a river.

**CONDITIONAL USE PERMITS**

**File CUP0006-21 – Conditional Use Permit – Duplex – Joseph & Ashlee Schultheis and Kevin & Jennifer Schneider** are requesting a conditional use permit to constructing a duplex on a 0.46-acre parcel. The property is zoned as Alpine Village (AV). The project is located off Telemark Road in Section 20, Township 58 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 Chad Chambers 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 Kevin Schneider stated they are in agreement with all conditions staff have requested.

**PUBLIC/AGENCY TESTIMONY:** Tim Boden spoke on the record with questions about the application regarding setbacks.

**APPLICANT REBUTTAL:** Director Ollerton responded to public comments regarding setbacks stating Alpine Village setbacks have not been changed, they remain 15 feet. Applicant Kevin Schneider stated they have no problem keeping to the 60% front coverage and they will be well within their 15 foot setback.

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

**MOTION:** Commissioner Davis moved to approve this project CUP0006-21, a conditional use permit to construct a multi-family duplex off Telemark Road in the Alpine Village Zone (in the Schweitzer community), 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 Davis further moved to adopt the following findings of fact and conclusions of law as written and amended A-1 The use shall be developed and shall be operated in accordance with the approved site plan which shall include a 15 foot side setbacks and a 60% front coverage. 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.

Upon further discussion Commissioner Davis amended his motion as follows: Commissioner Davis moved to approve this project CUP0006-21, a conditional use permit to construct a multi-family duplex off Telemark Road in the Alpine Village Zone (in the Schweitzer community), 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 Davis further moved to adopt the following findings of fact and conclusions of law as written and amended A-1 The use shall be developed and shall be operated in accordance with the approved site plan which shall include a **minimum** 15 foot side setbacks and a **minimum** 60% front coverage. 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.

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## **Background:**

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

- A.** The site is currently vacant; the applicants are applying for a conditional use permit to construct a multi-family duplex vacation residence.
- B.** Platted Parcel
- C.** Size: 0.46 acres



- D. Zone: Alpine Village (AV)
- E. Land Use: Alpine Village (0-2.5 AC)

**B. Access:**

- Access is provided by Telemark Road, which is maintained by the Independent Highway District. The road is not county maintained.

**C. Environmental factors:**

- Site is composed of slopes greater than 30%. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake.
- ABS: Entire parcel is SFHA Zone X, per FIRM Panel #16017C0705E, Effective Date 11/18/2009. No further flood review needed.

**D. Services:**

- Water: Schweitzer Basin Water Co.
- Sewage: Mountain Utility Company
- Fire: Schweitzer Fire District
- Power: Northern Lights, INC
- School District: Bonner School District #84

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

| Compass | Comp Plan        | Zoning              | Current Land Use & Density |
|---------|------------------|---------------------|----------------------------|
| Site    | Alpine Community | Alpine Village (AV) | Currently vacant           |
| North   | Alpine Community | Alpine Village (AV) | Currently vacant           |
| East    | Alpine Community | Alpine Village (AV) | Currently vacant           |
| South   | Alpine Community | Alpine Village (AV) | Currently vacant           |
| West    | Alpine Community | Alpine Village (AV) | Currently vacant           |

**F. Standards of 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 12-220, et seq, conditional use permit, application and standards**

- The application was routed for agency review on April 6, 2020, and Bonner County Planning Department received no agency comments objecting to the proposed project.
- **BCRC 12-332 Residential Use Table**
  - (2) For the S, C, RSC, REC and AV, the required acreage for a duplex shall be 15,000 square feet where all urban services are provided, 1 acre where urban sewer is provided, and 2<sup>1</sup>/<sub>2</sub> acres elsewhere.
  - (6) Multi-family dwellings with a minimum of 12,000 square feet of lot area for the first unit, plus 3,000 square feet for each additional unit; provided, that all urban services are available.
  - The applicant's lot is approximately 0.464 acres ≈ 20,211.84ft<sup>2</sup>
- **BCRC 12-4.2, Performance standards for all uses**
- **BCRC 12-4.3, Parking standards**
  - The duplex meets the minimum standard for 2 off-street parking spaces total (1 per dwelling)
- **BCRC 12-4.4, Sign standards**
  - There are no proposed signs.
- **BCRC 12-4.5, Design standards**
  - Per BCRC 12-4.53: "Developments in the alpine village district shall be exempted from these requirements."
- **BCRC 12-4.6, Landscaping and screening standards**
  - The applicant must submit a landscape plan for their conditional use permit per BCRC 12-4.62 (**see condition A-8**).
- **BCRC 12-4.7, Standards for development in Alpine Village District**
  - BCRC 12-471: (D). Parking requirements for residential uses shall be two (2) off street spaces per dwelling unit, or one space per one thousand (1,000) square feet of floor area (living space), whichever is more.
    - Each dwelling unit is 840ft<sup>2</sup> 2-story structure, which means that there is approximately 1,680ft<sup>2</sup> of dwelling space per duplex unit; thus, there should be 3 off-street parking spots, given the total 3,360ft<sup>2</sup> dwelling space.
- **BCRC 12-4.8, Standards for specific uses**
  - Construction will take place during the normal business hours of 0800-1700; given the hours of construction and surrounding vacant lots, there shouldn't be a noise disturbance.
- **BCRC 12-7.2, Grading, stormwater management and erosion control**

- BCRC 12-7.2.2 E. The applicants proposed duplex is situated within 300' of a slope with 15% or greater. Thus, they must submit a grading, stormwater management and erosion control plan (**see condition A-7**).
- BCRC 12.722.3 B. For building location permits or building permits which would result in less than four thousand (4,000) square feet of land disturbing activity at the site, the applicant shall submit a grading/erosion control plan as required at section [12-724.2](#) of this subchapter, prior to land disturbing activities. (Ord. 524, 1-11-2012)
- **BCRC 12-7.5, Flood damage prevention**
- **BCRC 12-7.6, Hillsides**
  - The parcel of the proposed duplex requires a geotechnical analysis as it is mapped by the USGS as having 30% slopes or greater (**see condition A-6**).

**G. Comprehensive Plan Land Use Designation: Alpine Community**

The Alpine Community is established to recognize the challenges of higher density development in higher elevations of Bonner County generally above 3,500 feet elevation, where urban services are provided, but a range of road types developed in mountainous conditions serve the area. Specific design standards to address steeper slopes and heavy snowfall will govern these areas.

**H. Stormwater plan:** A stormwater management plan was required pursuant to BCRC 12-7.2.

**I. Agency Review**

Panhandle Health District  
 Schweitzer Fire District  
 Mountain Utility Company  
 Dept. of Env. Quality  
 School District #83  
 State Historical Society

Dept. of Water Resources  
 Idaho Department of Water Resources  
 Applicable School District #84  
 Independent Highway District  
 Forest Service

**The following agencies commented:**

Independent Highway District: "The IHD has no comments on this project as long as the project follows the Bonner County Alpine standards and the IHD Alpine Road Standards. All other requirements will need to apply along with utility approval."

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

Panhandle Health District, April 8, 2021

**All other agencies did not reply.**

## J. Public Notice & Comments

Public comment rec'd April 27, 2021

- Summary of concerns:
  - Inadequate snow storage (concerns over snow being pushed to neighboring properties)
  - Structure exceeds 60% street frontage permitted by the Alpine Village zoning
  - Lot size is approximately 20,000ft<sup>2</sup>, and does not satisfy requirements for multiple units per Alpine Village zoning.
  - Concerns over the 35' centerline road setback

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## Findings of Fact

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1. Joseph Schultheis and Ashlee Schultheis along with Kevin Schneider and Jenny Schneider are the lawful owners of the property. They became the grantees of the property on January 19, 2021, which was recorded in book 3 of plats, page 21 with the records of Bonner County, Idaho on January 25, 2021 (instrument no. 974921).
2. The property is served by Schweitzer Fire District, Schweitzer Basin Water Co for water, Mountain Utility Co for wastewater, and Northern Lights Inc. for power.
3. The property is accessed via Telemark Road, a road not maintained or owned by Bonner County.
4. There are currently no structures on the property, and the adjacent properties are vacant (per the latest imagery available on Bonner County's current GIS map).

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## Conclusions of Law:

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

### Conclusion 1

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

- |                       |                         |                                    |
|-----------------------|-------------------------|------------------------------------|
| •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

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth in Bonner County Revised Code, Title 12.

Conclusion 3

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

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**Conditions of approval:**

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

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- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All site plan 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** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and 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.
- A-6** All signage shall conform to standards set forth in BCRC 12-4.4
- A-7** All lighting shall conform to standards set forth in BCRC 12-453(F)
- A-8** All solid waste collection areas shall conform to standards set forth in BCRC 12-453(K).
- A-9** A landscaping plan per BCRC 12-486B, shall be submitted to the Planning Department at the time of building location permit.

**I. Agency Review**

|   |                                     |
|---|-------------------------------------|
| Bonner County Schools – Transportation    | Idaho Department of Water Resources |
| Idaho Department of Fish and Game         | Bonner County Road Department       |
| Idaho Department of Environmental Quality | U.S. Fish and Wildlife Service      |
| Idaho Department of Lands (Sandpoint)     |                                     |

**The following agency comments were received:**

Idaho Fish and Game – Wildlife-friendly fence, 24 hour lighting with shield light down ward, bear-proof dumpsters.

**No other agencies responded.**

**J. Public Notice & Comments:**

*Anonymous: Office Location? and fencing?*

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**Findings of Fact**

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1. The property fronts Dickensheet Rd. in Coolin.
2. The proposed use is well aligned with the development and use of adjoining parcels.
3. The site is flat.
4. There are no water features on the property.
5. The parcel is designated 'Rural Service Center'.
6. The site does not feature slopes greater than 15% per USGS.
7. The site is adequately served with sewer and water services.

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**Conclusions of Law:**

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

Conclusion 1

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

Land use:

The Rual service center area is designed to provide light commercial uses to serve the needs of the rural communities and tourist trade without adversely affecting residential neighborhoods. Urban services and primary transportation systems, such as the state highways or major/minor collector roads are required.

areas or adjoining premises, except that any use permitted by this title may be undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits.

- BCRC 12-4.3, Parking standards  
The purpose of this subchapter is to provide adequate parking spaces for uses.(Ord. 501, 11-18-2008) Staff finds that there is adequate parking for this mini storage.
- BCRC 12-4.4, Sign standards  
The sign is existing and meets the general standards.
- BCRC 12-453, Design standards  
The standards in section 12-453 of this chapter shall apply to all new development in the commercial, industrial where commercial uses and services are proposed, and rural service center districts and all other commercial, multi-family, public and industrial development in other zoning districts unless otherwise noted. (Ord. 512, 1-6-2010) Staff finds that there is adequate space for sidewalk or a pathway.
- BCRC 12-460, Landscaping and screening standards  
Landscaping plan required  
Please see condition A-9
- BCRC 12-486, Standards for Mini Storage.  
The applicant, as detailed in the site plan is asking for a 70' setback from the state highway where 100' is required.
- BCRC 12-7.2, Grading, stormwater management and erosion control  
The applicant has provided a stormwater plan for the site.

## **G. Comprehensive Plan Land Use Designation**

Rural Residential: The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

**H. Stormwater plan:** Stormwater management plan was required pursuant to BCRC 12-7.2. A plan was submitted.

- Land Use: Rural Residential

**B. Access:**

From Priest River go north on Rte. 57 approx. 22 miles to Dickensheet Road. Go right toward Coolin, and go approx. 7 miles to the site which is on the right.

**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

**D. Services:**

- Water: Private Well
- Sewage: Outlet Bay Water & Sewer
- Fire: Coolin Cavanaugh Bay Fire
- Power: Northern Lights
- School District: #83

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

| Compass | Comp Plan            | Zoning            | Current Land Use & Density |
|---------|----------------------|-------------------|----------------------------|
| Site    | Rural Service Center | Rural Residential | Vacant                     |
| North   | Rural Service Center | Rural Residential | Vacant                     |
| East    | Rural Service Center | Rural Residential | Vacant                     |
| South   | Rural Service Center | Rural Residential | Vacant                     |
| West    | Rural 5              | Rural Residential | 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

- BCRC 12-22, conditional use permit, application and standards
  - The application was submitted and found to be complete
- BCRC 12- 327 Rural Service Center District
  - The rural service center district is established to promote the development of local commercial services in small communities to meet the needs of rural residents as well as limited tourist commercial services and limited light industrial uses consistent with the maintenance of the rural character of the area.
- BCRC 12-4.2, Performance standards for all uses

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions which could adversely affect the surrounding



GIS that meets the provisions of Bonner County Revised Code, Title 13. (For multi-family CUPs).

**File CUP0001-21 – Conditional Use Permit – 40’ X 208’ Storage Units – Janet Langley** is requesting approval to construct two 40’x208’ mini-storage buildings each totaling 8,320 sq. ft on two vacant 0.7-acre parcels located in Merle’s Estates. The property is zoned Rural Service Center. The project is located off Dickensheet Rd. in Section 15, 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:** Assistant Director 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 Representative Travis Haller spoke on the record about agency comments, public comments, and application details. Project engineer Dan Larson spoke on the record about setback information.

**PUBLIC/AGENCY TESTIMONY:** Andrew Fontaine spoke on the record against the project.

**APPLICANT REBUTTAL:** None.

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

**MOTION:** Commissioner Glasoe moved to approve this project FILE CUP0001-21 Langley Properties LLC to construct two mini-storage buildings 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 Glasoe 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 adopted. This action does not result in a taking of private property. Commissioner Bradish 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:**

- Mini Storage facility
- Platted
- Size: Two lots @ 0.70 Acres
- Zone: Rural Service center

7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

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## **Conditions of approval:**

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

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- A-1** The use shall be developed and shall be operated in accordance with the approved site plan which shall include a 15 foot side setbacks and a 60% front coverage.
- 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** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
- A-6** The applicant must submit a geotechnical analysis per BCRC 12-762.
- A-7** The applicant must submit a grading, stormwater management, and erosion control plan per BCRC 12-7.2.
- A-8** The applicant must submit a landscaping plan per BCRC 12-462.
- A-9** Prior to issuance of a building location permit, the owner of the proposed multi-family structure shall obtain an address for the dwelling from Bonner County

**COMMISSIONER & STAFF UPDATES:**

Director Ollerton stated some clerical issues happened and file AM0004-21 will be starting back at the beginning and the file being sent to Agency, etc.; Discussion regarding adding an additional hearing date on June 24, 2021, which the Commission agreed to. Director Ollerton stated staff is receiving fewer variances and more amendments and zone changes at this time.

At 8:15 p.m., the Chair declared the hearing adjourned until May 20, 2021.

Respectfully submitted,



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Milton Ollerton, Planning Director

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The above Minutes are hereby approved this 5<sup>th</sup> day of May, 2021.

Bonner County Planning and Zoning Commission



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Brian Bailey, Chair