

**BONNER COUNTY PLANNING AND ZONING COMMISSION  
PUBLIC HEARING MINUTES  
THURSDAY, JANUARY 6, 2022**

**PLEDGE OF ALLEGIANCE**

Chair Brian Bailey attended via phone and requested Vice Chair Don Davis facilitate the hearing.

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

**PRESENT:** Commissioners Chair Brian Bailey (attended via phone), Vice Chair Don Davis, Dave Frankenbach (attended via Zoom webinar), and Suzanne Glasoe (attended via Zoom webinar)

**ABSENT:** Cheryl Reeve and Jennifer Casey

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

**CHANGES IN AGENDA:** None

**CONSENT AGENDA:**

**APPROVAL OF MINUTES:** The Vice Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: December 16, 2021. Hearing no changes or objections, the Vice Chair declared the minutes approved as written.

**PUBLIC HEARINGS:**

**CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING**

**ASSISTANCE:** The Vice Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Vice Chair continued with the public hearing.

**PRELIMINARY PLAT**

**File S0004-21 – Monarch Vista Point Subdivision – SDG Properties, LLC** is requesting to create a subdivision of 18 residential lots and 2 utility lots on approximately 14.75 acres of unplatted land. The property is zoned Recreation. The project is located off Midas Drive and W. Garfield Bay Road in Section 21, Township 56 North, Range 1 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Vice Chair requested the Commissioners declare any conflicts of interest or disclosures. The Vice 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, Brett Ueek, SDG Properties, LLC, provided comments on interest in developing land in a responsible way; consideration of what is best for the community/land; development of property for family, friends, and personal use; local community partnerships; compliance of proposal; local density; current zoning of property; water and hydrologists Engineer analysis; working with Bonner County Road and Bridge Department about minimizing the impact of closing the road due to construction, leaving the road in as good of condition as it is when beginning construction or better when finished, and current road width and expansion where possible; fire and fire suppression, working with Department of Forestry to clean up under brush and fire fuels; and working with Garfield Bay Sewer District.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record: Jay Shelledy, Alesia Miller, Anne Rossi, Patrick Rossi, Debra Richards (submitted Exhibit A), Zach Richards, Scott Gage, Heather Srigley, Denette Hill, Lori Palmer, Fred Gaudet, Jeanie Tolcacher, Jim Gahl, Tony Infante, Paul Bawel, Mahlin Diamond, and Kevin Schulte.

**APPLICANT REBUTTAL:** Landowner Taggart Schoenrock, SDG Properties, LLC, responded to public comment regarding sewer, water lines, and Department of Environment Quality setbacks.

Landowner Brett Ueek responded to public comment regarding widening of West Garfield Bay road, working with Bonner County Road and Bridge Department, maintenance of road, paving of road through property,

Landowner Kolby Schoenrock, SDG Properties, LLC, responded to public comment regarding long-term ownership stake, vested plan in Garfield Bay, working with neighbors and community, compliance of project, water, working with Hydraulic Engineer, working with 7B Engineering for water system, next stages of project working with Department of Environment Quality and Panhandle Health District, Midas Drive, and density.

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

**MOTION TO RECOMMEND APPROVAL:** Commissioner Frankenbach moved to recommend approval of project File S0004-21, requesting platting of an approximately 14.75 acres of unplatted land, zoned Recreation, into 18 residential lots and 2 utility lots, located in Section 21, Township 56 North, Range 1 West, Boise Meridian, Bonner County, Bonner County, Idaho, 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 amend Condition of Approval number six as amended during this hearing and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

Commissioner Bailey seconded the motion.

Upon further discussion, Commissioner Frankenbach amended his motion to include amending condition of approval number six during this hearing.

Upon Commissioner Frankenbach's amended motion, Commissioner Bailey affirmed his second.

The above motion reflects Commissioner Frankenbach's amended motion.

**VOTED** upon and the Vice Chair declared the motion carried, 2 – 1. Commissioners Bailey and Frankenbach voted in favor of the motion and Commissioner Glasoe voted in opposition of the motion.

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#### **Findings of Fact**

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1. The subject site exists as an unplatted parcel of land containing approximately 14.75 acres.
2. The site is zoned Recreation and has a land use designation of Resort Community. Recreation zoning permits creation of 12,000 sf. or smaller lots provided both urban water and urban sewer services are provided.
3. The proposed plat requests creation of 18 residential lots and 2 utility lots. The intended purpose of the 18 residential lots is to develop them with single family residential structures. The utility lots shall be reserved for the utility purposes, not to be developed with any other uses, as indicated on the plat notes.
4. The proposed use of single-family residential development is proposed by right in the Recreation zoning district.
5. Garfield Bay Water and Sewer District provided a will-serve letter with the intent and will to provide sewer service to the proposed 18 residential lots in this subdivision.
6. A water availability report prepared by Harmony Warren, an Idaho State licensed professional geologist (Warren Geo), was submitted as part of the application. The 18 residential lots are proposed to be served by an urban water system – Two shared wells serving 18 residential lots (each shared well serving 9 residential lots).

7. The site is/will be served by Northern Lights, Selkirk Fire District, Lake Pend Oreille School District #84, Bonner County Ambulance District and Pend Oreille Hospital District.

8. The site contains slopes of greater than 30% grade and the proposed lots are smaller than 5 acres. A grading/erosion control plan, prepared by Brent Deyo (T-O Engineers), a professional engineer was submitted as part of the application.

9. The project proposes 18 residential lots with a development density of approximately 1.22 Dwelling Units/Acre of land.

10. All proposed lots are less than 300 feet in width and maintain a depth to width ratio of not more than 2:1.

11. All proposed lots have direct frontage and direct access to West Garfield Bay Road and Midas Drive. West Garfield Bay Road is a County owned and maintained public right-of-way. Midas Drive is a County owned and privately maintained public right-of-way.

12. The proposed preliminary plat has been evaluated as per the applicable Bonner County Revised Code Standards. See the Standards Review above and the Conditions of Approval below.

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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 zoning 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.

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**Conditions of Approval:**

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1. A Final Plat shall be recorded.
2. A digital copy of the final plat shall be submitted to the Bonner County Planning Department satisfying the requirements of BCRC 12-649.
3. The Sanitary Restriction, per Idaho Code §50-1326, shall be denoted on the plat.
4. As per BCRC 12-643.I, the preliminary short plat shall be valid for a period not to exceed two (2) calendar years from the date of approval. Within two (2) years of the approval of the preliminary plat, the applicant shall submit the final plat to the Planning Director. At any time prior to the expiration date of the preliminary plat, an applicant may make a single written request to the Planning Director for an extension of the preliminary plat for a period of up to two (2) years. The board 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.
5. A fire suppression plan was submitted as part of this application. As per BCRC 12-623 (D), one of the following conditions shall be satisfied:
  - a. Prior to final plat, an approved water and fire hydrant system capable of providing one thousand (1,000) gallons per minute for a minimum of two (2) hours where a community water system exists or is proposed as part of the development and is capable of delivering the pressurized water supply necessary for delivering fire flows as prescribed by the international fire code, as adopted by the state fire marshal, and such later editions as may be so published and adopted by the state fire marshal, or as amended, modified or superseded, and incorporated herein by reference with a copy on file with the office of the clerk of the board of county commissioners, and hereinafter referred to as IFC.

- b. A note on the final subdivision plat stating: "At the time of building location permit or building permit, the lot owner shall install a minimum two

thousand (2,000) gallon water storage system, meeting IFC standards". Refill on demand is not required to meet IFC standards.

- c. A note on the final subdivision plat stating: "The installation of an approved IFC residential fire suppression sprinkler system is required in all newly constructed residences."

- d. Prior to final plat, a manmade or natural water source with a dry hydrant capable of delivering adequate water supply as prescribed by IFC.

- e. A note on the final subdivision plat stating: "At the time of building permit or building location permit, the lot owner shall install an approved fire suppression method to the satisfaction of Bonner County."

**6. The application was routed to Bonner County Road and Bridge Department. The agency has made several recommendations/ conditions regarding Midas Drive and West Garfield Bay Road. The applicant shall be required to meet these conditions as stated in the agency's comments or as per any subsequent modifications made to these conditions by Bonner County Road and Bridge Department. (Modified Condition of Approval)**

7. The plat shall show the following:

- a. Any easements, specific constraints on building placement, other than easements, and land areas reserved, be shown and plainly marked on the plats. (BCRC 12-620)

- b. Geographic grid (township, range and tier section number and location within the section). (BCRC 12-642.B.1)

- c. Boundary lines of the tract to be subdivided drawn to scale, together with intersecting property lines, abutting public and private roads, and names and addresses of adjoining owners shown in their respective places of ownership on the plat. (BCRC 12-642.B.2)

- d. Existing wells, springs, drainage channels, overhead and underground utility lines, structures, sanitary sewers and culverts within the tract and immediately adjacent thereto, if any. (BCRC 12-642.B.7)

- e. Proposed method of water supply, sewage disposal and solid waste disposal should be noted in the Plat Notes. (BCRC 12-642.8)

- f. A statement setting forth the intended land use of the parcels, i.e., residential, agricultural, commercial, industrial or other appropriate land use classifications. This should be included in the notes on the plat. (BCRC 12-642.B.11)

- g. Preliminary subdivision road design plan and profile, prepared, stamped and signed by an Idaho licensed engineer demonstrating ability to comply with the minimum applicable road standards for all new or reconstructed roads proposed to serve the subdivision. (BCRC 12-642.C.2)

8. After the preliminary plat is approved, the applicant shall have an improvement plan for the subdivision prepared by a registered civil engineer, as per BCRC 12-644. Two (2) copies of the improvement plan shall be filed with the county engineer. This plan shall include the following:

a. The subdivision name and number, geographic grid (township, range and tier, section number and location within the section), north arrow, date and scale no smaller than one hundred feet to the inch (1" = 100').

b. The plan and profile of all proposed roads showing final grades and cross sections of roads in accord with the requirements contained in title 2 of this code.

c. The plan and profile of proposed sanitary and stormwater systems with grades and sizes indicated. Drain calculations may be required.

d. A grading plan, showing stormwater drainage for each lot.

e. Any other improvements such as curbs, gutters, sidewalks, bridges, lift stations, fire hydrants, street lighting, etc., as required, and in accord with the requirements contained in title 2 of this code.

9. The site contains slopes of over 30% grade. The applicant is not proposing any ground disturbing activities as part of this application. However, if any land disturbing activities are proposed in areas where the natural slopes equals or exceeds 30% grade, a geotechnical analysis shall be required for the proposed building sites, roads, driveways or other development. The geotechnical analysis shall be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering. (BCRC 12-7.6)

10. 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 storm water management measures as designed and approved. The applicant shall provide to the Planning Department, upon completing ground disturbing activities, a signed statement and storm water 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 storm water facilities shall be installed and functioning as designed or a suitable guarantee of completion shall be in place.

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#### **Background:**

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#### **A. Site Data:**

- Use: The property currently exists as vacant land.
- The site exists as an unplatted parcel of land.

- Size: Approximately 14.75 acres
- Zone: Recreation
- Land Use: Resort Community

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

- The property has direct access and frontage on the following:
  - West Garfield Bay Road, a county owned and maintained public right-of-way with speed limit of 25 miles per hour and treated gravel surface.
  - Midas Drive, a county owned and privately maintained public right-of-way with a speed limit of 25 miles per hour.

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

- Site contain slopes of over 30% grade. (US Geological Survey)
- Site does not contain wetlands. (US Fish and Wildlife Service)
- Site does not front on or contain any water bodies. (National Hydrography Dataset, US Geological Survey)
- Site contains the following types of soils: (US Department of Agriculture)
  - Pepoon-Newbell families-Rock outcrop complex, glaciated steep scoured mountain slopes, belt geology, south aspects, classified as "not prime farmland" with a drainage classification of "well drained".
  - Newbell-Pepoon families-Rock outcrop complex, glaciated scoured mountain slopes, belt geology, south aspects, classified as "not prime farmland" with a drainage classification of "well drained".
  - Highfalls-Pearsoncreek families, complex, glaciated mountain slopes, belt geology, north aspects, 15 to 45 percent slopes, classified as "not prime farmland" with a drainage classification of "well drained".
- Parcels are located within SFHA Zone D and not located within floodway, per FIRM Panel 16017C0975E, Effective Date 11/18/2009. This project would not require any further floodplain review.
- Idaho Department of Fish and Game (IDFG) identified Lake Pend Oreille and its major tributaries as a Critical Habitat for bull trout. A critical Habitat designation identifies geographic areas that contain features essential for the conservation of a threatened or endangered species and that may require special management or protection. The agency also identifies the lake and the surrounding area as a habitat for other wildlife. IDFG makes a recommendation for certain conditions to be added to the project's CC&R's to mitigate impacts to wildlife.

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

- Sewage: A will-serve letter was received from Garfield Bay Water and Sewer District with the intent to provide sewer service to the proposed project for 18 residential lots from its readily available capacity.
- Water: The 18 residential lots are proposed to be served by two wells shared between 18 residential lots. A proof of water availability, prepared by Harmony Warren, an Idaho State registered professional geologist, was submitted as part of this application.
- Utilities: Northern Lights

- Fire: Selkirk Fire District
- School District: Lake Pend Oreille School District #84
- Ambulance District: Bonner County Ambulance District
- Hospital District: Pend Oreille Hospital District

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

Compass Site	Land Use	Zoning	Current Use & Density
	Resort	Recreation	Vacant
North	Community Resort	Recreation	Single Family Residential; 7 Acre parcels
East	Community Resort	Recreation	Single Family Residential; 1.17 Acre parcel
South	Community Resort	Recreation	Single Family Residential; 0.34 to 0.7 Acre parcels
West	Community Resort	Recreation	Single Family Residential; 0.4 to 1.1 Acre parcels

**F. Standards Review: Bonner County Revised Code**

BCRC Code	Standard for	Required	Provided
12-268	Application Process, General Provisions	Agency Routing	Application routed to Public Agencies on November 30, 2021.
12-610.B	Conformance with BCRC Title 12	Minimum Lot Size required is 12,000 sf. for Recreation District.	Areas of the proposed lots range from 21,170 sf. to 75,453 sf.
12-620	General	Easements, constraints, reserved land areas to be shown and marked on the plats.	Proposal Complies.
12-621	Lot Design	Depth to width ratio of not more than 3:1 for lots less than 300 feet wide; and not more than 4:1 for lots more than 300 feet wide.	Depth to width ratio of all proposed lots is provided at a ratio of approximately 2.5:1 or less.
12-622	Submerged Lands	Submerged lands not to be counted towards density calculations.	Not Applicable.
12-623.A	Urban services	For lots less than 1 acres in size, urban services required.	Will-serve letters received from Garfield Bay Sewer District and Water Availability report received from Warren Geo, Idaho State registered professional geologists.

12-623.B	Water supply	Lots to be served by a new water system serving from two (2) to nine (9) lots.	A water availability report prepared by Harmony Warren, an Idaho State licensed professional geologist (Warren Geo), was submitted as part of the application. The 18 residential lots are proposed to be served by an urban water system – Two shared wells serving 18 residential lots (each shared well serving 9 residential lots).
12-623.C	Sewage disposal	Sewage disposal method for all building sites, as approved by the Panhandle health district and/or the state of Idaho, may be provided.	Will-serve letters received from Garfield Bay Sewer District. Panhandle Health District encourages the applicant to submit a completed land development application so they could review this proposal.
12-623.D	Fire Plan/Fire risk assessment	Assessment of fire risk Fire protection plan Defensible space plan	A fire suppression plan was submitted as part of this application. <b>See Conditions of Approval.</b>
12-624.A	Road name	Unique road names for new roads.	No new roads are being proposed. Not Applicable.
12-624.B	Road standards	Road to be designed to meet private road standards of BCRC Title 12, Appendix A.	The application was routed to Bonner County Road and Bridge Department. The agency has made several recommendations regarding Midas Drive and West Garfield Bay Road. <b>See Conditions of Approval.</b>
12-624.C	Legal access	Legal access to each proposed lot	All lots have direct legal access to West Garfield Bay and Midas Drive, both county owned public right-of-ways.
12-624.D	Public road frontage	For lots less than 5 acres in size, direct frontage and direct access to public roads required.	All of the 18 residential lots and 2 utility lots are less than 5 acres in size and have direct frontage and direct access to public roads.

12-625.A	Trails and Parks	Bonner County Trails Plan	Not Applicable.
12-625.B	Trails and Parks	Public Access, Parks and Facilities	Not Applicable.
12-626.A	Natural Hazards	Subdivision to be designed around identified natural hazards	Proposal Complies.
12-626.B	Conformance with BCRC 12-7	Conformance with environmental standards.	See relevant standards below.
12-642.A	Application Content	Application form	Proposal Complies.
12-642.B	Application Content	Preliminary Plat, prepared by Idaho licensed surveyor, showing parcels to be created.	Proposal Complies.
12-642.B.1	Plat Content	Subdivision name, geographic grid, north arrow, and vicinity map, vicinity road pattern.	See Conditions of Approval.
12-642.B.2	Plat Content	Boundary line of tract to be subdivided, intersection property lines, abutting roads, names and addresses of adjoining owners shown in their respective places of ownership on the plat.	See Conditions of Approval.
12-642.B.3	Plat Content	Location, dimensions and area of proposed lots. Lot numbering.	Proposal Complies.
12-642.B.4	Plat Content	Location, dimensions and tentative names of proposed streets and roads.	No new roads are being proposed. Not Applicable.
12-642.B.5	Plat Content	Sufficient contours to show the shape of the land and extending at least one hundred feet beyond the subdivision limits.	A detailed topography map was submitted as part of this application. Proposal Complies.
12-642.B.6	Plat Content	Location of water courses, floodplains per FIRMs with BFEs.	Not Applicable.
12-642.B.7	Plat Content	Existing wells, springs, wetland boundaries, wetland delineations, drainage channels, overhead and underground utility lines, structures,	See Conditions of Approval.

			sanitary sewers and culverts within the tract.	
12-642.B.8	Plat Content		Proposed method of water supply, sewage and solid waste disposal.	See Conditions of Approval.
12-642.B.9	Plat Content		All easements of record, including sufficient data to identify conveyance.	Proposal Complies.
12-642.B.10	Plat Content		Purpose indication for parcels reserved for public dedication or common use of property owners.	Proposal Complies.
12-642.B.11	Plat Content		Statement for intended use of parcels.	Proposal Complies.
12-642.C.2	Road design and profile		Preliminary road design and profile prepared, stamped and signed by Idaho licensed engineer.	Not Applicable.
12-643.A	Application filed		In accord with 12-268	Proposal Complies
12-643.B	Public hearing		In accord with Subchapter 2.6	Proposal Complies
12-643.I	Validity of Preliminary Plat			Proposal shall comply. See Conditions of Approval.
12-644	Improvements Plan		Plan to be prepared by a registered civil engineer. Two copies to be provided.	See Conditions of Approval.
12-7.1	Shorelines			The subject property does not front or contain any water bodies. Not Applicable.
12-7.2	Grading, Stormwater Management and Erosion Control		Applicability: All new subdivisions subject to the provisions of chapter 6 of this title, as amended, and all new planned unit developments subject to the provisions of chapter 2, subchapter 2.5 of this title, as amended, except as provided for in subsection 12-720.3.J of this subchapter.	A grading/erosion control plan, prepared by Brent Deyo, a professional engineer (T-O Engineers), was submitted as part of the application.
12-7.3	Wetlands			Site does not contain any mapped wetlands. Not Applicable.

12-7.4	Wildlife		Idaho Department of Fish and Game makes recommendations to include certain conditions in the project's CC&R's in order to mitigate any impacts to wildlife. See Agency Review below.
12-7.5	Flood Damage Prevention	Development to occur as per BCRC, Title 14.	Parcels are located within SFHA Zone D and not located within floodway, per FIRM Panel 16017C0975E, Effective Date 11/18/2009. This project would not require any further floodplain review.
12-7.6	Hillsides	Geotechnical Survey Requirement	Majority of the site contains slopes of over 30% grade. However, the applicant is not proposing any ground disturbing activities as part of this proposal. Therefore, geotechnical analysis is not required at this time. See Conditions of Approval.

1. Add a note showing the dimension of the 50-foot public rights-of-way for Garfield Bay Road, label it as a County maintained public road, and add note detailing how the ROW was established.
2. Encroachment permits will be required for all future driveways on Midas Drive and Garfield Bay Road to serve the new lots.
3. The trip generation letter states that all but 3 lots will be accessed off of Midas Drive, the remaining 3 to be accessed off of West Garfield Bay Road. Specify which 3 lots will have access to Garfield Bay Road (I'm assuming it's lots 11, 12, and 13) and make a written requirement on the plat that the remaining driveways must be off of Midas Drive. The steep slopes down to West Garfield Bay Road would likely cause drainage problems if future owners insist on driveways off of the County-maintained road, which will be an attraction.
4. The Applicant is not proposing improvements to Midas Drive but the increase in traffic anticipated by these lots will raise the road into the "Privately Maintained Public Road - Local Road A" standards with over 200 vehicles per day. Road & Bridge recommends requiring that The Applicant improve Midas Drive to meet the Local Road A standards as set forth in the Bonner County Road Standards Manual, Section 7. This will require an increase in width of the travelway from ~15ft+/- to 24ft. Hard surfacing would not be required.
5. The existing right of way width for West Garfield Bay Rd is only 50ft wide, where the current standard width is 60ft for public roads. Road & Bridge requests a dedication of 5 additional feet along the frontage of West Garfield Bay Road to bring the right of way width up to 55ft.
6. Please indicate on the plat: "Midas Drive within this subdivision is a public road which is privately maintained, and has not been constructed to County standards for County maintenance. This road shall be maintained at the sole expense of the property owners until such time as it is improved to County standards for public maintenance at the property owner's sole expense, at which time it may be considered for acceptance into the County maintenance system by the Bonner County Board of Commissioners."

**G. Agency Review:** The application was routed to the following public agencies for their comment on November 30, 2021.

Panhandle Health District  
Garfield Bay Sewer District  
Selkirk Fire District  
Northern Lights Utility Company  
Lake Pend Oreille School District #84  
Bonner County Schools – Transportation  
Idaho Department of Fish and Game  
Idaho Department of Water Resources  
Idaho Department of Environmental Quality  
Bonner County Road and Bridge Department  
U.S. Fish and Wildlife Service  
U.S. Forest Service  
BNSF Railway

**The following agencies replied:**

**Bonner County Road and Bridge Department – December 10, 2021**

*"The agency made the following comments:*

**Panhandle Health District – December 14, 2021**

*"The Panhandle Health District (PHD) has reviewed the application referenced above.*

*The applicant indicates an intention to create 20 new parcels, 18 residential and 2 utility lots. It is indicated that they will be served by Garfield Bay Sewer District & individual wells. PHD would like to encourage the applicant to submit a completed land development application so PHO can review this proposal relative to IDAPA 58.01.03.*

*PHD recommends that applicants contact PHD as early into the planning process as possible, to determine whether the project, as proposed, is feasible."*

**Idaho Department of Water Resources – November 30, 2021**

*"Idaho Department of Water Resources takes no position on this proposal but recognizes that some activities will fall within its jurisdiction. Construction of a*

*new well must comply with drilling permit requirements of Section 42-235, Idaho Code, and applicable Well Construction Rules. If the proposed well is intended to be used for domestic purposes as defined in Idaho Code 42-111 (for a household, no more than 13,000 gallons per day including up to an 1/2 acre of irrigation), the use will not require approval from IDWR. If the well will be used to irrigate more than 1/2 acre, use more than 13,000 gallons per day, or be shared by more than one household, the owner will need to file for and receive approval of an Application for Permit before a well drilling permit can be approved.*

*The applicant can contact the department with any questions."*

#### **Idaho Department of Environmental Quality – December 21, 2021**

*"While the Idaho Department of Environmental Quality (DEQ) does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply."*

#### **Idaho Department of Fish and Game – December 17, 2021**

*"The following suggestions, if implemented and included in covenants where applicable, will reduce but not ameliorate impacts to wildlife from this proposal."*

*"We anticipate that the stormwater/grading/erosion control plan from T-O Engineers and Garfield Bay sewer hookups will eliminate any possible negative effects to water quality from this subdivision."*

*"Deer may remain abundant in a development where they are not hunted and may also increase in number if residents feed them."*

*"IDFG is not responsible for depredation of residential ornamental plants, etc., by moose, elk or deer."*

*"Increased development in this area further increases the potential for human/bear encounters that can be harmful to people and/or bears."*

*"We recommend that the applicant retain as much standing timber (including dead snags) and natural vegetation (including shrubs) as practicable while still adhering to the fire suppression plan submitted with the application."*

*"We recommend wildlife-friendly fencing (such as post and rail) that allows animals to move through unrestricted."*

*"No CC&Rs were included in the application packet. The following are IDFG's standard recommendations for rural development:*

- 1. Avoid storing residential garbage outside, bear-proof dumpsters should be used, and an adequate garbage collection system should be designed and implemented.*
- 2. Residents should be informed on how to avoid attracting bears, raccoons and skunks. For instance, cleaning barbecue grills frequently, avoid leaving pet food outside, not distributing bird feed on the ground, and*

*protecting compost piles and fruit trees.*

- 3. Purposely feeding wild animals creates an unnatural situation and may cause local population increases, which may create an unwanted nuisance for neighboring residents and eventually, the resident that is providing the food. An increase in the local deer population creates a hazard for motorists and animals. Many animals are hit by cars when moving from one feeding area to another. Additionally, when being chased by dogs, deer can become tangled in garden fences, run through picture windows, or dart into oncoming traffic. Also, concentrating a large number of animals in a small area can facilitate local disease outbreaks and/or attract predators such as mountain lions.*
- 4. DO NOT FEED BEARS. Bears that obtain human food, garbage or pet foods lose their natural fear of humans and can become dangerous. Bears that are habituated to these unnatural food sources can damage vehicles, tear into tents, cabins or barns, or aggressively approach people looking for food. Bears that continue to seek human food may require trapping and euthanization. Bears displaying behavior dangerous to people will require euthanization. This is an undesirable situation, as it is labor intensive and an unnecessary waste of wildlife.*
- 5. Bird seed or corn distributed on the ground may attract wild turkeys and waterfowl. This unnatural situation often increases the local waterfowl and turkey population, which frequently causes damage to private property and leads to human/wildlife conflicts. IDFG will not be responsible for property damage caused by waterfowl or wild turkeys, nor will the Department trap and remove birds that have become accustomed to being fed by residents."*

#### **Northern Lights, Inc. – December 22, 2021**

*"The proposed development can be served by NLI. All lots depicted in the attached preliminary plat can be provided electrical facilities consistent with NLI's line extension policies."*

**The following agencies replied "No Comment:" None.**

**All other agencies did not reply.**

#### **H. Public Notice & Comments**

Public Comments raised concerns regarding the following:

- Postponement of the scheduled hearing*
- Traffic and Road Maintenance*
- Inadequate access through W. Garfield Bay Road and Midas Drive*
- Safety concerns due to existing road width and unimproved design for the increased amount of traffic proposed by the development.*
- Inadequate Garfield Bay Sewer infrastructure*
- Wells and water run-off*
- Proposed density of homes*
- Water availability*
- Fire suppression*



- *Critical wildlife disruption*
- *Negative impacts on existing infrastructure*
- *Altered rural character*

**VARIANCE**

**File V0022-21 – Variance – Lot Size Minimum – Mark Young** is requesting a lot size minimum variance to create a 2.7-acre lot where 5 acres is required. The property is zoned Rural 5-acre. The project is located off Westmond road in Section 5, Township 55 North, Range 2 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Vice Chair requested the Commissioners declare any conflicts of interest or disclosures. The Vice 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:** Project Representative Jennifer Owens, James A. Sewell & Associates, submitted Exhibits A (PowerPoint Presentation) and Exhibit B (Site Map in PowerPoint Presentation) provided comments on the size of parcels, topography, well, septic, drain field, and maximizing use of parcel and building space for single family homes and outbuildings.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

**MOTION TO APPROVE:** Commissioner Frankenbach moved to approve this project File V0022-21, request to create a 2.7-acre lot where 5-acres 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 Frankenbach further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report as amended during this hearing and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, 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 Bailey seconded the motion.

**VOTED** upon and the Vice Chair declared the motion carried, 2 – 1. Commissioners Bailey and Frankenbach voted in favor of the motion; Commissioner Glasoe voted in opposition of the motion.

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**Findings of Fact**

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1. The subject property is zoned Rural 5-acre and is in the Rural Residential comprehensive land use plan designation.
2. The property is currently served by an individual well, septic system, Sagle dba Selkirk Fire Rescue & EMS, and Northern Lights for power.
3. There are two soil types on the property, Pend Oreille silt loam which is well drained and not characterized as prime farmland and Bonner gravelly ashy silt loam which is well drained, and all areas are prime farmland.
4. The property contains no mapped rivers or streams and does not front a lake. Additionally, there are no mapped wetlands on the property.
5. The property is accessed by Westmond Road, a Bonner County owned and maintained road.

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**Conclusions of Law:**

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

Conclusion 1

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

Conclusion 2

Special conditions and circumstances **do** result from the actions of the applicant.

Conclusion 3

The granting of the variance **is not** in conflict with the public interest in that it **will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

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**Conditions of Approval:**

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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 proposed project shall not supersede any deed restrictions.

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**Background:**

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**A. Site data:**

- ≈8.24-acre parcel

- Zone: Rural 5-acre
- Land Use: Rural Residential

**B. Access:**

- The property is accessed by Westmond Road, a county owned and maintained road.

**C. Environmental factors:**

- Site does contain mapped slopes between 15-29% and some slopes 30% or greater.
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- JRJ, 11.29.2021: Parcel is within SFHA Zone X, per FIRM Panel 16017C0950E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.

**D. Services:**

- Water: individual well
- Sewage: individual septic system
- Fire: Sagle and Selkirk 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	Rural Residential	Rural 5	Rural residence
North	Rural Residential	Rural 5	LDS church
East	Rural Residential	Rural 5	Rural residence
South	Rural Residential	Rural 5	Currently vacant
West	Rural Residential & Transition	Rural 5	Rural residence

**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: "Several neighboring parcels, across Westmond road, are less than 5-acres non-conforming."*

**Staff:** The unique shape of the property does not generally apply to other properties in the same zone or vicinity. Additionally, there are mapped slopes

between 15-29% that run through much of the property which limits the buildable space; the applicant has no control over this topography.

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

*Applicant: "Not Applicable."*

**Staff:** The applicant acquired the property in August 2020 per Warranty Deed (Instrument No. 963740). Thus, the unique shape and size of the property does not result from the actions of the applicant. Additionally, the natural topography (i.e. - sloping) which limits the area for building does not result from the actions of the applicant. The request to grant a variance, based on the conditions of the land, however, do 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: "Granting this variance would comply with some aspects of the 1-5 acre density range: this property does have public right of way access and adjoins a church property, as well as other high density developed areas which are just West of the property, along highway 95. We see no negative effects resulting from normal use of two additional residential lots being less than 5 acres."*

**Staff:** if the variance were to be approved, one of the proposed lots would conform the to 5-acre lot size minimum standard. Moreover, staff did not receive any public comments objecting to the lot size minimum variance request.

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

**H. Agency Review**

The application was routed to agencies for comment on November 30, 2021.

Panhandle Health District	Idaho Department of Water Resources
Sagle and Selkirk Fire District	Bonner County Road Department
Northern Lights Inc.	Applicable School District #84
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

**The following agencies commented:**

**Idaho Department of Environmental Quality, rec'd Dec. 21, 2021**

"The Idaho Department of Environmental Quality (DEQ) does not comment on a project-specific basis...therefore, the following general comments should be applied as appropriate to the specific project" – **see letter for details.**

**Idaho Department of Fish & Game, rec'd Dec. 16, 2021**

"The Idaho Department of Fish and Game does not have any comments to submit for this application."

**Panhandle Health District – rec'd Nov. 11, 2021 (the following represents only part of the entire letter the Health District wrote)**

"The applicant indicates an intention to create 2 new parcels served by subsurface sewage disposal systems (septic) & potentially individual wells. As PHD has not conducted a current site evaluation for the proposed parcel, there is not enough information at this time to determine whether the project will meet all current standards for the sanitary services as proposed. PHD would like to encourage the applicant to contact PHD prior to proceeding, as the only way to know if the sanitary services as proposed will be adequate for this project is to assess the site(s) for compliance with the relevant IDAPA rule sets & current standards."

**All other agencies did not reply.**

**I. Public Notice & Comments**

As of December 21, 2021, no public comments were received for this file.

**CONDITIONAL USE PERMIT**

**File CUP0022-21 – Conditional Use Permit – New Song Bible Church** is requesting a modification of a previously issued Conditional Use Permit, C995-16, to allow a daycare along with the existing use of a church. The ~4.35-acre property is zoned Rural 5. The project is located off U.S. Highway 95 in Section 10, Township 56 North, Range 2 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Vice Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Davis declared attendance at New Song Bible Church five or six years ago with no 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 Coleman provided comments on the needs within the community for a daycare and no plans to make changes to existing buildings.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

**MOTION TO APPROVE:** Commissioner Frankenbach moved to approve this project File CUP0022-21 requesting a modification of a previously issued Conditional Use Permit, C995-16, to allow a daycare along with the existing use of a church, on an approximately 4.35 acre parcel zoned Rural 5, located off United States Highway 95 in Section 10, Township 56 North, Range 2 West, 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, removing Condition of Approval A-5, and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. 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 Vice Chair declared the motion carried, unanimously.

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**Findings of Facts:**

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1. The applicant is requesting to modify a previously approved Conditional Use Permit for a Church earlier approved in 2016, to now include a daycare for up to 50 children and 10 employees, on an approximately 4.35-acre property zoned Rural 5.
2. The site is accessed off United States Highway 95.
3. As per the applicant, the site is currently developed with a 14,000 sqft. Church building and a 1,200 sqft. Storage building.
4. The applicant is not proposing construction of any new structures on the site to accommodate the requested use of a daycare. Remodeling or addition of to the existing structure is not proposed either.
5. The applicant is not proposing any machinery to be located on the site.

6. The daycare staff will consist of 5 members on the site – Monday to Friday, during the operational hours of 7:30 a.m. to 5:30 p.m. on the site.
7. The applicant is anticipating having 20 vehicles per day on the site during the operation of the requested use of a daycare.
8. The applicant is not requesting any associated functions (receptions, outdoor activities, additional processes etc.) as part of the primary requested use of a daycare.
9. Parking and loading areas for the daycare will be provided on-site.
10. Applicant is not proposing any advertising signs on or off the site as part of this application.
11. Applicant is not proposing any outdoor lighting as part of this application.

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**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.

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**Conditions of Approval**

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

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.

**A-3** All County setbacks shall be met.

**A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.

**A-5** ~~(Removed during 1/6/22 hearing) 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** Any future additions of signage in conjunction with this Conditional Use Permit would require the applicant to request for a modification of this Conditional Use Permit. See Conditions of Approval.

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**Background:**

**A. Site data:**

- As per the applicant, the site is currently developed with a 14,000 sf. Church building and a 1,200 sf. Storage building.
- Site exists as an unplatted parcel of land.
- Size: Approximately 4.35 acres
- Zone: Rural 5 District
- Land Use: Rural Residential

**B. Access:**

- Site is accessed of United States Highway 95 in Sagle, a public right-of-way owned by Idaho Transportation Department. The speed limit on the highway at the location of the site is 55 miles per hour.

**C. Environmental factors:**

- Majority of the site does not contain slopes of over 15% grade. A minimal portion of the site contains slopes between 15-29% grade or steep slopes of over 30%. (United States Geological Survey)
- Approximately 0.28 acres of the site contains PEM1C Freshwater Emergent Wetlands. (United States Fish and Wildlife Services)

- Site contains following soils:
  - Pend Oreille silt loam, non-prime farmland soil classified as well drained.
  - Odenson silt loam, prime farmland soil if drained classified as poorly drained.
- Site does not contain a river/stream/frontage on lake or any other waterbody.
- Parcel is located within SFHA Zone X, per FIRM Panel 16017C0950E, Effective Date 11/18/2009.
- Site does not seem to contain any critical wildlife areas as identified by any local, state or federal agencies.

**D. Services:**

- Water: Site is currently served by an individual well.
- Sewage: Site is currently served by an individual septic tank and a leach field.
- Fire: Selkirk Fire District
- Power: Avista Utilities
- School District: Lake Pend Oreille School District #84
- Ambulance District: Bonner County Ambulance District
- Hospital District: Pend Oreille Hospital District

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

Compass Site	Comp Plan	Zoning	Current Land Use & Density
North	Rural Residential	Rural 5	Church
East	Urban Growth Area	Suburban	Residential
South	Rural Residential	Rural 5	Residential
West	Rural Residential	Rural 5	Residential

**F. Standards Review**

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

- **BCRC 12-220, et seq, conditional use permit, application and standards**
  - **Staff:** The application was considered complete and routed to agencies on for their review on November 30, 2021.
- **BCRC 12-333 Commercial Use Table**
  - **Staff:** Nurseries and daycare centers (child/adult) are permitted as Conditional Uses in Rural 5 Districts, provided the following conditions are met:

- **BCRC 12-333 (2)** Where access to the site is by road, the road shall be located within a recorded easement or public right of way and constructed to provide adequate emergency vehicle access (including, but not limited to, fire, medical, and law enforcement), except where subject to the terms of an approved special use permit issued by a state or federal agency.

**Staff:** The access road is a public right of way – United States Highway 95, owned by Idaho Transportation Department.

- **BCRC 12-333 (16)** As defined in Idaho Code, except where used as a subordinate part of a permitted use.

**Staff:** The use is not requested as a subordinate part of a permitted use. It should meet the standards established by the Idaho Code.

- **BCRC 12-421 Performance standards for all uses**

- **Staff:** The requested use is unlikely to result in fire hazards, radioactivity or electrical disturbance, noise (timings of operation of daycare limited to Monday through Friday, 7:30 am to 5:30 pm), vibration, air pollution or water pollution.

- **BCRC 12-4.3 Parking standards**

- Parking spaces for the daycare shall be calculated as follows-

Use	Minimum Requirement	Proximity of Parking Spaces
Schools (daycare, preschool and kindergarten) (3)	1 space/10 students AND 1 space/employee or teacher	Within 500 feet of the principal use

- **BCRC 12-432(B)(3)** Industrial, institutional and commercial uses shall be provided with off street loading spaces, exclusive of access areas, of not less than 12 feet in width. Loading spaces shall not project into public rights of way or setback areas.
- **Staff:** As per the number of students and the number of employees on site, the maximum required number of parking spots required shall be 5 spots per 50 children and 10 spots per 10 employees. The total number of parking spots required shall be 15. The site has sufficient area to accommodate 15 parking spots within 500 feet of the principal use.

- **BCRC 12-4.4, Sign standards**

- **Staff:** The applicant has not proposed any signage as part of this application. Any future additions of signage in conjunction with this Conditional Use Permit would require the applicant to request for a

modification of this Conditional Use Permit. See Conditions of Approval.

- **BCRC 12-4.5 Design standards**

- **BCRC 12-451 Applicability:** 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.
- **Staff:** The applicant is not proposing any new buildings on the site for the functioning of the daycare. The function will be carried out in the existing buildings on the site. No remodels or additions to the building are proposed either. Therefore, the design standards as listed in BCRC 12-453 are not applicable to the review of this request.

- **BCRC 12-4.6 Landscaping and screening standards**

- **BCRC 12-461 Applicability:** The standards in this subchapter shall apply to all new development in the commercial, industrial and rural service center districts and all other commercial, multi-family, public and industrial development in other districts unless otherwise noted. For remodels or additions, the standards in this subchapter shall apply where the value of the additions equals or exceeds fifty percent (50%) of the market value of the existing structure and/or site improvements as determined by the Bonner County assessor's office over any five (5) year time period. For other additions or remodels, the landscaping standards shall only apply to the specific areas being improved. For instance, if a commercial use is adding additional parking, the new parking area must feature landscaping per the standards in this subchapter.
- **Staff:** The applicant is not proposing any new buildings on the site for the functioning of the daycare. The function will be carried out in the existing buildings on the site. No remodels or additions to the building are proposed either. Therefore, the landscaping and screening standards as listed in BCRC 12-6.4 are not applicable to the review of this request.

- **BCRC 12-7.1 Shorelines**

- **Staff:** The proposed site does not front on any waterbodies and has no shoreline. Therefore, the standards of this subchapter are not applicable to this application.

- **BCRC 12-7.2, Grading, stormwater management and erosion control**

- **12-720.3 (K):** Activities to which this Subchapter is not applicable: Applications for conditional use permits, industrial and commercial site plan reviews, planned unit developments and variances that do not result in the creation of additional "impervious surface", as defined in section 12-809 of this title.
- **Staff:** This application for a conditional use permit for a daycare is not proposing creation of any additional impervious surfaces. Therefore, the standards of Subchapter BCRC 12-7.2 are not applicable to the review of this request.

- **BCRC 12-7.3, Wetlands**

- **BCRC 12-731(B)(2)** The following developments are exempt from this requirement: Conditional use permit applications where the applicant can demonstrate on a site plan that the proposed building site is not within a wetland as determined from the U.S. fish and wildlife service national wetland inventory maps or where the development will not create additional impervious surface.
- **Staff:** Approximately 0.28 acres of the site contains wetlands. However, the applicant is not proposing addition of any structures for functioning of the requested daycare on the property. Therefore, the standards of subchapter BCRC 12-7.3 are not applicable to the review of this application.

- **BCRC 12-7.5 Wildlife**

- The purpose of this subchapter is to provide measures to protect and maintain wildlife and fisheries habitat.
- **Staff:** No comments were received from any local, state or federal agencies indicating any potential harm to the wildlife and fisheries habitat.

- **BCRC 12-7.5 Flood Damage Prevention**

- **Staff:** As per FEMA's Flood Insurance Study for Bonner County, Idaho and Incorporated Areas, dated July 07, 2014, the site is located within SFHA Zone X, per FIRM Panel 16017C0950E, Effective Date 11/18/2009. Additionally, the applicant is not proposing any "development" on the site, as defined in BCRC 12-204. Therefore, this request for a Conditional Use Permit would not require any further floodplain review.

- **BCRC 12-7.6 Hillslides**

- **Staff:** As part of this application, no land disturbing activities are being proposed in areas where the natural slope equals or exceeds thirty percent (30%). The standards of BCRC 12-7.6 are thus not applicable to the review of this request for a daycare.

**G. Comprehensive Plan Land Use Designation**

- 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. Agency Review**

**The application was routed to the following agencies for comment:**

Panhandle Health District	Idaho Department of Environmental Quality
Selkirk Fire District	Idaho Transportation Department
Avista Utilities	Idaho Department of Water Resources
Lake Pend Oreille School District #84	U.S. Fish and Wildlife Service
Idaho Department of Fish and Game	U.S. Forest Service

**The following agencies commented:**

**Idaho Transportation Department - December 01, 2021**

*"Will you please have them confirm that they met the conditions of their permit #1-16-057? How many more vehicles per day will this be generating?"*

*As per the applicant, the agency enquired about the progress made on the work to be completed pertaining to entrance and exit from the applicant's driveway onto Highway 95. The work consisted of closing the applicant's South entrance and widening Highway 95 for a slowdown turn off lane for south bound traffic. The work has been completed.*

**Panhandle Health District - December 14, 2021**

*"The Panhandle Health District (PHD) has reviewed the application referenced above. The applicant indicates an intention to develop a daycare at the New Song Bible Church. This proposed use will require review of the status of the Applicants Septic, Water, and Daycare licensing and/or permitting. PHD recommends that the applicant contacts PHD as early into the planning process as possible, to determine whether the project, as proposed, is feasible."*

**Idaho Department of Environmental Quality - December 21, 2021**

*"While the Idaho Department of Environmental Quality (DEQ) does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply."*

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

**Idaho Department of Fish and Game - December 16, 2021**

**All other agencies did not reply.**

**I. Public Notice & Comments. None.**

**ZONE CHANGE**

**File ZC0037-21 – Zone Change – Brian Poirier Living Trust** is requesting a zone change from Rural-10 to Rural-5. The parcel is 40 acres. The project is located off Hunter Road in Section 16, Township 54 North, Range 5 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Vice Chair requested the Commissioners declare any conflicts of interest or disclosures. The Vice 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 Steven Syrcle, Tri-State Consulting Engineers provided comments on R-5 zoning.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

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

**MOTION TO RECOMMEND APPROVAL:** Commissioner Frankenbach moved to recommend approval to the Board of County Commissioners on this project, File ZC0037-21, 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, have the Chairman sign, and transmit to all interested parties. This action does not result in a taking of private property.

Commissioner Bailey seconded the motion.

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

**Zone Change Findings of Fact**

- The parcel is not characterized by slopes steeper than 30%. The parcel is flat.
- The parcel is not within critical wildlife habitat as identified by federal, state, or local agencies.
- The parcel contains two different soil types, one is prime farmland and the other is prime farmland if irrigated.
- The parcel is accessed from Highway 41 a paved state-owned travel way and Hunter Road a Bonner County owned and maintained travel way.
- The parcel does not contain any surface water or wetlands.
- The parcel is not within a floodplain or floodway.
- The parcel lies within West Pend Oreille Fire District.
- Power is provided by Inland Power.
- The parcel is located near other parcels that are currently developed at or near five (5) acres.

**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.

**Background:**

**A. Site data:**

- Use: Vacant
- Unplatted
- Size: 40 acres
- Zone: Rural 10
- Land Use: Rural Residential
- Legal per: #556356

**B. Access:**

- The parcel is accessed from Highway 41 a state-owned paved travel way and Hunter Road a Bonner County owned gravel and maintained travel surface

**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, per FIRM Panel 16017C1100E, 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: Rathdrum-Bonner ashy silt loams, 0 to 8 percent slope
- Type: Complex
- Drainage: Well Drained
- Classification: Prime farmland

**D. Services:**

- Water: Individual well
- Sewage: Individual septic
- Fire: Spirit Lake Fire District
- Power: Inland Power
- 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- 40 acres
North	Rural Residential	Rural-5	Vacant-5 acres parcels
East	Rural Residential	Rural-10	Vacant-40 acres
South	Neighborhood Commercial	Suburban	Residential- 21acres/ Vacant-20 acres
West	Rural Residential	Rural-5	Vacant- 40 acres

**F. Standards review Bonner County Revised Code**

• **12-111: PURPOSE**

The zoning regulations and districts for the unincorporated areas of Bonner County, as herein established, have been made in accordance with a comprehensive plan and Idaho Code for the purpose of promoting the health, safety and general welfare of the people of Bonner County as follows:

To protect property rights while making accommodations for other necessary development such as varied types of affordable housing.



To ensure that adequate public facilities and services are provided to the people at reasonable cost.  
 To ensure that the economy of the state and localities is protected.  
 To ensure that the important environmental features of the state and localities are protected.  
 To encourage the protection of prime agricultural, forestry and mining lands for production of food, fiber and minerals.  
 To encourage urban and urban type development within incorporated cities.  
 To avoid undue concentration of population and overcrowding of land.  
 To ensure that the development on land is compatible with the physical characteristics of the land.  
 To protect life and property in areas subject to natural hazards and disasters.  
 To protect fish, wildlife and recreation resources.  
 To avoid undue water and air pollution.  
 To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis. (Ord. 501, 11-18-2008)

- **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)
- **12-320.1:** Zoning Districts and Map Designation, Purpose:
  - The purpose statements for each zone and map designation set forth in the following sections shall be used to guide the application of the zones and designations to all lands in unincorporated Bonner County. The purpose statements also shall guide interpretation and application of land use regulations within the zones and designations, and any changes to the range of permitted uses within each zone through amendments to this title. (Ord. 501, 11-18-2008)
- **12-320.2:** Zoning Districts and Map Designations Established:
  - In accordance with the provisions of Idaho Code and the objectives set forth in this code, all land in the unincorporated areas of Bonner County is hereby classified according to the following zoning designations and zoning map symbols, which shall be applied as shown on the official zoning district map

**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 agencies for comment on November 30, 2021

Panhandle Health District	Idaho Department of Water Resources
Idaho Transportation Department	Bonner County Road & Bridge Department
Spirit Lake Fire District	U.S. Fish and Wildlife Service
Inland Power Company <sup>1</sup>	Idaho Department of Lands (Sandpoint)
Bonner School District #83	U.S. Forest Service
Bonner County Schools - Transportation	Idaho Department of Environmental Quality
Idaho Department of Fish and Game	(All Taxing Districts)

**The following agencies provided comment:**

Spirit Lake Fire District *"Hunter Road needs to be paved, widened, and have two points of access/egress for the current density and to be functional for future growth" see attached letter.*

Panhandle Health District *"PHD strongly suggests the landowner contact PHD to assess the steps necessary to determine the feasibility of this project, prior to proceeding."*

Idaho Department of Fish & Game *"Declines in parcel size with associated development will also result in the loss of hunting opportunities and reduce IDFG ability to manage deer and other wildlife."*

*Department of Environmental Quality "DEQ does not review projects on a project-specific basis"*

**All other agencies did not reply.**

**I. Public Notice & Comments**

As of December 29, 2021, one comment was received with concerns that increase in density will affect traffic and maintenance of Hunter Road.

**VARIANCE**

**File V0019-21 - Variance - Setback - Mark and Jeannie Lengyel** are requesting a 0' setback where 40' waterfront and 5' property line setback is required to keep an existing deck. The 0.25-acre property is zoned suburban. The project is located off Lakeshore Drive in Section 33, Township 57 North, Range 2 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Vice Chair requested the Commissioners declare any conflicts of interest or disclosures. The Vice 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:** Landowner Mark Lengyel provided comments on property lines, property surveys by James A. Sewell & Associates, permitting of deck, modification of deck, and neighboring property.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record: Roland Rose, and John Finney, Attorney for Kathryn and Roland Rose.

**APPLICANT REBUTTAL:** Landowners Jeannine and Mark Lengyel responded to public comments regarding five-foot setbacks, deck is currently on property, and reducing size of deck and dock.

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

**Due to inclement weather and poor internet/cellular connectivity a quorum was not maintained. The Vice Chair continued this hearing to a date and time certain, January 20, 2022 at 5:30 p.m.**

**CONDITIONAL USE PERMIT**

**Due to inclement weather and poor internet/cellular connectivity a quorum was not maintained. The Vice Chair continued this hearing to a date and time certain, January 20, 2022 at 5:30 p.m.**

**File CUP0020-21 – Conditional Use Permit – Larry Vest** is requesting a Conditional Use Permit for a Recreational Park on 1.13 acres. The property is zoned Rural Service Center. The project is located off Highway 95 in Section 5, Township 55 North, Range 2 West, Boise-Meridian.

At 10:04 p.m., the Vice Chair declared the hearing adjourned until January 20, 2022.

Respectfully submitted,

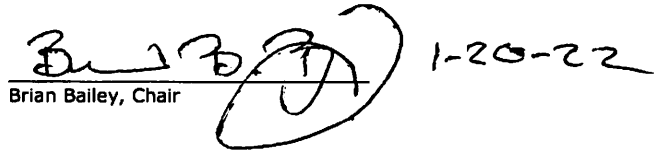


Milton Orlerton, Planning Director

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The above Minutes are hereby approved this 20th day of January 2022.

Bonner County Planning and Zoning Commission



Brian Bailey, Chair