

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
MARCH 3, 2022**

PLEDGE OF ALLEGIANCE

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

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

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Assistant Planning Director Jacob Gabell; Planner I Daniel Britt; Planner I Amy Scott; Hearing Coordinator Jenna Crone

CHANGES IN AGENDA: None

CONSENT AGENDA: None

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for February 17, 2022. 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.

Files AM0023-21 & ZC0033-21 – Comprehensive Plan Map Amendment & Zone Change – Craig Hill is requesting a comprehensive plan map amendment from Rural Residential to Resort Community and a zone change from Rural to Recreation. The 0.54-acre property is zoned Rural 5. The project is located off Luby Bay Road in Section 24, Township 60 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: Planner I 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: Craig Hill presented his plans for the project as housing for employees.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

Comprehensive Plan Amendment - Motion by the Governing Body:

PLANNING AND ZONING COMMISSION

MOTION TO RECOMMEND APPROVAL: Commissioner Davis moved to recommend approval, to the Board of County Commissioners on this project, FILE AM0023-21, requesting a comprehensive plan amendment from Rural Residential to Resort community, on a 0.54 acres parcel generally located in Section 24, Township 60 North, Range 5 West, Boise Meridian, 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 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, have the Chairman sign, and transmit to all interested parties.

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.

Comprehensive Plan Amendment Findings of Fact

- Slopes are absent on the property.
- Critical wildlife habitat was not identified by Idaho Fish & Game.
- Urban services are available to this parcel.
- Recreational activities are surrounding this area.
- Most surrounding parcels are sub 5 acres.

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
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 is found to be in compliance.

Conclusion 3

The proposal is in accord with the RURAL RESIDENTIAL Land Use Designation.

Zone Change - Motion by the Governing Body:

PLANNING AND ZONING COMMISSION

MOTION TO RECOMMEND APPROVAL: Commissioner Frankenbach moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0033-21, requesting a zone change from Rural-5 to Recreation , finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner 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 Chairman sign, 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 unanimously.

Zone Change Findings of Fact

- The parcel is within the Kalispell Bay Water & Sewer District.
- Access is on a paved Bonner County owned and maintained travel way.
- Fire protection is provided by West Priest Lake Fire.
- Northern Lights is the utility services provider.
- Recreational activities are in proximity of the parcel. Those amenities are golf, Priest Lake access, restaurants, convenience stores and retail stores.
- Soil on the property is classified as not prime farmland.
- The parcel is not within a floodway.
- Slopes are absent on the property.

- Most properties surrounding this parcel are sub 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 is found to be in compliance.

Conclusion 3

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

Background:

A. Site data:

- Use: Two single family dwellings
- Unplatted
- Size: 0.54 acres
- Zone: Rural 5
- Land Use: Rural Residential

B. Access:

- The property has access from Luby Bay Road a Bonner County owned paved and maintained travel way.

C. Environmental factors:

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain any water courses. (NHD)
- Parcel is within SFHA Zone D per Firm Panel 16017C0200F Effective date 7/7/2014
- Soil:
 - Description: Caribouridge-Stien families complex, outwash plains of mixed geology
 - Type: Complex
 - Drainage: Well Drained
 - Classification: Not Prime farmland

D. Services:

- Water: Kalispell Bay Water & Sewer District
- Sewage: Kalispell Bay Water & Sewer District
- Fire: West Priest Lake District
- Power: Northern Lights Utility Company
- School District: Bonner School #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Rural 5	(2) Residents/ 0.54 acres
North	Rural Residential	Rural 5	Residents/ 3.57 acres
East	Rural Residential	Rural 5	Residents/ 1.56 acres Residents/ 1.02 acres
South	Rural Residential	Rural 5	Residents/ 0.87 acres
West	Rural Residential	Rural 5	Vacant/ 429.90 acres

F. Standards review Bonner County Revised Code

- **12-111** 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 (Ord. 501, 11-18-2008)

- **12-112(C):** Interpretation, Relation to other Ordinances:

The provisions of this title shall be interpreted to carry out the purpose and intent of the zone district as shown on the official zoning maps on file in the planning department office, this title as adopted, and the Bonner County comprehensive plan.

The use of the following words shall apply:

- "Shall" and "must" are mandatory and not discretionary.
- "May" is permissive.
- "Should" refers to a guideline that is encouraged, but not mandatory.
- **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

- 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

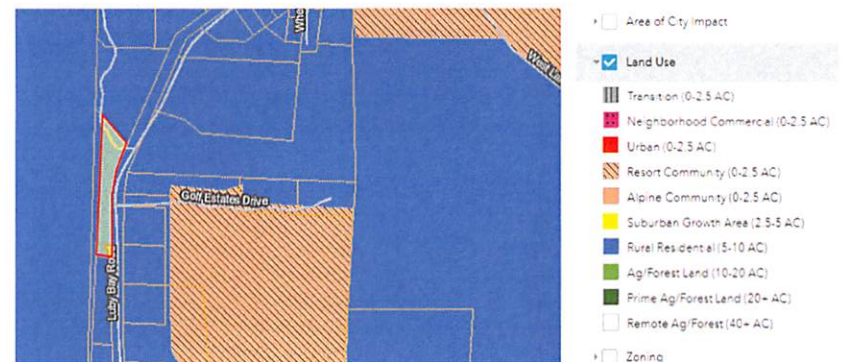
- **Existing Comprehensive Plan Designation: Rural Residential**

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.

- **Proposed Comprehensive Plan Designation: Resort Community**

The Resort Community provides for urban-like densities for areas centered around the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

Section 2.5 Land Use:



Goal: Bonner County intends to balance and integrate its land use policies and proposed land use map with the components of the comprehensive plan to

encourage the community to grow while retaining its rural character and protecting its unique natural resources.

Objective: Bonner County will develop and maintain a future land use map and land use codes that acknowledge the values of its agricultural and timber land, protects the water and wildlife resources, identifies and avoids hazard areas, provides areas for economic growth, encourages affordable housing and centers growth in areas where adequate public and private services can be provided.

Staff: This proposal is in line with the land use portion of the comprehensive plan as it allows for growth and affordable housing options. The property has access to public services such as water, sewer, and fire protection.

Section 2.8 Public Services, Facilities & Utilities

Goal: Future development shall provide adequate services and should not adversely impact the services or utilities of present-day users.

Objective: New development should be adequately served by fire protection, roads, sewer, schools, law enforcement, ambulance and emergency services, water and other public/private services.

Staff: Services are already present on the property for the exiting structures. Services won't be negatively effected by this request as the property already utilizing these services.

Section 2.9 Transportation

Goal: Bonner County intends to provide a transportation system that is safe, uncongested, and well maintained.

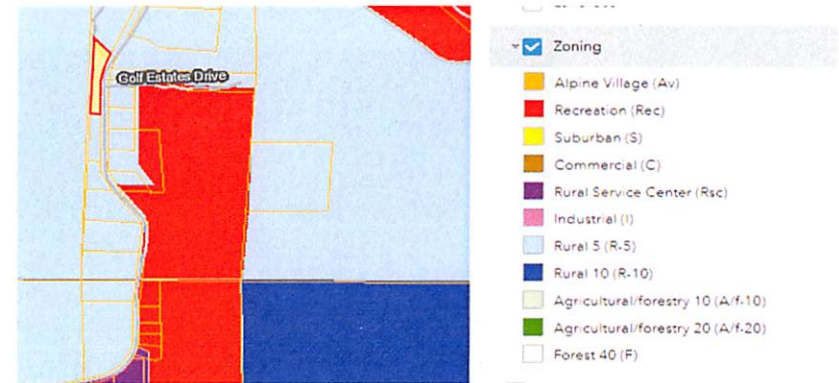
Objective: Future development shall not adversely impact the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

Staff: Though this proposal is not for development the property currently accessed off a paved Bonner County owned and maintained travel service.

Section 2.12 Housing

Goal: Bonner County recognizes diverse housing needs are to be addressed to provide adequate shelter for all, regardless of age, income or physical abilities.

Staff: The proposal will allow for affordable housing for local employee.



• Existing Zoning: 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

Proposed Zoning: Recreation

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

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

2. Sites are served by adequate sewage disposal service, water supply, roads and other needed public facilities and services.

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 January 25, 2022.

Panhandle Health District	Idaho Department of Water Resources
Outlet Bay Water & Sewer District	Bonner County Road & Bridge Department
West Priest Lake Fire District	U.S. Fish and Wildlife Service
Northern Lights Utility Company	Idaho Department of Lands (Coolin)
Bonner School District #83	U.S. Forest Service
Bonner County Schools – Transportation	Idaho Department of Environmental Quality
Idaho Department of Fish and Game	Idaho Transportation Department
(All Taxing Districts)	

The following agencies provided comment:

DEQ- see attached letter for comments and recommendations

The following agencies replied "No Comment":

City of Clark Fork
 Idaho Fish & Game
 Independent Highway District
 Idaho Transportation Department
 Kootenai Ponderay Sewer District
 Panhandle Health District
 Pend Oreille Hospital District

All other agencies did not reply.

I. Public Notice & Comments

As of February 23, 2022, no comments have been received.

Staff Analysis:

Staff concluded this project is consistent with Bonner County Revised Code and with the general and specific objectives of the Bonner County Comprehensive Plan based upon the information found in the 'Background' portion of this staff report, and as demonstrated by the findings of fact, conclusions of law, and conditions of approval below.

The Comprehensive Plan Map Amendment request is consistent with the principles of Resort Community land use designation of the Comprehensive Plan, based on the following facts-

Rural Residential	Resort Community
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> The Resort Community provides for urban-like densities for areas centered around the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

- Slopes are absent on the property.
- Critical wildlife habitat was not identified by Idaho Fish & Game.
- Urban services are available to this parcel.
- Recreational activities are surrounding this area.
- Most surrounding parcels are sub 5 acres.

The request for Zone Change is consistent with the principles of Recreation District zoning, as described in the Bonner County Revised Code, based on the following facts-

Rural-5 Standards	Recreation Standards
<ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> Land is physically suitable to accommodate a broad range of residential and recreational uses Adequate sewage disposal services Water Supply Roads Other Public facilities and services

- The parcel is within the Kalispell Bay Water & Sewer District
- Access is on a paved Bonner County owned and maintained travel way.
- Fire protection is provided by West Priest Lake Fire.
- Northern Lights is the utility services provider.
- Recreational activities are in proximity of the parcel. Those amenities are golf, Priest Lake access, restaurants, convenience stores and retail stores.
- Soil on the property is classified as not prime farmland.
- The parcel is not within a floodway.
- Slopes are absent on the property.
- Most properties surrounding this parcel are sub 5 acres.

Conclusion: The Resort Community comprehensive plan designation and the Recreation District zoning is appropriate based upon the known facts.

ZONE CHANGE

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File ZC0039-21 – Zone Change – Ag/Forest 20 to Ag/Forest 10 – David & Katharine Luers are requesting a zone change from AF-20 to AF-10. The approximately 52 acres of property is located off Mosquito Creek Road in Section 1, Township 55 North, Range 2 East, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Staff 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 Travis Haller, Glahe & Associates, Inc., submitted Exhibit A (PowerPoint presentation) and provided comments on the plans for the project as well as topography, services and Bonner County Comprehensive Plan.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

Zone Change - Motion by the Governing Body:

PLANNING AND ZONING COMMISSION

MOTION TO RECOMMEND APPROVAL: Commissioner Davis moved to recommend approval to the Board of County Commissioners on this project, FILE ZC0039-21, requesting a zone change from Agricultural/Forestry-20 to Agricultural/Forestry-10, 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 move 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 Frankenbach seconded the motion.

VOTED upon and the Chair declared the motion carried unanimously.

Zone Change Findings of Fact

- All parcels have a land use designation of Agriculture Forest Land. As per Bonner County Revised Code, Agricultural/ Forestry-10 zoning district is suitable for areas with this land use designation.
- Approximately 14 acres are classified as prime farmland, 38 acres is not prime farmland soils.
- Agricultural or Forestry pursuits remain viable for the parcels.
- The parcels are within the area of city impact of Clark Fork.
- The parcels are accessed by Bonner County owned and maintained gravel surfaced travel ways.
- Parcels do contain slopes greater than 30%.
- The parcels do contain streams and wetlands.
- The parcel lies within Clark Fork Fire Department boundary.
- The parcel can be served by an individual well and septic system.
- Power is provided from Avista Utilities.

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	Implementation	Public Services
Population	Economic Development	Transportation
School Facilities	Land Use	Recreation
Transportation	Natural Resources	Special Areas or Sites
Community Design	Hazardous Areas	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 purpose of the Rural 5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

Background:

B. Site data:

- Use: The parcels are either developed with residences or are vacant.
- All three parcels are unplatted.
- Total land area of all three parcels: ±52 acres
- Zone: Agricultural/ Forestry 20
- Land Use: Agriculture Forest Land
- Legal per: #911871, #883694, #911871

B. Access:

- Mosquito Creek Road, Bonner County owned and maintained gravel surfaced, public right-of-way with a speed limit of 25 miles per hour.
- Lower Mosquito Creek Road, Bonner County owned and maintained gravel surfaced, public right-of-way with a speed limit of 25 miles per hour.

H. Environmental factors:

- **Slopes (USGS):**
 - The northern parcel is characterized by slopes 30% or greater.
 - The central parcel does not contain any slopes.
 - The southern parcel contains approximately 20% of slopes between 15-30% or over. The remaining parcel area does not show presence.
- **Wetlands (USFW):**
 - The northern parcel does not contain any wetlands.
 - The central and southern parcels show presence of wetlands:
 - PEM1C, Freshwater Emergent Wetlands
 - PSS1C, Freshwater Forested/ Shrub Wetland
- **Waterfront/ Streams (NHD):**
 - The southern parcel shows presence of Mosquito Creek, classified as a Stream or River-perennial.
 - The other two parcels show no presence of any water bodies.
- **Floodplain and Floodway (FEMA):**
 - All parcels are located within SFHA Zone X, per FIRM Panels 16017C1018E and 16017C1019E, Effective Date 11/18/2009. The parcels are not located within Floodways either.
- **Soils**
 - Classification: Pepoon-Newbell families-Rock outcrop complex, glaciated steep scoured mountain slopes, belt geology, south aspects
 - Type: Complex
 - Drainage: Well drained
 - Not prime farmland

 - Classification: Bonner silt loam, cool, 0 to 4 percent slopes
 - Type: Consociation
 - Drainage: Well drained
 - All areas prime farmland

 - Classification: Hoodoo silt loam, 0 to 1 percent slopes
 - Type: Consociation
 - Drainage: Poorly Drained
 - Prime farmland if drained

 - Classification: Pearsoncreek-Highfalls families, complex, steep glaciated mountain slopes, belt geology, north aspects 40 to 75 percent slopes
 - Type: Complex

- Drainage: Well drained
- Not prime farmland
- Classification: Pearsoncreek-Highfalls families, complex, dissected steep glaciated mountain slopes, belt geology, north aspects
- Type: Complex
- Drainage: Well drained
- Not prime farmland

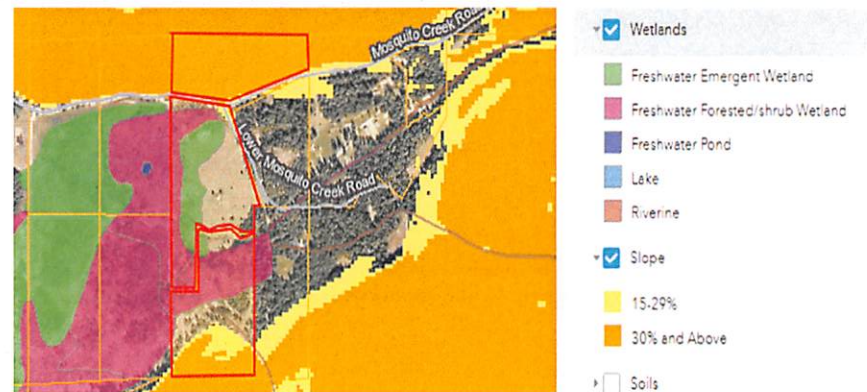
I. Services:

- Water: Individual well.
- Sewage: Individual septic system.
- Fire: As per the applicant, fire services are provided by the City of Clark Fork Fire Department.
- Power: Avista Utilities
- School District: Lake Pend Oreille School District #84

J. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Agriculture Forest Land	Agricultural/Forestry 20	Residential/ ±52 acres
North	Remote Agriculture Forest Land	Forest 40	Vacant/ 480 acres
East	Agriculture Forest Land	Agricultural/Forestry 20	Resort Use/ 12-15 acres
South	Agriculture Forest Land	Forest 40	Vacant /527 acres
West	Agriculture Forest Land	Agricultural/Forestry 10	Vacant/ 40 acres

K. Standards Review: Bonner County Revised Code



BCRC 12-111: 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.

BCRC 12-112(C): Interpretation, Relation to other Ordinances:

The provisions of this title shall be interpreted to carry out the purpose and intent of the zone district as shown on the official zoning maps on file in the planning department office, this title as adopted, and the Bonner County comprehensive plan.

The use of the following words shall apply:

1. "Shall" and "must" are mandatory and not discretionary.
2. "May" is permissive.
3. "Should" refers to a guideline that is encouraged, but not mandatory.

BCRC 12-215: Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents.

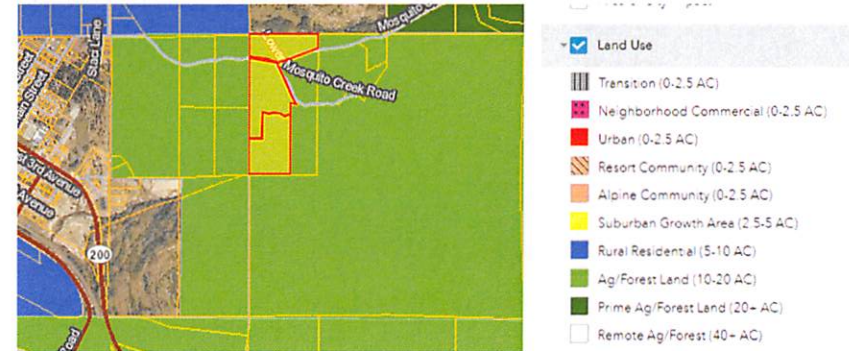
The application was considered complete and routed to agencies accordingly.

BCRC 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)

BCRC 12-320.1: 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.

Existing Comprehensive Plan Designation: Agriculture Forest Land



Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% 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.

Staff: The land use designation of the subject parcels is Agriculture Forest Land. This land use designation allows for both the existing A/F-20 zoning as well as the proposed A/F-10 zoning. The applicant is not requesting a change to the existing Comprehensive Plan land use designation. This request remains in compliance with the Comprehensive Plan Land Use Designation.

Section 2.5 Land Use

Goal: Bonner County intends to balance and integrate its land use policies and proposed land use map with the components of the comprehensive plan to encourage the community to grow while retaining its rural character and protecting its unique natural resources.

Objective: Bonner County will develop and maintain a future land use map and land use codes that acknowledge the values of its agricultural and timber land, protects the water and wildlife resources, identifies and avoids hazard areas, provides areas for economic growth, encourages affordable housing and centers growth in areas where adequate public and private services can be provided.

Staff: These parcels are situated within the area of city impact of Clark Fork where economic growth and affordable housing can be achieved. Public and private service are already being utilized for these parcels.

Section 2.6 Natural Resources

Goal: Bonner County places a high value on its natural resources and amenities and desires to protect these features that make the county unique place to live, work and play. The county recognizes that natural resources, such as pure water, clean air and diverse wildlife, are important to preserve and once lost, they may not be recovered. Bonner County will strive to manage its natural resources to attain the greatest long term public benefit.

Objective: Bonner County values its productive agricultural lands and forests, its fisheries, wildlife and wetlands, and will provide measures to protect and maintain these natural features.

Staff: With the guidance from Idaho Fish & Game, Army Corps of Engineers and Bonner County on this proposal, these natural features will be protected and maintained.

Section 2.7 Hazardous Areas

Goal: Bonner County desires to protect its community from the loss of lives and property and to reduce public and private financial losses due to flood, fire, mass wasting, avalanches and excessive slopes by setting standards for development within hazard areas and discouraging development in high hazard areas

Objective: Development within areas of excessive slopes, unstable areas and avalanche zones shall be discouraged.

Staff: Though there is excessive slopes found on the parcels there are areas which will be safe to develop. This allows hazardous are to be avoided.

Section 2.8 Public Services, Facilities & Utilities

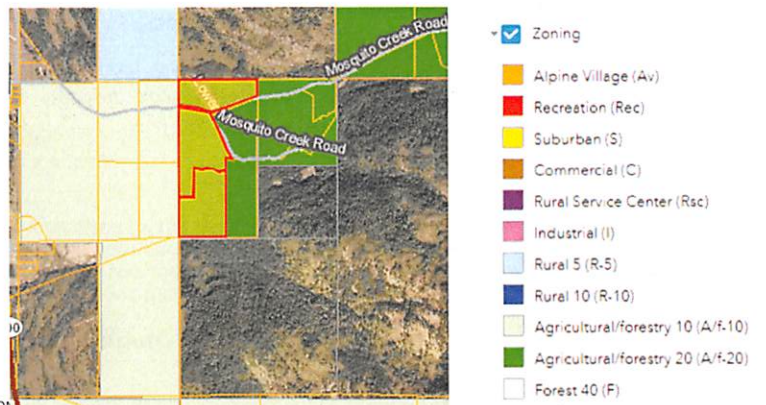
Goal: Future development shall provide adequate services and should not adversely impact the services or utilities of present-day users.

Objective: New development should be adequately served by fire protection, roads, sewer, schools, law enforcement, ambulance and emergency services, water and other public/private services

Staff: This proposal has demonstrated that adequate fire protection, roads, water and sewer and other services are available for these parcels.

**Existing Zoning: Agricultural/ Forestry 20
BCRC 12-322: Agricultural/Forestry District:**

- A. The agricultural/forestry district is established to provide for agricultural and forestry pursuits, including livestock production, forestry, horticulture, floriculture, viticulture, and necessary accessory uses for treating, storing and processing agricultural products. The purpose of the A/F district is to preserve, protect and maintain areas that are rural in character and the integrity of the forest/woodland areas where viable agricultural pursuits can be feasible and to avoid fragmentation of forests and farms. These purposes are accomplished by:
 - 1. Establishing residential density limits and conservation development standards to retain areas sized for efficient farming.
 - 2. Allowing for uses related to agricultural production and limiting nonagricultural uses to those compatible with agriculture or requiring close proximity for the support of agriculture.
- B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - 1. A/F-20 in all areas designated as prime ag/forest land in the comprehensive plan. The A/F-20 zone is also appropriate in areas designated ag/forest land in the comprehensive plan that also feature:
 - a. Prime agricultural soils.
 - b. Are characterized by agricultural or forestry uses.
 - c. Areas where one or more of the following apply: limited services; characterized by slopes steeper than thirty percent (30%); where access may be absent or limited to substandard road systems or where large tracts of land may be devoted to ag/forest production.



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2. A/F-10 in areas designated as ag/forest land in the comprehensive plan that do not feature prime agricultural soils, but where agricultural and forestry pursuits remain viable. These areas may be within or adjacent to areas of city impact or where lands are afforded fire protection, access to standard roads and other services. (Ord. 501, 11-18-2008)

BCRC 12-7.2 Stormwater Management and Erosion Control

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.

L. Agency Review:

The application was routed to the following agencies for comment on January 25, 2022 except for the City of Clark Fork (routed on January 07, 2022) and Lake Pend Oreille School District #84 (routed on February 09, 2022).

US Army Corps of Engineers	Bonner County Road and Bridge
Idaho Department of Environmental Quality	US Forest Service
Idaho Department of Fish and Game	Idaho Department of Lands – CDA
US Fish and Wildlife Service	Idaho Department of Lands – Sandpoint
Bonner County Floodplain Review	Panhandle Health District
Avista Utilities	West Bonner County School District #83
City of Clark Fork Fire	

The following agencies provided comment:

Corps of Engineers- see attached letter of recommendations for the project.

DEQ "has no environmental comments at this stage of the project"

Idaho Fish & Game- see attached letter of recommendations for the project.

Panhandle Health District- see attached letter of recommendations for the project.

The following agencies replied "No Comment":

City of Clark Fork "No comment"

All other agencies did not reply.

M. PUBLIC NOTICE & COMMENTS

As of February 23, 2022, no public comments were received.

Staff Analysis:

Staff concluded this project is consistent with Bonner County Revised Code and with the general and specific objectives of the Bonner County Comprehensive Plan based upon the information found in the 'Background' portion of this staff report, and as demonstrated by the findings of fact, conclusions of law, and conditions of approval below.

The standards and comparisons for both the A/F-20 and A/F-10 zones are listed below.

The proposed zone change is consistent with the comprehensive plan for the Agricultural/ Forestry designation (See Appendix A):

A/F-20 Standards	A/F-10 Standards
<ul style="list-style-type: none"> • Prime agricultural soils • Characterized by agricultural or forestry uses • Limited services • Characterized by slopes steeper than 30% • Absent or limited to substandard road system or • Where large tracts devoted to ag/forest production. 	<ul style="list-style-type: none"> • Do not feature prime agricultural soils • Where agricultural and forestry pursuits remain viable • Within or adjacent to areas or city impact • Where lands are afforded fire protection • Access to standard roads • Other services

Prime Agricultural Soils:

- Five different soil types are found on the ±52 acres, one is classified as "prime farmland" soils, one is classified as "prime farmland if drained" soils and three are classified as "not prime farmland" soils.
- Approximately 14 acres of prime farmland soils are found on the parcels. Only one parcel is characterized by prime farmland soils. That parcel is ±17.95 acres and of that, approximately ±12 acres is prime farmland.

Characterized by Agricultural or Forestry Uses:

- The state of Idaho characterizes agricultural/ forestry pursuits as, the total area of such land, including the home site, is more than five (5) contiguous acres and is actively devoted to profitable agriculture or forestry activities. The general area of this proposal is characterized by agricultural, and forestry uses. Since this request is not altering the nature of land use on the properties, these pursuits will remain viable for these parcels.

Within or adjacent to Areas of City Impact:

- All three parcels are all within the Area of City Impact of Clark Fork.

Limited Services:

- Available public services for the parcels are, City of Clark Fork Fire Department, Avista Utilities. Onsite services are individual wells and individual septic systems. Therefore, services are not limited to the parcels.

Characterized by slopes steeper than 30%:

- The northern parcel is characterized by slopes 30% or greater. The central parcel does not contain any slopes. The southern parcel contains slopes between 15-30% or greater slope but the parcel is not characterized by those slopes.

Absent or limited to substandard road system:

- The northern and central parcels are accessed by Bonner County owned and maintained gravel surfaced travel ways. The southern parcel is accessed by a private easement. Highway 200 is approximately 1.5 miles away, which is a state paved owned and maintained travel surface. For those reasons none of the parcels are accessed by substandard road system.

Where large tracts devoted to agriculture/ forest production:

- Though these parcels are not large tracts of land they are neighboring two parcels that are, respectively the parcels are 480 acres and 527 acres.

VARIANCE

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File V0027-21 – Variance – Street Setback – Jeffrey & Mary Quhl are requesting a 11’ street setback where 25’ is required for placement of a garage addition based on slope present on the lot. The property is zoned Recreation. The project is located off States Lane in Section 33, Township 57 North, Range 1 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

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

APPLICANT PRESENTATION: None

PUBLIC/AGENCY TESTIMONY: Rob Matthew addressed the questions of who maintains States Lane and clarified which lots are accessed from States Lane.

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 V0027-21 requesting a street setback of 11 feet where 25 feet is required in order to build a garage, 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, 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 Reeve seconded the motion.

VOTED upon and the Chair declared the motion carried unanimously.

Findings of Fact

1. The subject property is platted as Lot 4, Block 2 of Bel-Tane Acres, according to the official plat thereof, filed in Book 3 of Plats, at Page 138 Official Records of Bonner County, Idaho.
2. The applicants took ownership of the subject property on April 5, 2021 according to Warranty Deed Instrument Number 979960.
3. The subject property is accessed by States Drive, an unpaved 20’ wide private easement that dead-ends three properties past the subject property.
4. The subject property is zoned Recreation, has a land use designation of Resort Community, and 0.35 acres in size.
5. Slopes on the property range from 10% near the water to 82% near States Lane.
6. A reduced road setback of 11’ is being requested.
7. The reduced setback is being requested due to the excessive slope near the road.
8. Other residents on States Lane have structures within the 25’ street setback.

Conclusions of Law:

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

Conclusion 1

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

Conclusion 2

Special conditions and circumstances **do 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)

Conditions of approval:

Standard permit conditions:

- A-1** Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.
- A-2** A Building Location Permit for the proposed garage shall be obtained.
- A-3** The applicant shall complete a stormwater management plan in association with the building location permit per BCRC 12-7.2.

Background:

A. Site data:

- Lot 4, Block 2 of Bel-Tane Acres, according to the official plat thereof, filed in Book 3 of Plats, at Page 138
- 0.35 acres
- Developed with a single family dwelling, dock, and sheds
- Zone: Recreation
- Land Use: Resort Community

B. Access:

- The subject lot is accessed by States Lane, a graveled 20' wide private easement.

C. Environmental factors:

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does contain frontage on Lake Pend Oreille.
- Parcel partially in SFHA Zone AE per FIRM Panel #16017C0975E, Effective Date 11/18/2009. Entire project site is in SFHA Zone X per FIRM Panel

#16017C0750E, Effective Date 11/18/2009. No further flood review needed.

- No critical wildlife habitat areas on the subject parcel were identified by local, state, or federal agencies.

D. Services:

- Water: Southside Water & Sewer
- Sewage: Southside Water & Sewer
- Fire: Selkirk Fire District
- School District: Lake Pend Oreille School District #84

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	1 dwelling/0.35 acres
North	Resort Community	Recreation	1 dwelling/0.33 acres
East	Resort Community	Rural-10	Vacant
South	Resort Community	Recreation	1 dwelling/0.35 acres
West	Lake	Lake	Lake

F. Standards review

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

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

Applicant: "In 1997 a perpetual easement was granted to Bottle Bay sewer & water district to allow for a sewer pipeline through what is now the Ouhls property. At some point the easement granted, became the access road for the Ouhls property and 2 properties beyond. The county has deemed the road, States Lane, an access road which requires a 25' access setback. The required setback from the access road and excessive grade on the property would prevent the Ouhls from building a three car attached garage that would benefit both the Ouhls and the neighbors further down States lane."

Staff: According to the Bonner County GIS map slope layer the land on either side of States Lane has a slope of greater than 30%. According to the topographical site plan submitted by the applicants and created by Hendricks Architecture slopes near the road reach and may exceed 38°. States Lane bifurcates the subject property, further reducing the potential building envelope. The other lots on States Lane also have substantial slope and small building envelopes based on road location, however, these properties were not required to maintain a 25' setback to States Lane when they were developed.

Of the five other developed properties, only one appears to be meeting today's setback requirements.

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

Applicant: "The Ouhls inherited the easement on the property at the time the property was purchased. The Ouhls in no way created any of the restrictions on the property, and in fact are seeking relief from them. If the variance is approved the Ouhls have a place that they can park that will get cars off the road, creating easier access for neighbors, plows, and any emergency vehicles that need to get past the Ouhls' property."

Staff: The applicants purchased the property and existing home on April 5th, 2021, and therefore had no influence over the placement of the existing home or the development of States Lane.

(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 the variance will result in an improvement to the public health, safety and welfare. With the approval of the variance, a garage will be able to store vehicles that would improve the accessibility of the road. The noise, lights, and odor of the vehicles will be able to be contained within the garage."

It is also recognized that other residents along States Lane have buildings that are well within the 25' building setback from the access road. Therefore, making the Ouhl's request compatible with other residential uses in the immediate vicinity."

Staff: No agency or public comments were received that indicated the granting of this variance will have a negative impact on public health, safety, or welfare. Granting this variance will reduce potential road obstructions by providing the applicants an alternative to parking along the side of the road, and by widening the travelway in front of the proposed garage.

H. Agency Review

The application was routed to agencies for comment on February 3, 2022.

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Army Corps (Coeur d'Alene)
Applicable Fire District	Army Corps (Newport)
Applicable Utility Company	Fish and Wildlife Service
Applicable School District #84 or #83	Bonner County Schools -
Transportation	
Dept. of Fish and Game	Dept. of Lands (Sandpoint)
Dept. of Env. Quality	BNSF Railway

Dept. of Transportation
Dept. of Lands, Nav. Waters
State Historical Society

School District #83
Forest Service
Area of City Impact: Sandpoint

The following agencies commented:

No agency comments were received.

The following agencies replied "No Comment":

*Bonner County EMS - 1-31-2022
Bonner County Road & Bridge - 2/4/2022
Idaho Department of Environmental Quality - 2/15/2022
Idaho Department of Fish & Game - 2/3/2022
Panhandle Health District - 2/11/2022*

All other agencies did not reply.

I. Public Notice & Comments

The following public comments were received:

Southworth - in favor. 2/7/2022

Staff analysis:

Staff concluded this project is consistent with Bonner County Revised Code based upon the following:

While the neighboring properties on States Lane have similar conditions, four of the five neighboring properties are not meeting setback requirements to States Lane. This demonstrates that requiring the applicants to meet the street setback requirement in this area may cause excessive hardship. The circumstances have not resulted from the applicant's actions. Granting this variance will not impact the neighboring properties adversely in any way, nor is this request against the public interest, as demonstrated by the findings of fact.

The conditions of approval - as proposed or amended - will ensure that the granting of this variance 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.

COMMISSIONER & STAFF UPDATES:

Planning Director Milton Ollerton shared that roughly 20 applications have been received for the split of the Planning and Zoning Commission. The Commissioners discussed the Workshop taking place on March 8, 2022 and the process that will take place after the workshop.

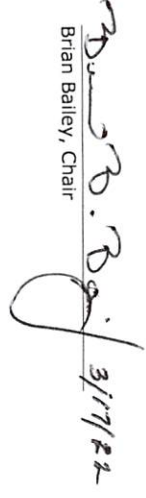
At 6:47 p.m., the Chair declared the hearing adjourned until March 8, 2022

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 17th day of March.

Bonner County Planning and Zoning Commission


Brian Bailey, Chair