

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
THURSDAY, DECEMBER 2, 2021**

CALL TO ORDER: Chair Bailey 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.

PLEDGE OF ALLEGIANCE

PRESENT: Commissioners Chair Brian Bailey, Vice Chair Don Davis, Dave Frankenbach, Sheryl Reeve, Suzanne Glasoe, and Jennifer Casey

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton, Assistant Planning Director Jacob Gabell, Planner I Swati Rastogi, Planner I Chad Chambers, Planner I Daniel Britt, and Administrative Assistant III Da Niel Scott

CHANGES IN AGENDA: None

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 18, 2021. Hearing no changes or objections, the Chair declared the minutes approved as written.

PUBLIC HEARINGS:

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.

ZONE CHANGE

File ZC0031-21 - Zone Change - Cayton Revocable Trust is requesting a zone change from Rural-10 to Rural-5. The 40-acre parcel is located off Langille Canyon Road in Section 13, Township 56 North, Range 6 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 Daniel Britt 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 Dan Provolt, Provolt Land Surveying, Inc., submitted Exhibits A, B, and C and provided comments on surrounding property parcel sizes, existing subdivisions, wetland, property ingress/egress, road standards, comprehensive plan elements, well reports, current site plan, and that no utilities are currently on the property.

Landowner Robin Cayton provided additional information and details on the project including property history and it being heavily logged.

PUBLIC/AGENCY TESTIMONY: The following individual spoke on the record: Asia Williams.

APPLICANT REBUTTAL: Project Representative Dan Provolt responded to public comments regarding roads, property being heavily logged, and water/wells.

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

MOTION TO RECOMMEND APPROVAL: Commissioner Davis moved to recommend approval to the Board of County Commissioners on this project, File ZC0031-21, requesting a Zone Change from Rural-10 to Rural-5, 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 findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. 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 4-1. Commissioners Reeve, Frankenbach, Casey, and Davis voted in favor of the motion; Commissioner Glasoe voted in opposition of the motion.

Background:

A. Site data:

- Use: Vacant
- Unplatted
- Size: 40 acres
- Zone: Rural 10
- Land Use: Rural Residential
- Legal per: #979894

B. Access:

- Property is accessed off Langille Canyon Road, a gravel county-maintained road, and a gravel surfaced easement.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain waterfront or streams. (NHD)
- Parcel is within SFHA Zone X, Shaded Zone X, Zone AE, and Zone AE Floodway, per FIRM Panel 16017C0850E, Effective Date 11/18/2009.
- Soil:
 - Description: Kootenai gravelly ashy silt loam, 0 to 4 percent slope
 - Type: Consociation
 - Drainage: Well Drained
 - Classification: Prime farmland if irrigated
 - Description: Kootenai gravelly silt loam, 20 to 55 percent slopes
 - Type: Consociation
 - Drainage: Well Drained
 - Classification: Not prime farmland

D. Services:

- Water: Individual well
- Sewage: Individual septic
- Fire: West Pend Oreille Fire District
- Power: Northern Lights
- School District: School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural-10	Vacant 30 acres
North	Rural Residential	Rural-10	Residential 17 acres/Vacant 18 acres
East	Rural Residential	Rural-5	Vacant 100 acres
South	Rural Residential	Rural-5	Residential 20 acres/Vacant 51 acres
West	Rural Residential	Rural-10	River

F. Standards Review: Bonner County Revised Code

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
 - The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
 - Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)

Existing Comprehensive Plan 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.

Existing Zoning:

BCRC 12-323: RURAL DISTRICT:

- A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
1. Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
 2. Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
 3. Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
- B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
1. R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - a. Characterized by slopes that are steeper than thirty percent (30%).
 - b. Located within critical wildlife habitat as identified by federal, state or local agencies.
 - c. Contain prime agricultural soils.
 - d. Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or [appendix A](#) (private roads) of this title or are absent.
 - e. Within the floodway.
 - f. Contain limited access to public services.

Proposed Zoning:

BCRC 12-323 RURAL DISTRICT:

- A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
1. Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.

2. Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.

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

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

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

G. Stormwater Plan. A stormwater management plan was not required, pursuant to BCRC 12-720.3(J) because the proposal does not result in the creation of additional" impervious surface", as defined in BCRC 12-809.

H. Agency Review. The application was routed to the following agencies for comment on November 2, 2021:

Panhandle Health District	Idaho Department of Water Resources
West Pend Oreille Fire District	Bonner County Road Department
Northern Lights Utility Company	U.S. Army Corps (Coeur d'Alene)
Bonner School District #83	Army Corps (Newport)
Bonner County Schools - Transportation	U.S. Fish and Wildlife Service
Idaho Department of Fish and Game	Idaho Department of Lands (Sandpoint)
Idaho Department of Environmental Quality	U.S. Forest Service
Idaho Department of Lands, Nav. Waters	

The following agencies provided comment:

Panhandle Health District - "We recommend the applicant contact PHD to assess the septic feasibility of the proposed parcels." November 16, 2021

The following agencies replied "No Comment:"

Idaho Department of Lands - November 3, 2021
 Idaho Department of Fish and Game - November 18, 2021

All other agencies did not reply.

I. Public Notice & Comments. As of November 24, 2021, one comment was received with concerns that increase in density will affect groundwater and wetlands and is opposed to the zone change.

Zone Change Findings of Fact

- The parcel is comprehensive planned Rural Residential.
- The parcel does not contain any slopes greater than 30%.
- The soils found on the parcel are non-prime farmland soils.
- The parcel has access by a Bonner County owned and maintained road and gravel surfaced easement.

- The parcel does not contain any surface water, wetlands, floodplains, or floodways
- The parcel lies within West Pend Oreille Fire District.
- The parcel can be served by an individual well and septic system.
- Power can be provided from Northern Lights.
- The parcel is located near other parcels that are currently developed at or near Rural 5 zoning.

Zone Change Conclusions of Law:

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

Conclusion 1

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

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

Conclusion 2

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

Conclusion 3

The proposal is in accord with the purpose of the Rural 5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

VARIANCE

File V0923-21 – Variance – Depth to Width Ratio – Kolby Schoenrock

is requesting a Depth to Width Ratio variance to create lots approximately 250 feet wide, from the maximum permitted ratio of 3:1 to the proposed ratio of 6:1, based on topographical hardships present on the property. The 16.616-acre property is zoned Rural 5. The project is located at Lot 1 of Montee Estates Subdivision in Section 26, 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 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: Landowner Kolby Schoenrock provided comments regarding steep slopes on the property and subdividing the property into two parcels.

PUBLIC/AGENCY TESTIMONY: The following individual spoke on the record: Rick Demmig.

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Frankenbach moved to approve this project File V0023-21, requesting a Depth to Width Ratio variance for the purpose of creating lots approximately 250 feet wide, from the maximum permitted ratio of 3:1 to the proposed ratio of 6:1, 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 Frankenbach further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. The action that could be taken to obtain the Variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

Commissioner Casey seconded the motion.

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

Background

A. Site data:

- The site is currently undeveloped.
- Platted as Lot 1 of Montee Estates subdivision, per instrument no. 976033, as recorded at Page 19 of Book 16 of Plats, records of Bonner County, Idaho.
- Size: 16.616 acres.
- Zone: Rural 5
- Land Use: Rural Residential
- The subject property is located in Area of City Impact of Sandpoint.

B. Access:

- The site is accessed by Snowgoose Lane, a 60' wide local County owned road. This road has a speed limit of 25 miles per hour.
- The proposed lots are intended to be accessed by a 30' wide access and utility easement.

C. Environmental factors:

- Majority of the site towards west contains mapped slopes of over 30% grade. (USGS)

- Site does not contain mapped wetlands. (USFWS)
- Site does not contain any river, streams or fronts on any waterbodies.
- Site contains the following types of soils:
 - Approximately 75.1% of the site area is covered in Pend Oreille-Rock outcrop complex, not prime farmland soil with a drainage classification of well drained.
 - Approximately 24.9% of the site area is covered in Colburn very fine sandy loam, prime farmland soil, with a drainage classification of somewhat poorly drained.
- Site is located within Flood Zone X, per FIRM panels 16017C0705E and 16017C0710E. It would not require any further floodplain review.
- No critical wildlife habitat areas on the site identified by any local, state or federal agencies.

D. Services:

- Water: The proposed lots will be served by individual wells.
- Sewage: The proposed lots will be served by individual septic and drain field system.
- Fire: Northside Fire District
- Power: Northern Lights
- School District: Bonner School District #84
- Hospital District: Pend Oreille Hospital District
- Ambulance District: Bonner County Ambulance District

E. Comprehensive Plan, Zoning and Current Land Use

Compass Site	Comp Plan	Zoning	Current Land Use & Density
North	Rural Residential	Rural 5	Vacant and undeveloped
	Rural Residential	Rural 5	Undeveloped and forested environment
East	Rural Residential	Rural 5	Vacant and undeveloped
South	Rural Residential	Rural 5	Undeveloped and forested environment
West	Rural Residential	Rural 5	Undeveloped and forested environment

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

- (a) **Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.**

Applicant: "This site does not meet the standard depth to width ratios due to excessive slopes on the western half of the property that reduces the buildable area on-site. Allowing for the nonconforming depth to width ratios in this scenario allows adequate area for the owner to build while still

meeting the other standards required by Bonner County such as minimum lot sizes, required setbacks, etc.”

Staff: The current lot size is 16.616 acres, and the property is located in Rural 5 zoning district. Pursuant to BCRC 12-412, the applicant intends to subdivide the property into two lots that will be both approximately 8 acres in size. The existing lot shows presence of steep slopes (over 30% incline) on the western half, resulting in small buildable area on the eastern half. The applicant is thus requesting this depth to width ratio variance to retain some buildable area on both new lots created.

While these topographical conditions generally apply to other properties in the general vicinity of this property, approval of this request will not set a precedence for other similar requests, as each such request is reviewed on a case-by-case basis and should meet the other criteria listed below.

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

Applicant: "The owner has taken no actions which have impacted the size of the property. The owner is unable to control the topography of the property and is attempting to meet the standards required by Bonner County ordinances."

Staff: The hardships imposed by the steep slopes on the western half of the property are a result of the topography of the land and in no way result from the actions of the applicant.

(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 property is located in an area of the County where Rural 5 is the predominant zoning. This short plat will create only one additional buildable lot which will be in keeping with the subdivision potential of the surrounding area. As such, there will be no additional light, glare, fumes, vibrations, or other external signs that would indicate a more intensive use than that of the surrounding area. This is essentially a rural residential lifestyle lot in an area of the County with a land use designation of Rural Residential and therefore is consistent with the Comprehensive Plan."

Staff: This request for variance is not in conflict with the public interest or will not be detrimental to the public health, safety or welfare as it will lead to a division of the existing lot that is in compliance with the density requirements of the zone in which this property is located. No agency comments were received that indicated that the approval of this variance request would present a conflict with public interest or be detrimental to the public health, safety, or welfare.

G. Stormwater Plan. A stormwater management plan is not required pursuant to BCRC 12-720.3.K since the request for this variance is not leading to addition of any additional impervious surface to the property.

H. Agency Review. The application was routed to the following agencies for comment on November 2, 2021, except that the application was routed to the City of Sandpoint on October 14, 2021:

Panhandle Health District	Northside Fire District
Northern Lights, Inc.	Bonner School District #84
Bonner County Road Department	Bonner County Schools – Transportation
Area of City Impact: Sandpoint	Idaho Department of Fish and Game
U.S. Forest Service	Idaho Department of Environmental Quality
BNSF Railway	Idaho Department of Water Resources
U.S. Fish and Wildlife Service	

The following agencies commented:

- Panhandle Health District - November 15, 2021
"Panhandle Health District (PHD) notes that the application states there is to be individual septic provided for each new lot. PHD has record of septic approval for the parent parcel, however, these new lots have not had approval. We recommend the applicant contact PHD to assess the septic feasibility of the proposed lots."
- Bonner County Floodplain Review - October 28, 2021
"Parcel is within SFHA Zone X, per FIRM Panel 16017C0705E, Effective Date 11/18/2009 & FIRM Panel 16017C0710E, Effective Date 11/18/2009. No further floodplain review is required on this proposal."

The following agencies replied "No Comment:"

- Idaho Department of Fish and Game – November 09, 2021

All other agencies did not reply.

I. Public Notice & Comments. None

Findings of Fact:

1. The property is currently platted as Lot 1 of Montee Estates subdivision, per instrument no. 976033, as recorded at Page 19 of Book 16 of Plats, records of Bonner County, Idaho.
2. The site is accessed by Snowgoose Lane, a 60' wide local County owned road with a speed limit of 25 miles per hour and a 30' wide access and utility easement.
3. The area of the property is 16.616 acres.
4. The zoning of the property is Rural 5.

5. The applicant is proposing to split the lot into two lots where each of the new lots will be approximately 8 acres in size.
6. The depth to width ratio of the proposed lots is 6:1, where a maximum ratio of 3:1 is permitted.
7. The western half of the property shows presence of steep slopes (over 30% grade) creating a topographical hardship for the property owners to divide the property in a way that would allow them to create two usable lots and still maintain the required depth to width ratio as required by BCRC 12-621 Lot Design.

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. See staff analysis above.

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)

Condition of Approval, Standard Permit Condition:

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.

AMENDMENT AND ZONE CHANGE

File AM0019-21 & ZC0032-21 Comprehensive Plan Map Amendment & Zone Change – David Hunter is requesting a Comprehensive Plan Map Amendment from Ag/Forest to Rural Residential and a Zone Change from Rural 10 to Rural 5. The 20-acre project is located off Hunter Road in Section 17, Township 54 North, Range 5 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 Comprehensive Plan and Bonner County Revised Code.

APPLICANT PRESENTATION: Landowner David Hunter provided comments on history of the property, subdividing property, subdividing of neighboring properties, powerline easement, forest service access, road improvements, two residences currently on the property, two wells on the property generating 20 GPM and 6 GPM which is not enough to irrigate property, surrounding property water resources, and 30-foot travel-way along Hunter road.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

Comprehensive Land Use Plan Amendment Motion

MOTION TO RECOMMEND DENIAL: Commissioner Reeve moved to recommend denial to the Board of County Commissioners on this project, File AM0019-21, requesting a comprehensive land use plan amendment from Ag/Forest Land to Rural Residential based upon the following conclusions: conclusion one does not meet transportation, hazardous areas, community design, and land use; conclusion two and conclusion three. The decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. Commissioner Reeve further moved to adopt the findings of fact and conclusions of law as amended during this hearing and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the comprehensive land use plan amendment is to: 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or 2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code.

Commissioner Glasoe seconded the motion.

Upon further discussion Commissioner Reeve amended her motion adding the elements of the comprehensive plan that this project failed to meet.

Upon Commissioner Reeve's amended motion Commissioner Glasoe affirmed her second.

The above motion reflects Commissioner Reeve's amended motion.

VOTED upon and the Chair declared the motion failed 2-3.

Commissioners Reeve and Glasoe voted in favor of the motion; Commissioners Casey, Frankenbach, and Davis voted in opposition of the motion.

MOTION TO RECOMMEND APPROVAL: Commissioner Frankenbach moved to recommend approval to the Board of County Commissioners on this project, File AM0019-21, requesting a comprehensive land use plan amendment from Ag/Forest Land to Rural Residential, 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 Frankenbach further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. This action does not result in a taking of private property.

Commissioner Casey seconded the motion.

VOTED upon and the Chair declared the motion carried, 3-2.

Commissioners Frankenbach, Casey, and Davis voted in favor of the motion; Commissioners Reeve and Glasoe voted in opposition of the motion.

Zone Change Motion

MOTION TO RECOMMEND APPROVAL: Commissioner Frankenbach moved to recommend approval to the Board of County Commissioners on this project, File ZC0032-21, requesting a zone change from Rural-10 to Rural-5, 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 Frankenbach further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. 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, 3-2.

Commissioners Frankenbach, Casey, and Davis voted in favor of the motion; Commissioners Glasoe and Reeve voted in opposition of the motion.

Background

The applicant, David Hunter, acquired the property in 2001 per Warranty Deed, Instrument No. 583380. To date, Mr. Hunter has owned the property.

A. Site data:

- Use: Residential
- Unplatted parcel
- Size: ≈20 parcel
- Zone: Rural-10
- Land Use: Ag/Forest Land

B. Access:

- Hunter Road
 - o Road Class: Local
 - o Road Owner: Bonner County
 - o County Maintained: No
 - o

C. Environmental factors:

- Site does contain mapped slopes between 15-29% and 30%+. (USGS)
- Site does contain mapped riverine (wetland). (USFWS)
- Site does contain an intermittent stream. (NHD)
- JRJ, 10.12.2021: Parcel is within SFHA Zone X, per FIRM Panel 16017C1100E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.

Soils:

Description	Farmland Classification	Drainage Class
Kootenai gravelly ashy silt loam (23)	Prime farmland if irrigated	Well drained
Melder loam (30)	Not Prime Farmland	Well drained
Rathdrum-Bonner ashy silt loams	All areas are prime farmland	Well drained

D. Services:

- Water: private well
- Sewage: private septic
- Fire: Spirit Lake Fire District
- Power: Inland Power
- School District: Bonner County Schools #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land	Rural-10	Rural residence
North	Ag/Forest Land	Ag/Forestry-10	Rural residence
East	Ag/Forest Land	Rural-10 & Prime Ag Forest land 20+	Rural residence
South	Ag/Forest Land	Rural-10	Rural residence

West	Ag/Forest Land	Rural-10	Rural residence
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F. Standards of review: Bonner County Revised Code

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
 - A. The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
 - A. Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)

G. Agency Review. The application was routed to the following agencies for comment on November 2, 2021.

Panhandle Health District	Idaho Department of Water Resources
Spirit Lake Fire District	Bonner County Road Department
Inland Power	U.S. Army Corps (Coeur d'Alene)
Bonner School District #83	U.S. Fish and Wildlife Service
Idaho Department of Fish and Game	Idaho Department of Lands (Sandpoint)
Idaho Department of Environmental Quality	U.S. Forest Service
Idaho Department of Lands, Nav. Waters	

The following agencies commented:

Idaho Department of Fish and Game, rec'd Nov. 18. "The Idaho Department of Fish and Game does not have any comments to submit for this application"

The following agencies replied "no comment:"

Inland Power & Light Co, rec'd November 11, 2021
 Idaho Department of Lands, rec'd November 3, 2021

All other agencies did not respond.

As of November 19, 2021, no public comments were received for this file.

Comprehensive Land Use Plan Designation

Current – Ag/Forest Land

Ag/Forest Land – "The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% Land Use Component Bonner County Comprehensive

Plan CHAPTER 6-4 or greater) and transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services."

Proposed – Rural Residential

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."

Comprehensive Land Use Plan Designation – Staff analysis:

- * Steeper slopes do not prevail on the property.
- * The property does not have poor soil conditions since most of the property contains prime agricultural soils, if irrigated.
- ✓ The property is accessed by a privately maintained, County owned road (Hunter Road). Properties to the south of the subject parcel are zoned Rural 5-acre and are accessed by Hunter Road.
- * The property does not have a lack of police or fire services as it is afforded fire protection by the Spirit Lake Fire District.

12-323: RURAL DISTRICT:

- A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
 1. Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
 2. Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
 3. Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
- B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

1. R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - a. Characterized by slopes that are steeper than thirty percent (30%)
 - ✓ **Staff:** the property is not characterized by slopes that are steeper than thirty percent.
 - b. Located within critical wildlife habitat as identified by federal, state or local agencies.
 - ✓ **Staff:** The Idaho Department of Fish and Game did not submit comments for the application, nor did they identify critical wildlife habitat in the area (since they did not comment).
 - c. Contain prime agricultural soils.
 - ✓ **Staff:** there are three (3) soil type(s) on the property, two of which are characterized as prime farmland. 1) Kootenai gravelly ashy silt loam which is prime farmland if irrigated (≈16.4 acres), 2) Melder loam which is not prime farmland (≈3.55 acres), and 3) Rathrum-Bonner ashy silt loams (≈0.02 acres) which is characterized as 'all areas are prime farmland'.
 - d. Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
 - ✓ **Staff:** the subject property is served by Hunter Road which is a County owned but privately maintained road.
 - e. Within the floodway.
 - ✓ **Staff:** the property is not within a floodway.
 - f. Contain limited access to public services.
 - ✓ **Staff:** the property is afforded fire protection by the Spirit Lake Fire District, is in the Bonner County Ambulance District, and has access to electricity provided by Inland Power.
2. R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five

(5) acre density and/or do not meet the criteria for R-10 above. (Ord. 501, 11-18-2008).

✓ **Staff:** based on the above Rural 10-acre criteria, the property aligns better with the rural 5-acre zoning district.

H. Stormwater plan. A stormwater management plan was not required, pursuant to BCRC12-720.3(K) because the proposal does not result in the creation of additional "impervious surface", as defined in section 12-809 of Title 12.

Comprehensive Plan Amendment Findings of Fact

1. The site does contain mapped slopes between 15-29% and 30% or greater, but in general, steeper slopes do not prevail.
2. There is a mapped riverine (wetland) and intermittent stream on the property, but the property is not located within a floodway.
3. The site is accessed by Hunter Road, a County owned but privately maintained road.
4. The property is served by an individual well, septic, and Inland Power LLC, and is within the Spirit Lake Fire District.
5. The soil(s) present on site include:
 - Kootenai gravelly ashy silt loam (23), 0 to 4 percent slopes
 - Melder loam (30), 35 to 65 percent slopes
 - Rathrum-Bonner ashy silt loams (45), 0 to 8 percent slopes

Comprehensive Plan Amendment Conclusions of Law:

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

Conclusion 1

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

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

Conclusion 2

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

Conclusion 3

The proposal is in accord with the Rural Residential Land Use Designation.

Zone Change Findings of Fact

1. The entire acre parcel is proposed to be rezoned from Rural-10 to Rural-5.
2. The site is accessed by Hunter Road, a County owned, privately maintained road.
3. The property contains slopes between 15-29% and some slopes greater than 30% in the northern part of the subject property. The property is served by an individual well and septic system, the Spirit Lake Fire District, and Inland Power.
4. There is a mapped riverine (wetland) and intermittent stream on the property, but the property is not within a mapped floodway.

Zone Change Conclusions of Law

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

Conclusion 1

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

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

Conclusion 2

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

Conclusion 3

The proposal is in accord with the purpose of the RURAL-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

CONDITIONAL USE PERMIT MODIFICATION

File MOD0007-21 – Conditional Use Permit Modification - Verizon Wireless is requesting to modify their site plan and tower design for a communications tower. The 7-acre property is zoned Recreation. The project is located off a private

easement that connects to Reeder Bay Road, a County owned and maintained road, in Section 17, Township 61N, 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 Chad Chambers 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: Applicant Derek Budig, Proland LLC, provided comments on land conditions, lattice tower versus monopole, design changes to accommodate terrain, larger spread foundation, fence height, and color of the tower.

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 APPROVE: Commissioner Frankenbach moved to approve this project File MOD0007-21 requesting to modify the site plan, setbacks, tower design, and all changes submitted in Exhibit A and site plan for conditional use permit File CUP0001-20, 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 Frankenbach further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. The action that could be taken to obtain the conditional use permit modification is to complete the Conditions of Approval as amended by adding verbiage to Condition A5 as adopted: "raise grade or lower fence to meet the less than eight-foot requirement." This action does not result in a taking of private property.

Commissioner Reeve seconded the motion.

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

Background

A. Site data:

- 7-acre parcel
- Zone: Recreation (Rec)
- Land Use: Resort Community

B. Access:

- The site will be accessed by a private 20' wide ingress/egress and utilities easement with a 12' wide gravel road.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Soil: Glaciercreek-Humic Udivitrands-Pearsoncreek families, dense substratum complex, glaciated mountain slopes, granitic geology, north aspects - the soil type is characterized as not prime farmland and is moderately well drained.
- JRJ, 10.26.2021: Parcel is within SFHA Zone D, per FIRM Panel 16017C0125F, Effective Date 7/7/2014. No further floodplain review is required on this proposal.

D. Services:

- Water: per the application - N/A
- Sewage: per the application - N/A
- Fire: West Side Priest Lake Fire District
- Power: Northern Lights Inc.
- School District: Bonner School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Comm. Tower
North	Resort Community	Recreation	Residential
East	Resort Community	Recreation	Residential
South	Remote Ag/Forest	Forest 40	U.S. Govt. land
West	Resort Community	Recreation	Currently 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 12-335 Public Use Table
 - ❖ **Staff:** communication towers are permitted (with a conditional use permit) in the Recreational zoning district.
- BCRC 12-4.2, Performance standards for all uses
 - ❖ **Staff:** per the original application, file CUP0001-20:

"There are not known health risks associated with this technology, as regulated by the Federal Government/FCC. Further, the proposed site meets all applicable ANSI/IEEE C95.1-1992 exposure levels, as adopted by the FCC requirements and the equipment we use meets the following safety/regulatory standards:

FCC Part 15 & Part 24, UL 1950, 3rd Edition, CSA C22.2 #234, UL 50-Type 3R, Transmit Spurious Emissions: IS-95B, FCC Part 15 & Part 24"

- BCRC 12-4.3, Parking standards
 - ❖ **Staff:** there are no parking standards for communication towers.
 - BCRC 12-4.4, Sign standards
 - ❖ **Staff:** the applicant is proposing no changes to the signage. The signage will remain affixed to the fence.
 - **BCRC 12-4.88, Communication Towers**
- A. Communication towers and attendant facilities shall be enclosed by a fence not less than six feet (6') in height.
- ✓ **Staff:** The chain link fence on site was built to 8' high with 3 strands of barbed wire. The barbed wire extends an additional 2' high per the site plan, Sheet A-4.2.
- B. The base of any tower shall not be closer to any property line than a distance equal to the tower height.
- ✓ **Staff:** The setbacks for the tower meet this standard. The setback to the south does deviate from the standard, but the applicant did previously obtain a variance to reduce the setback for the original site plan (file VA0006-20).
 - ✓ Western property line
 - * Proposed: 539' 11"
 - ✓ Originally: 529'
 - ✓ Eastern property line
 - * Proposed: 297' 9"
 - ✓ Originally: 292'
 - ✓ Southern property line
 - * Proposed: 154' 5"
 - ✓ Originally: 147' 2" (setback variance approved (file #VA0006-20) for original comm. tower conditional use permit file #CUP0001-20)
 - ✓ Northern property line
 - * Proposed: 218' 9"

✓ Originally: 214' 8"

C. The commission shall consider the public convenience and necessity of the communication tower and any adverse effect the facility would have upon properties in the vicinity and may require such reasonable restrictions and conditions of development as to uphold the purpose and intent of this title and the comprehensive plan.

✓ **Staff:** Conclusion 5 from the minutes from the original conditional use permit (File CUP0001-20) state the following:

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

D. Communication towers shall be built to telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.

✓ **Staff:** per the site plan (Sheet A-1.1), prepared by an Idaho Licensed Architect:

"Tower design is by others and was designed per TIA-222-G." Email correspondence with the applicant's representative also revealed that "(TIA/EIA) 222 revision F standards have been amended in 2006 and Revision G is the new Standard."

E. Communication towers shall be constructed to accommodate other future communication services where technically feasible ("collocation").

✓ **Staff:** Per the site plan (Sheet A-3.0), prepared by an Idaho License Architect, the tower has been designed to allow for future collocation. At approximately 150', 140', and 130' high, there are spots on the tower designed to support collocation for a "future carrier".

F. Communication towers shall meet all operational, construction and lighting standards of the federal aviation administration.

✓ **Staff:** per email correspondence with a Verizon Regulatory Specialist:

"The FAA doesn't write letters or even check up on towers to ensure they are built as approved."

✓ **Staff:** per email correspondence with the project representative:

"Towers under 200' do not require lighting unless there are special circumstances due to nearby airports. Considering there was no filing required for a 170' tower lighting would not be applicable. Inherently Rev G, would also indicate that it meets all FAA requirements"

G. Communication towers shall not penetrate any airspace surface on or adjacent to any public or private airfields as set forth at subchapter 5.2 of Title 12.

✓ **Staff:** Based on the TOWAIR determination provided by the applicant, the structure does not appear to require registration:

DETERMINATION Results

"There are no airports within 8 kilometers (5 miles) of the coordinates you provided.

Your Specifications

NAD83 Coordinates

Latitude	48-38-09.1
Longitude	116-52-49.8

Measurements (Meters)

Overall Structure Height	51.8
Support Structure Height	5.2
Site Elevation (AMSL)	493.8

Structure Type

LTOWER – Lattice Tower"

H. Upon termination of use of a communication tower for a period of not less than one year, the landowner and/or tower operator/applicant shall remove the tower along with all supporting equipment, apparatus and foundation.

I. Flammable material storage shall be in accordance with international fire code standards.

✓ **Staff:** per the site plan (Sheet A-1.1), prepared by an Idaho Licensed Architect, several precautions are being taken for generator on site:

- ❖ Generator shall be provided w/spark arrestor
- ❖ Remove that portion of any tree that extends within 10' 0" of generator/tank
- ❖ In accordance w/2015 international fire code (IFC) 304.1.2, maintain required vegetation clearances from generator tank.
- ❖ In accordance w/2015 international fire code (IFC) 5704.4.6, maintain 15' 0" minimum distance from generator/tank to weeds, debris & combustible material
- ❖ Confirm minimum distances of generator/tank 2015 international fire code (IFC) table 5705.3.4(2).
- ❖ No additional flammable and/or combustible materials shall be stored on the site UNO"

J. Communication towers shall not be used for signage, symbols, flags, banners or other devices or objects attached to or painted or inscribed upon any communication facility for the purposes of displaying a message of any kind, except as required by a governmental agency. (Ord. 501, 11-18-2008)

- ✓ **Staff:** Per the applicant's site plan, prepared by an Idaho Licensed Architect, the Lattice Tower design is not proposed to be used for any signage, symbols, flags, banners of other objects to display any non-governmental message. Additionally, staff reviewed the applicant's answers to project description 12 on the original application (CUP0001-20) which asks the applicant to describe (and answer) the following: "12) Advertising, sign, size and location:
N/A None proposed. Only as deemed necessary by FCC"

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, golfing and hiking, where urban services are provided."

H. BCRC- 7.2 Grading, stormwater management and erosion control

A stormwater management plan was required pursuant to BCRC 12-7.2.

- ✓ **Staff:** the applicant previously submitted a stormwater management plan with the original conditional use permit (File CUP0001-20) prepared by an Idaho Licensed professional engineer from C. G. Engineering.

I. Agency Review

Panhandle Health District	Idaho Department of Water Resources
Granite-Reeder Water & Sewer	Bonner County Road Department
West Side Priest Lake Fire District	Idaho Department of Environmental Quality
Northern Lights Inc.	U.S. Fish and Wildlife Service
Bonner School District #83	U.S. Forest Service
Idaho Department of Fish and Game	Federal Aviation Admin

The following agencies commented:

Idaho Department of Fish and Game, Nov. 9, 2021

"After reviewing the Modifications in this application, and reviewing our previous comments, no changes or modifications are necessary to our original comments."

The quote below represents only part of the entire letter submitted for file CUP0001-20:

IDFG comment rec'd May 13, 2021 – for the original application – CUP0001-20

"Due to the proximity to the Granite Creek and Priest Lake (<1 mile), piscivorous birds of prey such as osprey or bald eagle may attempt to nest on the tower. These birds are federally protected under the Migratory Bird Treaty Act. If a nest must be removed, we recommend waiting until hatchlings fledge in the fall. Maintenance crews should contact the U.S. Fish and Wildlife Service North Idaho Field Office prior to disturbing nests.

We do not anticipate significant adverse impacts to fish or wildlife due to the proposed communication towers. We recommend that lighting be as minimal as possible to avoid disturbance to nocturnal birds".

The following agencies replied "No Comment":

Panhandle Health District, Nov. 15, 2021

All other agencies did not reply.

J. Public Notice & Comments. As of November 24, 2021, no public comments were received for this file.

Findings of Fact

1. The property is in the Resort Community comprehensive land use plan designation and is zoned Recreation.
2. The subject property is in the West Priest Lake Fire District, is powered by Northern Lights Inc., and has no septic system or well onsite.
3. The property does not contain any mapped wetlands, streams, lakes, or rivers, but does contain mapped slopes between 15-29% and 30% or greater.
4. The property will be accessed through other properties by a private 30' wide ingress/egress easement; a 15' wide access and utility easement runs through the subject property which leads to the communication tower site.
5. The communication tower and site plan modification is consistent with the standards set forth in BCRC Title 12-488 Communication Towers.

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.

Conclusion 4

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

Conclusion 5

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

Conditions of Approval. Standard Continuing Permit Conditions to be Met for the Life of the Use

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Modification of the original Conditional Use Permit shall not supersede deed restrictions.
- A-3** All setbacks as shown on the site plan shall be met.
- A-4** The Modification of the original 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** Prior to issuance of the modification for the original conditional use permit File CUP0001-20, the grade next to the fence must be raised or the fence must be lowered to meet the less than eight-foot fence height requirement; or the applicant must file a building location permit to bring the fence into compliance with the definition of structure therein the Bonner County Revised Code 11-219 S (O).

COMMISSIONER & STAFF UPDATES:

Milton Ollerton provided updates on cell towers, Building Location Permits, establishing a Planning Commission and a Zoning Commission, and open meeting laws.

At 8:26 p.m., the Chair declared the hearing adjourned until December 16, 2021.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 16th day of December 2021.

Bonner County Planning and Zoning Commission

 12/16/21
Brian Bailey, Chair