

**BONNER COUNTY ZONING COMMISSION
PUBLIC HEARING MINUTES
July 21, 2022**

PLEDGE OF ALLEGIANCE

CALL TO ORDER: Chair Marble called the Bonner County 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: Chair Jacob Marble; Vice Chair Matt Linscott; Commissioners Luke Webster (via Zoom), Frank Wakeley, and Kristina Kingsland.

ABSENT: None

ALSO PRESENT: Planning Director Jacob Gabell; Planner I Tyson Lewis; Planner I Swati Rastogi; Planner I Chad Chambers; Hearing Coordinator Jenna Crone; and Administrative Assistant III Alysha Poteet.

CHANGES IN AGENDA: Commissioner Marble moved to approve the minutes from July 7, 2022, at the next hearing.

Commissioner Linscott seconded the Motion.

Roll Call Vote:

Commissioner Marble	AYE
Commissioner Linscott	AYE
Commissioner Wakeley	AYE
Commissioner Kingsland	AYE
Commissioner Webster	AYE

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

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 V0009-22 – Variance – Street Setback – Brandstetter. The above-named application has been submitted to the Bonner County Planning Department for processing and has been determined to be complete. The applicant is requesting a 0 foot street setback to a public right of way where 25 feet is required. The parcel is zoned Rural 5 (R-5). The project is located off Riverside Rd in Section 27, Township 56N, Range 5W, Boise-Meridian.

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

APPLICANT PRESENTATION: Dean Brandstetter gave a history of the property and why the variance is needed.

PUBLIC/AGENCY TESTIMONY: None

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

MOTION TO APPROVE: Commissioner Linscott moved to approve this project V0009-22, requesting a 0 foot street setback from a platted public right of way that is owned by Bonner County, 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 Linscott further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and presented as staff and direct planning staff to draft written findings and conclusions to reflect this motion and transmit to all interested parties. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

Commissioner Wakeley seconded the Motion.

Roll Call Vote:

Commissioner Marble	AYE
Commissioner Linscott	AYE
Commissioner Wakeley	AYE
Commissioner Kingsland	AYE
Commissioner Webster	AYE

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

FINDINGS OF FACT

1. The lot has slopes of 15% or greater predominantly on the south side of Riverside Road. (USGS)
2. The lot does not contain any mapped wetlands according to the national wetlands inventory.
3. The portion of the lot located between the Pend Oreille River and Riverside Road is approximately .4 acres according to GIS measurements.
4. The portion of the lot located south of Riverside Road is approximately 1.5 acres according to GIS map measurements.
5. The existing dwelling would be approximately 200 feet away from the nearest location for a detached garage maintaining the required setbacks according to GIS measurements.
6. The lot is served by Inland Power & West Pend Oreille Fire.
7. The lot utilizes an existing individual septic system and well.
8. Building Location Permit BLP2022-0424 was found for the proposed garage that requires this variance.

9. The platted right-of-way cul-de-sac is approximately 160 feet in diameter.
10. The lot is zoned R-5 and is over 1 acre and less than 5 acres which allows for a 10 foot property line setback BCRC 12-411 Density & Dimensional Standards. If the property was under 1 acre it would qualify for a 5 foot property line 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:

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.
2. **The granting of this variance shall not supersede any deed restrictions.**
(Amended during Hearing)

File CUP0004-22 – Conditional Use Permit – Communications Tower. The applicants are requesting to construct and operate a 190' self-supporting tower housed in a 75' x 75' compound, including an 8' x 12' equipment building. The tower will be situated on a portion of parcel #RP0140200201A0A. The property is zoned split zoned Rural 5-acre and Industrial. The project is located off HWY 41 in a portion of Section 31, Township 54 North, Range 4 West, Boise Meridian, Bonner County, Idaho.

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 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: Justin Abbott discussed the proposed project.

PUBLIC/AGENCY TESTIMONY: None

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

MOTION TO APPROVE: Commissioner Kingsland moved to approve this project FILE CUP0004-22 requesting to construct and operate a 190' self-supporting tower to support new panel antennas, MW dishes and other associated equipment. housed in a 75' x 75' compound, including an 8' x 12' equipment building, tower, H-frame for power and telephone connections, 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 Kingsland further moved to adopt the following findings of fact and conclusions of law as written (and as amended by staff). 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. To include the amendments as added by staff.

Commissioner Linscott seconded the Motion.

Roll Call Vote:

Commissioner Marble	AYE
Commissioner Linscott	AYE
Commissioner Wakeley	AYE
Commissioner Kingsland	AYE
Commissioner Webster	AYE

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

Findings of Fact

1. The property is split zoned Rural 5-acre and Industrial.
2. Communication towers are conditionally permitted in all zoning districts in Bonner County.
3. Per the application, no sewer or water services are anticipated on-site, given the proposed land use, but Avista Utilities will provide power.
4. The property is afforded fire protection by the Spirit Lake Fire Protection District.
5. There are no mapped wetlands or streams on the property, but there is some sloping between 15-29% and 30%+.
6. The property is not located in a mapped FEMA floodplain.

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. (See attached comprehensive plan goals, objectives and policies)

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

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

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

Conclusion 4

The proposed use **WILL NOT** adversely affect properties in the vicinity.

Conclusion 5

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

Conditions of approval:

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

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.

- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
- A-6** The communication tower shall be built to telecommunication industry association/electronic association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.
- A-7** The communication tower shall not penetrate any airspace surface on or adjacent to any public or private airfields as set forth in subchapter 5.2 of the Bonner County Revised Code, Title 12, or as amended.
- A-8** The communication tower shall not be used for signage, symbols, flags, banners or other devices or objects attached or painted or inscribed upon any communication facility for the purposes of displaying a message of any kind, except as required by a governmental agency (Ord. 501, 11-18-2008).
- A-9** A landscaping plan shall be submitted at the time in which a building location permit is filed with the Bonner County Planning Department. (Added during the hearing)
- A-10** The applicant shall submit a grading/stormwater management plan as required per 12-724.1 is ground disturbing activities are greater than or equal to 4,000ft². (Added during the hearing)

Conditions of Approval – to be met prior to issuance of the Conditional Use Permit.

- B-1** Prior to issuance of the conditional use permit, the applicant must submit and obtain a commercial encroachment permit for the existing driveway from the Bonner County Road & Bridge Department. Additionally, the applicant must complete any road improvements, as required by the BC Road & Bridge Department.
- B-2** Prior to issuance of the conditional use permit, the applicant must obtain an address for the communication tower.
- B-3** Prior to issuance of the conditional use permit, the applicant must submit a landscaping plan as required for commercial development in the industrial zoning district per BCRC 12-461.

File CUP0010-22 – Conditional Use Permit for a Public Utility Facility (Wastewater Treatment Facility). The applicants are requesting a Conditional Use Permit for a Public Utility Facility for provision of a wastewater treatment facility to 25 residential units. The 40.03 acre (approx.) subject parcel is located off of Camp Bay Road in Section 14, Township 56 North, Range 1 West, Boise Meridian, Idaho.

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 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: Brad Marshall J-U-B Engineers, Inc. presented a PowerPoint discussing the proposed project. Cole Henderson J-U-B Engineers, Inc. responded to questions from the Commission.

PUBLIC/AGENCY TESTIMONY: The following members of the public spoke on the record: Fred Arn, Jennifer Ekstrom, Kelly Courtright, Gary, Katheryn Kolberg, Randall Kline, and Dwight Green.

At 8:01 p.m. the Chair called for recess. The hearing was brought back to order at 8:10 p.m.

PUBLIC/AGENCY TESTIMONY: The following members of the public spoke on the record: David Mann and Bruce Johnson.

APPLICANT REBUTTAL: Bill Brownlee addressed comments and concerns brought up during public testimony. Cole Henderson and Brad Marshall responded to questions from the Commission.

STAFF REBUTTAL: Planner I Swati Rastogi responded to public comment and questions from the Commission.

COMMISSION DELIBERATION: The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions. Commissioner Marble stated for the record that the Commissioners are deliberating under the assumption that all information presented to the staff and the Commissioners related to Camp Bay Road Vacation proposal situation and the subdivision development concerns and process is legal.

MOTION TO APPROVE: Commissioner Linscott moved to approve the project FILE CUP0010-22 requesting Conditional Use Permit for a Public Utility Facility for the provision of a wastewater treatment facility on an approximately 40.30 acre parcel zoned Rural 10, located off Camp Bay Road in Section 14, Township 56 North, Range 1 East, Boise Meridian, 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 Linscott further moved to adopt the findings of fact and conclusions of law as set forth in the Staff Report or as amended during this hearing and direct planning staff to draft written findings and conclusions to reflect this motion including the Conditions of Approval as presented by the staff in this hearing – Condition of Approval #6 and #8 (see below), 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 Wakeley seconded the motion.

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

Roll Call Vote:

Commissioner Marble	AYE
Commissioner Linscott	AYE
Commissioner Wakeley	AYE
Commissioner Kingsland	AYE
Commissioner Webster	AYE

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

Findings of Facts:

1. The applicants are requesting a Conditional Use Permit for a Public Utility Facility for provision of a wastewater treatment facility for serving 24 residential units.
2. The subject parcel is zoned Rural 10 with a land use designation of Rural Residential.
3. Site is accessed off of Camp Bay Road, a County owned and maintained public right-of-way via 90 feet wide access and utility easement (recorded through Instrument No. 999893).
4. Public Utility Facilities are permitted as Conditional Uses in Rural Residential zoning districts.
5. The applicant is proposing construction of an 8' wide X 8' high X 14' long building to facilitate functioning of the proposed wastewater treatment facility.
6. No machinery will be located on the site.
7. Treated wastewater will be stored in sub-surface tanks.
8. Construction is proposed to occur in a single phase of development.
9. The facility is expected to have one certified operator on site to provide inspection and maintenance services once or twice a month.
10. The facility is expected to generate 1-2 vehicular trips per month for maintenance of the facility.

11. The facility will provide wastewater treatment service to the appropriate residential properties 24 hours per day year round.
12. The proposed project meets the applicable standards of the Bonner County Revised Code.
13. The proposed project meets the general and specific objectives of the Comprehensive Plan.
14. As per the applicant, there are no conservation easements on the property. None show up in the title report of the subject property as well.
15. The lots to be serviced by this project are subjected to CC&Rs – Covenants, Conditions and Restrictions that restrict these lots from being subdivided.
16. The lots to be served by this facility can have additional Accessory Dwelling Units or Recreational Vehicle Dwelling Units as permitted by Bonner County Revised Code. However, the wastewater treatment facility has been designed to accommodate an average number of bedrooms per lot and an average size of a home. While the Bonner County may permit additional ADUs and RV DUs on the lot, the governing CC&R's may restrict those if those additional dwelling units go beyond the allotted sewer capacity of each lot. These CC&Rs have been recorded against all lots to be served by the system.
17. Panhandle Health District and Idaho Department of Environmental Quality along with their enforcement regulations have great checks and balances in place to assure that the wastewater treatment facility is built that mitigates any environmental impacts to the surroundings. Conditions of Approval of the Conditional Use Permit address that as well.
18. Panhandle Health District has conducted on-site investigation for the project as of the date of the hearing. The facility has been designed according to that. Preliminary submittal has been made to PHD for review. It has been forwarded to the IDEQ for further review.
19. Such facilities are routinely maintained and a certified operator is hired to maintain the system. Prior to construction, a sewer management agreement is put in place.
20. Approval of Conditional Use Permit in no way means granting of approvals from Panhandle Health District and Idaho Department of Environmental Quality. These agencies are under no obligation to approve the project even if the Conditional Use Permit is granted by Bonner County, if the project doesn't meet their standards. Bonner County's Conditional Use Permit and PHD and IDEQ approvals fall in separate lanes, one doesn't stop the other.
21. Sewer management agreements are approved by IDEQ towards the end of the approval process with the agency. As per the Conditions of Approval, this agreement will be submitted to Bonner County prior to the issuance of the permit assuring that the facility has been built and will be operated as per the agency's approval of the project.

22. During this hearing adequate evidence has been presented regarding great checks in place from Panhandle Health District and Idaho Department of Environmental Quality making sure that the facility will not create hazard or be dangerous to persons on or adjacent to the property.
23. The proposal for an engineered wastewater treatment facility is an environmentally better option than providing 24 individual septic systems on each of the lots. The system has been designed for a flow rate of 350 gallons per lot has been excessively designed to accommodate any possible future addition of ADUs and RV DUs without over-burdening the system in the future. The facility will not create a hazard.
24. The Conditions of Approval of the Conditional Use Permit are the governing statements that must be met through the life of the Conditional Use Permit or before the issuance of the permit.
25. The Zoning Commission deliberated under the assumption that all information presented to the staff and the Commissioners related to Camp Bay Road Vacation proposal situation and the subdivision development concerns and process is legal.

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 general and specific objectives of Bonner County Comprehensive Plan.

Conclusion 2:

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Title 12, Chapter 2, Subchapter 2.2 Conditional Use Permits; Chapter 4 Development Standards and Chapter 7 Environmental Standards. The proposal **is** in accord with the Bonner County Revised Code.

Conclusion 3:

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

Conditions of Approval:

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

1. The use shall be developed and shall be operated in accordance with the approved site plan.
2. The Conditional Use Permit shall not supersede deed restrictions.
3. All County setbacks shall be met.
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.

5. The site contains a minimal area with steep slopes. The applicant may be required to provide a geotechnical analysis prior to construction of the facility if any land disturbing activities are proposed in areas where natural slope equals or exceeds slopes of over 30% grade, prior to construction of the facility as determined by staff.
6. **Permits from other agencies such as Panhandle Health District and Idaho Department of Environmental Quality shall be obtained as applicable to the project. (Added by Staff During the Hearing)**
7. This request for a Public Utility Facility for a wastewater treatment facility is proposing addition of impervious surface to the site. The applicant shall obtain approval of the storm water management plan from Bonner County prior to the issuance of this Conditional Use Permit.

Conditions to be met prior to the issuance of this Conditional Use Permit:

1. This request for a Public Utility Facility for a wastewater treatment facility is proposing addition of impervious surface to the site. The applicant shall obtain approval of the stormwater management plan from Bonner County prior to the issuance of this Conditional Use Permit.
2. **A sewage management agreement will be approved and executed prior to the issuance of a conditional use permit. (Added by Staff during the Hearing)**

COMMISSIONER & STAFF UPDATES:

Planning Director Jacob Gabell introduced new Administrative Assistant III, Alysha Poteet and announced the departure of Compliance Manager, Nicole Tait. Jeannie Welter's new role as Systems Analyst. Provided update on current flow of incoming land use files.

At 9:26 p.m., the Chair declared the hearing adjourned until August 4, 2022.

Respectfully submitted,



Jacob Gabell, Planning Director

The above Minutes are hereby approved this 4th day of August 2022.

Bonner County Zoning Commission



Jacob Marble, Chair