

**BONNER COUNTY HEARING EXAMINER
PUBLIC HEARING MINUTES
April 19, 2023**

CALL TO ORDER: Hearing Examiner Jackie Rucker called the public hearing to order at 1:30 p.m. in the 1st Floor Meeting Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

PRESENT: Jackie Rucker, Hearing Examiner

ABSENT: None

ALSO PRESENT: Planning Director Jacob Gabell, Assistant Planning Director Travis Haller, Planner II Jason Johnson, Planner I Tyson Lewis, and Hearing Coordinator Jenna Crone.

PLEDGE OF ALLEGIANCE

CHANGES IN AGENDA: None

APPROVAL OF MINUTES: Hearing Examiner Rucker approved the minutes as written April 5, 2023.

PUBLIC HEARING:

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

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: Hearing Examiner Jackie Rucker stated that she had no conflict with this proposal.

File V0002-23 – Variance – Lot Size Minimum – Fenton. The applicants are requesting to create one (1) 1.5-acre lot and one (1) 3-acre lot where 5 acres is required. The property is zoned R-5. The project is located off Dufort Road in Section 3, Township 55 North, Range 04 West, Boise-Meridian.

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

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: Monica Gunter.

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

DECISION TO APPROVE: Hearing Examiner Rucker made the decision to approve this project V0002-23, requesting to create a 1.5-acre lot and a 2.94-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. Examiner Rucker further adopted 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 decision 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.

FINDINGS OF FACT

1. The proposed lots will be served by individual well, individual septic, Northern Lights Inc, West Pend Orielle Fire, and Bonner County School District #83.
2. There are no mapped wetlands on the subject property. (NWS)
3. There are no mapped slopes >15% on the subject property. (USGS)
4. No minor land division application has been submitted at the time of this staff report.
5. The portion of the subject property lying south of Dufort Road could be created without a variance because it is not connected to the bulk of the parent parcel.
6. The existing single-family dwelling located on the portion of the subject parcel fronting the river was constructed in 1956 according to assessor records.

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 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 approval of this variance shall not supersede any deed restrictions.

File CUP0001-23 – Conditional Use Permit – Peak Gravel Pit. The applicants are requesting a Conditional Use Permit (CUP) for a surface mining, gravel pit and rock crushing operation adjacent to a historical operation of a like type, adjacent to an existing aggregate processing facility. The proposed site is ~26.79 acres and is zoned as Rural 10 & Rural 5. The project is located off Highway 2 in Section 25, Township 57 North, Range 3 West, Boise-Meridian.

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

APPLICANT REPRESENTATIVE AND PRESENTATION: Jeremy Grimm, Whiskey Rock Consulting, presented a PowerPoint presentation (Exhibit A) discussing the proposed project and how it meets the criteria of the BCRC and the Comprehensive Plan.

APPLICANT: Matt Peak, applicant, answered questions from the Hearing Examiner regarding notification of neighbors for blasting, and dust abatement.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: None

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

APPROVAL: Hearing Examiner Rucker approved this project FILE CUP0001-23 – PEAK GRAVEL PIT, 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. Examiner Rucker further adopted 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 decision 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.

Findings of Fact

1. The property is split-zoned Rural 5 & Rural 10, where surface mining, gravel pit and rock crushing operations are conditionally allowed upon meeting the required standards called above in the section entitled Applicable Laws.
2. The project is accessed off Highway 2.
3. Fire protection is provided Selkirk Fire District.
4. Power is provided by Avista, per applicant.
5. There is no water service on the site.
6. There is no sewage disposal on the site.
7. The site is approximately 26.79 acres.

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, Subchapters 2, 3, & 4, the environmental standards of Chapter 7, Title 12, and the stormwater 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.

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 requirements of BCRC 12-421, or as hereafter amended, shall be met for the life of the use.
- A-7** The landowner shall apply dust abatement (magnesium chloride or other suppressants acceptable to Bonner County) to the private, nonpaved easement and the haulage road on a yearly and/or as needed basis, at no cost to Bonner County.
- A-8** No debris from the mining operation shall be placed or tracked onto the public rights of way by vehicles used for the operation, to the satisfaction of the transportation agency having jurisdiction over the adjacent roadways.
- A-9** Fugitive dust shall be controlled by the applicant at all times to the satisfaction of the Idaho department of environmental quality and consistent with the approved fugitive dust control plan.
- A-10** The mined area shall not be located closer to the nearest property line or public right of way than a horizontal distance equal to one and one-half (1½) times the vertical depth of the mined area at any given point, except that steeper slopes may be permitted where certified by an Idaho licensed engineer. In no instance shall the actual mined area extend to within sixty feet (60') of the nearest property line or public right of way. Drainage from areas disturbed by surface mining shall be filtered, treated and contained on site.

A-11 All retail sales of materials on the site are prohibited.

A-12 The applicant shall install and maintain hazard fencing and signing to warn of the mining danger. Bonner County reserves the right to inspect and require changes to the required hazard fencing and signing for the life of the use, consistent with BCRC 12-4.82.

Conditions to be met prior to issuance of the permit:

B-1 Per BCRC 12-482(A), the applicant shall receive approval for, and shall comply with all requirements of a reclamation plan approved by the Idaho Department of Lands.

B-2 A grading/stormwater management plan shall be prepared, submitted and approved by Bonner County engineering staff prior to issuance of this CUP. The plan shall fulfill all applicable requirements of BCRC subchapter 7.2, Title 12.

File CUP0002-23 – Conditional Use Permit – Granite Hill Gravel Pit. The applicants are requesting a Conditional Use Permit (CUP) for a surface mining, gravel pit and rock crushing operation adjacent to a historical operation of a like type, adjacent to an existing aggregate processing facility. The proposed site is ~16.62 acres and is zoned as Rural 5. The project is located off Highway 95 in Section 23, Township 54 North, Range 3 West, Boise-Meridian

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

APPLICANT REPRESENTATIVE AND PRESENTATION: Jeremy Grimm, Whiskey Rock Consulting, presented a PowerPoint presentation (Exhibit A) discussing the proposed project and how it meets the criteria of the BCRC and the Comprehensive Plan.

PUBLIC/AGENCY INPUT: The following members of the public spoke on the record: Randy Stolz.

HEARING EXAMINER INPUT: The Hearing Examiner closed the hearing to public testimony and discussed findings and conclusions.

APPROVAL: Hearing Examiner Rucker approved this project FILE CUP0002-23 – GRANITE HILL GRAVEL PIT, 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. Examiner Rucker further adopted 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 decision 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.

Findings of Fact

1. The property is zoned Rural 5, where surface mining, gravel pit and rock crushing operations are conditionally allowed upon meeting the required standards called above in the section entitled Applicable Laws.
2. The project is accessed off Highway 95.
3. Fire protection is provided Selkirk Fire District.
4. Power is provided by Avista, per applicant.
5. There is no water service on the site.
6. There is no sewage disposal on the site.
7. The site is approximately 16.62 acres.

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.

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|-----------------------|-------------------------|------------------------------------|
| •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, Subchapters 2, 3, & 4, the environmental standards of Chapter 7, Title 12, and the stormwater 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.

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 requirements of BCRC 12-421, or as hereafter amended, shall be met for the life of the use.
- A-7** The landowner shall apply dust abatement (magnesium chloride or other suppressants acceptable to Bonner County) to the private, nonpaved easement and the haulage road on a yearly and/or as needed basis, at no cost to Bonner County.
- A-8** No debris from the mining operation shall be placed or tracked onto the public rights of way by vehicles used for the operation, to the satisfaction of the transportation agency having jurisdiction over the adjacent roadways.
- A-9** Fugitive dust shall be controlled by the applicant at all times to the satisfaction of the Idaho department of environmental quality and consistent with the approved fugitive dust control plan.

A-10 The mined area shall not be located closer to the nearest property line or public right of way than a horizontal distance equal to one and one-half (1½) times the vertical depth of the mined area at any given point, except that steeper slopes may be permitted where certified by an Idaho licensed engineer. In no instance shall the actual mined area extend to within sixty feet (60') of the nearest property line or public right of way. Drainage from areas disturbed by surface mining shall be filtered, treated and contained on site.

A-11 All retail sales of materials on the site are prohibited.

A-12 The applicant shall install and maintain hazard fencing and signing to warn of the mining danger. Bonner County reserves the right to inspect and require changes to the required hazard fencing and signing for the life of the use, consistent with BCRC 12-4.82.

Conditions to be met prior to issuance of the permit:

B-1 Per BCRC 12-482(A), the applicant shall receive approval for, and shall comply with all requirements of a reclamation plan approved by the Idaho Department of Lands.


B-2 A grading/stormwater management plan shall be prepared, submitted and approved by Bonner County engineering staff prior to issuance of this CUP. The plan shall fulfill all applicable requirements of BCRC subchapter 7.2, Title 12.

DISCUSSION:

- **Hearing Examiner and Staff Updates**
 - Tyson Lewis has resigned from the Planning Department

At 2:22 p.m., the Hearing Examiner declared the hearing adjourned until May 3, 2023

Respectfully submitted,



Jacob Gabell, Planning Director

The above Minutes are hereby approved this 3rd day of May 2023.



Jacqueline Rucker, Hearing Examiner