

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
SEPTEMBER 6, 2018**

CALL TO ORDER: Chair Don Davie 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.

PRESENT: Commissioners Chair Don Davis; Vice Chair Kris Sabo; Brian Bailey; Taylor Bradish; and Sheryl Reeve

ABSENT: Trevor Kempton and Suzanne Glasoe

ALSO PRESENT: Planning Director Milton Ollerton; Planner I Sam Ross; Planner I Halee Sabourin, and Office Manager Jeannie Welter

CHANGES IN AGENDA:

Application withdrawn for File C1012-18 – Conditional Use Permit Wedding Venue – Nick & Ashley Capobianco are requesting for a wedding and event venue of limited scale. The Conditional Use Permit would allow for weddings, ceremonies, banquets, functions, fund-raisers, dances, celebrations, reunions, meetings, retreats, training, seminars, classes and/or any other social occasions. The property is approximately 20 acres in size, accessed at 294 Iora Lane, Athol, Idaho, and lies in Section 30, Township 54 North, Range 2 West, B.M.

No minutes to approve.

PUBLIC HEARINGS:

AMENDMENT & 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 AM164-18 Comp Plan Map Amendment Commercial to Rural Residential & ZC367-18 Zone Change Suburban to Rural 5 – Betty Holley, Kathleen Cook, & Becki Jo Hunter are requesting to take 5.5 acres from an existing 23.8 acre parcel, changing the comprehensive plan designation from Neighborhood Commercial to Rural Residential and changing the zone from Suburban to Rural 5. The property is located West of Priest River on Shannon Lane in Section 22, Township 56 North and Range 5 West, B.M.

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: Planning Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with the Comprehensive Plan and Bonner County Revised Code.

Commissioner Davis asked if this property was outside the area of city impact. Director Ollerton confirmed it is outside the area of city impact.

APPLICANT PRESENTATION: Marty Taylor, Certified Land Use Planner with James A. Sewell & Associates stated he would rely on the application for details of the project. He stated the applicants are attempting to fit the zoning to the use of the property. Third part of the plan will be a Minor Land Division.

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 COMMISSION

MOTION TO APPROVE: Commissioner Sabo moved to recommend approval to the Board of County Commissioners, this project FILE AM 164-18 a comprehensive plan map change from Neighborhood Commercial to Rural Residential, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Sabo further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Bailey seconded the motion

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

Zone Change Motion by the Governing Body:

PLANNING AND ZONING COMMISSION

MOTION TO APPROVE: Commissioner Sabo moved to recommend approval to the Board of County Commissioners this project FILE ZC367-18 to change the zoning designation for the subject property from Suburban to R-5 with 5 acre minimums, 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 Sabo further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Reeve seconded the motion.

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

Background:

A. Site data: There are two parcels, 1) a ±23.86 acre parcel and 2) a ±6.05 acre parcel.

B. Access: Both parcels are located on the south side of Shannon Lane off Holly Glen Road to the west and Bodie Canyon Road to the east, north of Hwy 2, west of the City of Priest River.

C. Environmental factors:

FEMA DFIRM Panel: 0865E, Zone A and Zone X. There is a riverine through parcel 1 with a designated floodplain.

The parcels do contain mapped wetlands. Source: USFWS

The site does contain some slope 15-29%. Source: USGS



D. Services:

- Water: Individual well. Wells in the area range from 6 to 25 gallons per minute (gpm) ranging in depths between 30-175 feet
- Septic: Residential/Individual. Septic tank and leach field already in place.
- Fire District: West Pend Oreille Fire
- Power: Avista.
- School: Bonner School District #83.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential / Neighborhood Commercial	Rural-5/ Suburban	Single family residences
North	Rural Residential	Rural-5	Surface mine and farming
East	Neighborhood Commercial	Suburban	Mill site (JD Lumber)
South	Neighborhood Commercial	Suburban	Small lots with residential and commercial uses abutting Highway 2
West	Neighborhood Commercial	Suburban	Rural Residential

F. Standards review

Section 12-216 of BCRC specifies that "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." Idaho Code stipulates that zoning districts "shall be in accordance with the policies set forth in the adopted comprehensive plan." (I.C., §67-6511).

BCRC 12-215 APPLICATIONS FOR ZONE CHANGES AND COMPREHENSIVE PLAN MAP AMENDMENTS, CONTENTS:

A: Site plan drawn to scale: Please see attached maps

B: A narrative statement that addresses:

1. The effects of elements such as noise, light glare, odors, fumes and vibrations on adjoining property.

Staff: The proposal is decreasing the allowable density by changing from a Neighborhood Commercial designation and Suburban Zone to a Rural designation and an R-5 zone, thereby reducing the potential for negative effects of the listed elements.

2. The compatibility of the proposal with the adjoining land uses.

STAFF: The application states the change fits with the existing neighboring uses being "rural residential uses on five acre or larger properties." There are residential uses on five acre parcels in the area. Directly adjacent to Parcel 2 on the east side is JD Lumber and an industrial park on ±1 acre lots inside the city of Priest River. Allowing for lower density near such use would be less impactful to the future of the industrial park and JD Lumber.

3. The relationship of the proposal to the comprehensive plan/zoning district.

Comprehensive Plan Map Designation Change review

IDEQ, IDL, IDWR, PHD: No comment.

Flood review on the property: "Proposals are not development per BCRC 14-204, FDP not required. Applicants are hereby notified that the project area contains regulated floodplains.

The applicant: "There is no residence. It has been removed and destroyed."

Road and Bridge: "No comments. The parcel does not have frontage on a County road and the proposed changes will not impact our operations."

J. Public Notice & Comments

No public comments received.

Findings of Fact

1. The subject property is designated as Neighborhood Commercial by the Bonner County Comprehensive Plan.
2. Martin Taylor submitted a land capability report concluding the property is adequately suited for the Rural Residential designation.
3. Future sewage disposal will be handled through individual systems.
4. Water will be provided by individual wells.
5. The property fronts and has access via Shannon Lane, a hard surfaced road, County maintained.
6. The property is located within the West Pend Orielle Fire District.
7. Surrounding properties are used for single-family residential on 5-acre lots to the west, farming and larger acre parcels to the south, small lots with residential and commercial uses abutting Highway 2 on the south, with JD Lumber and the Priest River Development Corp Industrial park to the east.
8. The property contains wetlands, flood hazard area, and varying slopes.

Conclusions of Law:

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

Conclusion 1

The proposed zone change **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 Comprehensive plan map change criteria and standards set forth at Sections 12-212, 12-215, and 12-216, Bonner County Revised Code, and **was** found to be in compliance.

Zone Change Findings of Fact:

1. The subject properties proposed designation is rural residential.
2. A land capability report concludes the property is adequately suited for the R-5 zone
3. Future sewage disposal will be handled through individual systems
4. Water shall be provided by individual wells.
5. The property fronts and has access via Shannon Lane, a hard surfaced road, County maintained.
6. The subject property is located within the West Pend Orielle Fire District.

Zone Change Conclusions of Law:

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

Conclusion 1

The proposed zone change **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 zone change criteria and standards set forth at Sections 12-212, 12-215, and 12-216, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

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

VARIANCES

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 V502-18 – Variance Front & Rear Yard Setback – Troy Krumenacker is requesting a 9-foot front yard setback, and a 5-foot rear yard setback, where 25-feet is required for the reconstruction of a single family dwelling. The property is approximately 0.19 acres in size. The property is located off of Lakeshore Drive, in Section 3, Township 56 North, Range 2 West, B.M.

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 Sam Ross presented a PowerPoint summary of the additional information the Planning & Zoning commission requested during commissioner deliberation at the hearing on August 2, 2018. The additional information included the utility easement, South Side Water & Sewer hook-ups and easements, alternative parking availability, and the recreational easement.

APPLICANT PRESENTATION: None.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Bailey moved to approve this project FILE V502-18, which allows for a 12-foot front yard setback and a 5-foot rear yard setback where 25-feet is required. I find that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bailey further moved to adopt the following findings of fact and conclusions of law as. 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 Bradish seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously

Background:

A. Site data: The subject parcel is vacant.

B. Access: Access is provided by Waterview Lane, an ingress-egress easement, developed with a gravel surfaced travelway of varying widths.

C. Environmental factors:

Floodplain: X, AE map designation (project not within special flood hazard area, but said area is on site)

The site does not contain mapped wetlands. Source: USFWS NWI

The site does not contain slope 15% and greater. Source: USGS

D. Property Services: Water and sewer services are provided by Southside Water and Sewer District. The site lies within the Selkirk Fire District, and the Lake Pend Oreille School District (#84). Power is provided by Northern Lights.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Zoning	Current Land Use & Density
Site	SUB	0.19 acre parcel, Vacant, Urban
North	SUB	5.65 acre parcel, SFD, Urban
East	SUB	5.65 acre parcel, SFD, Urban
South	SUB	0.21 acre parcel, SFD, Urban
West	SUB	Lake Pend Oreille

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:

"The lot is so small that it does not allow room to build a modest home. In addition, the western portion of the lot is floodplain - and the same setbacks apply.."

Staff: Lot size minimum in the Suburban Zone where all urban services are available is 10,000 square feet. The subject parcel is approximately 8276.4 square feet and was described first in August, 1984 (per Assessor's records). This is below the minimum and thus staff concur that the parcel is excessively small. As single family dwellings are a permitted use in the Suburban Zone, and the subject parcel is a non-conforming lot of record, staff concur that the lot size is a condition over which the applicant does not have control.

B. Special conditions and circumstances do not result from the actions of the applicant.

Applicant:

"The proposed cabin (748 sq ft [revised]) replaces a cabin that was demolished approximately 16 years ago. I simply purchased the lot, and did not create the problem."

Staff: Staff agrees that the applicants did not create the special condition as the applicant did not create the lot.

- 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. (Ord. 559, 1-4-2017)**

Applicant:

"Approval of the variance would allow a build in similar size and appearance of the existing cabins located on the adjacent lots."

Staff: Conflict of public interest is mitigated through the planning department's agency review process and by public notification. During the agency review period County, State and Federal regulatory agencies were notified of the project and were permitted to comment. As noted in section **I.** below, there were agencies that responded to this request for application review. As their comments and concerns are addressed in the conditions of approval, staff feel that this standard is met.

G. Stormwater plan

BCRC 12-720.2 identifies the need for the applicant to provide a stormwater plan. The applicant submitted a stormwater plan that was satisfactory to planning department. Said plan identifies the effects that the proposed dwelling will have on the surrounding area in regards to stormwater runoff.

H. Land capability report

BCRC 12-222(J) identifies the need for the applicant to provide a land capability report. The provided land capability report is satisfactory for the proposed development and is consistent with the standards set forth in BCRC 12-222(J).

I. Parking

BCRC 12-432, identifies the minimum off street parking requirements. Required: residential, single-family requires a minimum of 2 spaces per dwelling unit on the same lot as the dwelling unit. Parking spaces shall be no less than two hundred(200) square feet in area. A minimum of 400 square feet for parking shall be provided on the subject parcel. Provided: Applicant provided a 34x12 area for parking. This area totals 408 square feet and large enough to serve two vehicles.

J. Agency review

The application was routed to the follow agencies for comment on May 31, 2018:

Panhandle Health District
Selkirk Fire District
School District #84
Dept. of Env. Quality

Bonner County Road Dept.
Northern Lights Utility Company
Dept. of Fish and Game
Dept. of Lands (Sandpoint)

Dept. of Lands, Nav. Waters
Army Corps (Newport)
Fish and Wildlife Service

Dept. of Water Resources
Natural Resource Conservation Service
Southside Water & Sewer

Comments:

6/05/18

"Project not within SFHA. FDP not required."
-Bonner County Floodplain

7/10/18

"Road & Bridge has no comments. The property is on Waterview Lane, which is a private road."
-Bonner County Road & Bridge

The following agencies replied with "NO COMMENT":

Idaho Department of Lands
Southside Water & Sewer
Panhandle Health District

All other agencies provided no response.

J. Public comments

There have been four(4) public comments at this time.
The following public comments are summarized. See file for full public comments.

July 19, 2018

"...I am opposed to Variance Application as applied for. The variance request is too extreme for the size of the lot..."

- Dave Harman, Sagle, ID

July 20, 2018

"...We have concerns with the proposed setback variances, and home construction application...We are opposed to the setback variance filed..."

- Tim & Vicki Cahil, Sagle, ID

July 24, 2018

"...We are opposed to this variance application..."

- Patti and Eric Brakken, Sagle ID

July 24, 2018

"...I have concerns with this project..."

- Mike Hathaway, Sagle, ID

Specific Public Concerns:

The following comments are based on an in depth analysis of comments submitted by landowners that neighbor the subject parcel. Most of their concerns were recurring themes and were addressed individually based on subject matter.

"...The structure that was historically located on that property was 320 sq ft and was demolished in 2002..."

Staff: The subject parcel is a lot of record and is permitted one (1) single family residence. Moreover, BCRC does not specify the specifications in which a dwelling can be built in regards to dimensions.

"...The subject parcel is located on a recreational easement..."

Staff: While that may be the case, the legal description of the subject parcel (T-108) meets the definition of a non-conforming lot of record (BCRC 12-342) and is afforded all uses set forth in BCRC. Easements for the purposes of recreation are viewed by Bonner County Planning Dept. as civil agreements between landowners.

"...We are concerned with the proposed setback from Waterview Lane..."

Staff: Project was routed to Selkirk Fire & EMS and no response was provided. This indicates that the proposal does not pose an issue in regards to Fire and EMS services.

"...We are concerned with the proposed setback from the road as well as road usage..."

Staff: Other properties in the same zone and vicinity are currently developed with a similar setback from Waterview Lane. Historical photos show that the structure that always existed on the subject parcel had a similar setback. This indicates that the proposed setback should not alter ingress or egress.

The potential for an increase in the use of Waterview Lane for access to the subject site is not significant as Bonner County Trip Generation Statistics indicate the potential for 0.77 vehicle trips per hour during AM hours and 1.02 vehicle trips per hour during PM hours. This observed increase would not warrant the need for a access method beyond a low-volume private road.

"...We are concerned with the setbacks from existing structures..."

Staff: Proposed setbacks from existing structures are similar to what is intended in the Suburban Zone. Typical side yard setbacks in this zone are 5-feet.

"...We are concerned with the lack of parking and snow storage on the subject property..."

Staff: Parking requirements for a single family dwelling are a minimum of 2 spaces no less than 200 sq ft in size.

The proposed variance would allow for 408 sq ft of off street parking. This standard is met based on the site plan. Snow storage is addressed through the large

amounts of open space between the proposed structure and the water. It will be stored in a manner similar to other neighboring lots and parcels in the same zone and vicinity.

Conclusions of Law:

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

This proposal was reviewed for compliance with the criteria and standards set forth at 12-233 and 12-234, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

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)

Findings of Fact

1. The proposed structure is 748 sq ft in size.
2. Neighboring properties are similarly developed in nonconforming setbacks.
3. Neighboring properties feature similar sub-zone lot size dimensions.
4. The proposed structure will allow 2 off-street parking spaces on the subject lot.
5. The proposed structure will allow for on-site snow storage.
6. The proposed structure has been developed with stormwater management.
7. The subject parcel is capable of being developed in a manner consistent with the proposed site plan.
8. The proposed structure will not deny access to any lot, parcel or residence.

Conditions of approval:

Standard permit conditions:

A-1 The use shall be developed and shall be operated in accordance with the approved site plan.

A-2 The variance 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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

Site-specific permit conditions:

B-1 Prior to construction, the applicant shall obtain a Building Location Permit in addition to a Stormwater/Erosion Control Permit from Bonner County Planning Department.

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 V508-18 Side Yard Setback – Kent & Barbara Kraber are requesting a 0.5-foot front yard setback to allow for the addition of a garage to an existing single family dwelling. The property is approximately 1.0 acres in size, accessed at 1461 Freeman Lake Rd, Priest River, Idaho, and lies in Section 23, Township 56 North, Range 2 East, B.M.

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 1 Sam Ross presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

Commissioner Bailey asked if the previous owner construct the garage. Mr. Ross stated that the current land owners applied for and were granted a permit believing it was within the setback. After discovering the fence was not the property line they came in to the planning office to fix the problem.

APPLICANT PRESENTATION: Mr. and Mrs. Kraber stated there were no surveyor markers on the site so they ordered a survey. It was at this time they realized the existing fence was not the property line.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

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

MOTION TO APPROVE: Commissioner Bradish moved to approve this project FILE V508-18, which allows for a 0.5-foot side yard setback where 25-feet is required; finding that it **is** in accord with the Bonner County Revised Code as enumerated in the following conclusions of law. The decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradish further moved to adopt the following findings of fact and conclusions of law as written. 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.

Background:

A. Property:

- Tax 1 of Section 18, Township 56 North, Range 05 West, Boise-Meridian, Bonner County, Idaho.
- Currently developed with a single family dwelling.
- Applicants/landowners were issued a Building Location Permit (BLP#2018-0255) for a change of use and addition to the existing structure that was previously used as a grange/community center.
- The permit was issued under the assumption by the applicants that the fence on the property was the western boundary line.
- A survey indicates that the proposed addition would be setback 0.5-feet.

B. Access: Access is provided by Freeman Lake Road, a paved, minor collector, owned and maintained by Bonner County.

C. Environmental factors:

FEMA DFIRM Panel: 0850E, Zone X

The site does not contain mapped wetlands. Source: USFWS

The site does not contain significant slope >15%. Source: USGS

D. Services:

- Water: Diamond Benchview Community Water System.
- Septic: Residential/Individual.
- Fire District: West Pend Oreille Fire
- Power: Avista.
- School: Bonner School District #84.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Zoning	Current Land Use & Density
Site	R-5	1 acre, SFD
North	R-5	13 acre parcel, SFD
East	R-5	13 acre parcel, SFD
South	R-5	5/20 acre parcel, SFD/Vacant

West	R-5	20 acre parcel, SFD
------	-----	---------------------

F. Standards review

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

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

Applicant:

"This site has a number of peculiarities: In the R-5 zone, this is a one-acre parcel, carved out as a school site in the 1890's. The existing 1929 building is located on the western third of the parcel. The south facing building fronts on Freeman Lake Road. Over time, the County improved the road and defined prescriptive easements and ROV, now 60' all together, thereby eliminating our ability to utilize the 30' along the site's souther edge that now lies under the roadway. The building does not sit perpendicular on the southern property line, causing the northwestern corner of the building to be closer to the property line than the southwestern corner. The fence turned out to be 20' west of the property line on the south, and 17' from the corner of the new garage slab."

Staff: Staff concur, based on assessor's tax records (18-56N-5W TAX 1), that the parcel was created prior to zoning criteria. This is a special condition related to lot size. This matter of fact creates a circumstance over which the applicant has no control.

B. Special conditions and circumstances do not result from the actions of the applicant.

Applicant:

"The general consensus of ourselves and our neighbors (who did not do a survey at purchase 10 years ago), was that the existing fence between this and their adjoining western parcel was indeed the property line. Neither we, nor they, had rural backgrounds, so no frame of reference to contemplate major differences between fences and property lines. We all believed in good faith that there were no issues with this project. In addition, we purchased the property in November 2017 (Inst. No. 913992). We did not build the structure on this property nor did we subdivide it."

Staff: Staff concur that the applicants did not create the special condition based on deed research and title chain. The applicants purchased the property after it was first described and thus did not create the lot or special condition.

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. (Ord. 559, 1-4-2017)

Applicant:

"There are no potential public access issues or safety hazards with an approval. After speaking with adjoining neighbors, they also concur that this is the best path to deal with the non-conformity. A boundary adjustment has the potential to effect their tax exemption."

Staff: The issue(s) of conflict of public interest is addressed through the planning department's agency review process and by public notification. During the agency review period County, State and Federal regulatory agencies were notified of the project and were permitted to comment. As noted in section **I.** below, there were no negative agency comments and as such Bonner County Planning assumes there are no objections to the project.

G. Stormwater plan

Stormwater is not required per applicability standards (BCRC 12-720.3K).

H. Land capability report

A land capability report is not required per BCRC 12-222-J.

I. Agency review

The application was routed to the follow agencies for comment on June 12, 2018:

<ul style="list-style-type: none"> • Panhandle Health District • Bonner County Road Dept. • West Pend Oreille Fire District • Avista Utility Company • School District #83 	<ul style="list-style-type: none"> • Dept. of Lands (Sandpoint) • Dept. of Water Resources • Natural Resource Conservation Service • Dept. of Fish and Game • Dept. of Env. Quality
---	--

The following agencies replied:

Bonner County Road and Bridge - June 28, 2018

"Road and Bridge has no comments. The proposed side yard setback will not affect the County road which is on the front side of the property."

- Matt Mulder, PE
Staff Engineer

Bonner County Floodplain - June 12, 2018

"Project not within Special Flood Hazard Area, FDP not required."

- Jason Johnson, CFM

The following agencies replied with "NO COMMENT":

IDWR
IDEQ
IDL

All other agencies provided no response; as such staff concludes that there are no objections to the project.

J. Public comments: No public comments at this time.

Conclusions of Law:

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

This proposal was reviewed for compliance with the criteria and standards set forth at 12-233 and 12-234, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

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)

Findings of Fact

1. The parcel was created prior to the zoning/lot size criteria.
2. The single family dwelling was first built in 1929.
3. The proposed side yard setback will not have adverse effect on neighboring parcels.
4. The proposed side yard setback will not have adverse effects on the County road.
5. No development is occurring within the designated special flood hazard area, wetlands, or shoreline area.

Conditions of approval:

Standard permit conditions:

A-1 The use shall be developed and shall be operated in accordance with the approved site plan.

A-2 The variance shall expire if not issued within two (2) calendar years from the
BONNER COUNTY PLANNING AND ZONING COMMISSION PUBLIC HEARING MINUTES – SEPTEMBER 6, 2018
Page 19 of 30

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 variance, the applicant may make a written request to the Planning Director for an extension of the variance 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 variance.

CONDITIONAL USE PERMITS

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 C1011-18 – Conditional Use Permit Recreation Facility – Paul & Jill Stiller are requesting a conditional use permit for a recreation facility with an 18 basket disc golf course, on 40 acres. The project is in the Colburn area, Hwy 95 North to East on Colburn Culver, North 1 mile on Shepards Lane in a portion of Section 05, Township 58 North, Range 1 West B.M.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Sabo disclosed for the record she is a professional colleague of Jill Stiller. She further stated she believes she can render an impartial decision for this project. Commissioner Bradish disclosed he visited prior to construction but this does not constitute a conflict on his part. The Chair noted that there were no disclosures or conflicts.

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

APPLICANT PRESENTATION: Clare Marley, Ruen-Yeager & Associates presented a PowerPoint of the project stating the play varies with the seasons. She stated traffic would only increase about twenty vehicles per day. She further stated that play is directed away from neighbors. Noise will be limited to voices as there are no lights proposed on the course. They are proposing more of a park like setting. There are no plans for new access roads as the current access is in great condition. The property owner has taken steps to add vegetation buffers.

Paul Stiller share some of his background with the game and the game itself. He explained why he picked the land for this use and why this land is appropriate for this use. He stated he has some forestry experience from his time working in Alaska. He stated that the fairway acts as natural fire breaks.

Commissioner Sabo asked if the Colburn Water Association will provide hook-ups. Mr. Stiller stated he spoke with them and asked if washing dishes and using the restrooms were ok.

PUBLIC/AGENCY TESTIMONY:

Trevor Pumnea – Spoke about how Mr. Stiller has mitigated the fire risk, property values going up, fairway buffers.

Clark Ricks – spoke about risk of strangers in close proximity to neighboring homes and fire danger.

Teresa Didian – Spoke about the roadways, noise, and traffic.

Valery Venton – for Kimberly Hagen –Read letter from her sister regarding the hazards and dangers the course may create and the untruthfulness of the application.

Joni Ken for Jason Hankins – Spoke about the quality of life, safety, privacy, traffic, property values, noise, and alcohol.

Lynn Gardner – spoke about noise and infringing on property rights.

Richard Maglocklin professional disc golfer spoke in favor of the project.

Jeffery Houge – Spoke about strangers going through his property, added traffic, and fire risk.

Mary Mahoney opposed. Neighbors are opposed.

Abe ? If approved what will this be turning into? Opposed because we don't know what it will turn into.

Christine Packwood spoke about traffic, noise, and safety.

Darrin Parsons stated he appreciates what Mr. Stiller is trying to accomplish with the project. Traffic is a concern.

Jeff Galine, Eric Nelson spoke on the record in favor of the project.

Barry Williams asked who they talked to to determine the historic value of the property.

Kendal Pool, John Gaddis, Mike Givins and Ron Anderson spoke on the record in favor of the project.

APPLICANT REBUTTAL: The applicant representative stated the project is allowed by the zoning code, nothing in the code prevented him from building this course on his land. She further stated he is now asking to allow it for public use. Clare Marley stated the owner or manager will be present at all time during operating hours. She stated play doesn't go through winter.

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

Commissioner Sabo stated she believes it is important to separate the public emotions from their decision.

Commissioner Bradish stated each neighbor is entitled to their property rights.

Commissioner Sabo stated she is comfortable that staff has done their job to review this application with the information they have been provided.

Commissioner Bailey stated there is only one way in. He is not comfortable with this type of venue here. Commissioner Davis stated when they reviewed for the plat they would take this concern into consideration. There are many of these same road situations all over the county.

Director Ollerton stated that there have been other projects that have been approved on roads that are one way in and out. There was no comment from the fire district.

Commissioner Davis stated he has some concerns about the parking limitations of thirty spaces. He stated if the conditions are not followed the permit would be revoked.

MOTION TO APPROVE: Commissioner Bradish moved to approve this project, C1011-18, a Conditional Use Permit for an 18-basket disc golf course, on 40 acres. I find that it is in accord with 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 Bradish further moved to adopt the following findings of fact, conclusions of law and conditions of approval as written. 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 Sabo seconded the motion.

VOTED upon with the Chair as the deciding vote, the motion carried, 3-2. Commissioners Bradish, Sabo, and Davis voted in favor of the motion. Commissioners Bailey and Reeve voted in opposition of the motion.

Background:

A. Site data: The subject properties total ±40 acres. The parcels currently accommodate the primary residential use, all appurtenant structures, parking/circulation areas, and areas for open space.

B. Access: Access to the subject property is provided by Shepherds Lane; a gravel, local access roadway.

C. Environmental factors:

- Slope: > 30% on site, however a majority of the landscape is < 15%. Source: USGS
- Hydrography: Perennial Lake/Pond on site. Source: USGS NHD , BC GIS
- Wetlands: Freshwater Emergent Wetland/ Freshwater Pond surrounding the aforementioned hydro feature. Source: USFWS NWI
- Soils: Dufort Loam: 5% - 45% slope, Mission Silt Loam: 2%-12% slope, Odenson Silt Loam: 0%-2% slope. Source: NRCS
- Critical Wildlife Habitat: Moose Range, Elk Wintering Area, White-tailed deer Wintering Area. Source: BC GIS
- Floodplain: Flood Hazard Zone: 'X' - 0.2% annual chance flood hazard. Source: FEMA

D. Services:

- Water: Colburn Water Association supports the residential use, bottled drinking water for course guests will be provided.
- Sewage: Individual septic system (Portable toilet services to be provided)
- Power: Avista Utilities
- Fire: Northside Fire District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
North	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
East	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
South	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD
West	Ag/Forest Land	A/F-10	Ag/Forest Land, SFD

F. Standards for review:

12-222: Application Contents

Staff concluded that application contents were to the department's satisfaction. An application complete letter was sent May 9, 2018

A land capability report is not required per BCRC 12-222J.

Submitted application indicates no new impervious surface is being created and therefore no stormwater management plan is required per BCRC 12-720.3K

12-223: Conditional use permits, Standards for review of applications, Procedures.

In order to satisfy these criteria, a Planning and Zoning Commission hearing date has been set for September 6, 2018.

12-224: Public Hearing and Notices

Mailed: June 28, 2018

Site Posting: July 9, 2018 and August 8, 2018

Published in newspaper: August 15, 2018

BCRC 12-333: Commercial Uses

Defined: Recreational facilities (2),(8), (17):

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

Staff conclude that this standard is met. Shepherds Lane is a county owned and maintained road.

(8). Adequate water supplies for drinking and fire suppression, as well as approval of sewage disposal sites and methods by the Panhandle health district and/or the state of Idaho, must be demonstrated as appropriate. See condition A-5.

(17): Sufficient land area is required to accommodate the proposed use, and the use and any appurtenant structures shall be so arranged on the land as to minimize any adverse effects on surrounding properties. The use shall not create particular hazards to adjacent properties.

A site visit confirms that this standard is met as the course is designed in a way that would direct recreators away from neighboring properties. In addition, visual impacts are mitigated through the existing vegetation buffers and out-of-bounds boundary lines.

BCRC 12-4.2 General and Performance standards for all uses

These proposed land use shall remain in compliance with the general standards in addition to the performance standards for all uses found therein.

BCRC 12-4.3 Parking Standards

BCRC 12-432: Minimum off street parking requirements:

Per Standard Industrial Classification Manual:

Golf courses (excluding clubhouses) (3) : 4 spaces/tee AND 1 space/tee for driving ranges; within 500 feet of the principal use.

Required: 72 spaces

Provided: 30 spaces

See Condition A-4.

BCRC 12-4.4, Sign Standards

Signage shall conform to the criteria set forth in this section.

BCRC 12-4.5 Design standards

Standards herein are not applicable. Proposed use shall not occur on a property paralleling or nearly paralleling a street.

BCRC 12-4.6 Landscaping and screening standards

Standards herein are applicable. The standard is met per BCRC 12-463:

"Applicants are encouraged to integrate the existing on site trees and native vegetation (if applicable) into the design of the site. Retention of the existing on site trees and native vegetation is preferred over new landscaped areas. Where existing trees or other native plant materials are proposed to be retained, the landscape professional should provide supplemental plantings in the area where needed or provide confirmation that existing vegetation meets or exceeds objectives stated in section 12-460 in this chapter. Xeriscaping, or designs for drought tolerant vegetation and low water usage, are encouraged."

Stormwater plan: A stormwater management plan was not required pursuant to BCRC 12-720.3 (K).

Land capability report and environmental analysis: A land capability report was not required pursuant to BCRC 12-222J.

Agency Review: The application was routed to the following agencies for comment on May 9, 2018

Panhandle Health District Bonner County Road Dept. Bonner County Flood Plain Dept. Northern Lights Bonner School District #84 Avista Dept. of Fish and Game Dept. of Env. Quality Dept. of Transportation	Dept. of Water Resources Army Corps (Coeur d'Alene) Fish and Wildlife Service Forest Service Bonner County Schools – Transportation North Side Fire Department Pacific Gas Transmission Dept. of Lands (Sandpoint) Colburn Water Association
---	--

Agency responses:

Bonner County Road and Bridge, letter dated May 14, 2018: Matt Mulder, PE & Staff Engineer for Bonner County Road & Bridge stated that an encroachment permit could not be located within R&B's records for the existing driveway at 945 Shepherds Lane.

A. The applicant shall file for a commercial encroachment permit from BCR&B Office.

B. R&B staff will inspect the existing driveway and notify the Applicant if any improvements are needed in order to bring the existing driveway into compliance with current County standards for a commercial use. All identified work will need to be completed by the applicant in accordance with the Bonner County Road Standards Manual (BCRSM).

Colburn Water Association, letter dated May 11, 2018: Steve Wood, Secretary-Treasurer for CWA, stated that a Colburn Water membership entitles water to one residence only. Moreover, Colburn Water Association would not be able to provide water for a golf course.

Bonner County Floodplain, letter dated May 3, 2018: Jason Johnson, Floodplain Manager, stated that the subject property is not located in the special flood hazard zone. No development permit is needed.

Idaho Dept. of Environmental Quality, letter dated June 6, 2018: Shawn Sweetapple, Air Quality Manager - CDA Region, stated (in summary) that precautions shall be taken to prevent dust from becoming airborne. The applicant shall consider alternatives to open burning of debris. Development shall conform to IDAPA standards and the county should consider requiring smoke management actions if open burning occurs during the land clearing phase.

No Comment responses:

Idaho Dept of Lands; May 11, 2018
US Forest Service; May 18, 2018
Avista Utilities; May 29, 2018

Public Notice & Comments (Summarized)

The following comments were received during the public noticing and comment period. The original comments and letters are available to view by the governing body and general public as part of this project file record and review process.

Mickey and Mary Mahoney, letter dated July 11, 2018:

"As homeowners with land adjacent to the project, we request that you reject the application for CUP. We have concerns regarding increased vehicle traffic on Shepherd's Lane, fire risk/lack of adequate water, sanitation/waste, and invasion of privacy."

Charles Holm and Elizabeth Knight, letter dated July 12, 2018:

"We strongly encourage you to reject the application... CC&R's are imposed, traffic is a concern, sanitation is a concern, and fire is a grave concern."

Jason and Kimberly Hankins, letter dated July 10, 2018:

"As adjacent homeowners... we have concerns. Increased traffic, road use, fire danger, course design/safety, trespassing, and sanitation are all major concerns."

Stephen Norton, letter dated July 11, 2018:

"I am opposed to the course, and request that you reject the application. I have concerns in regards to traffic, fire, privacy, natural gas pipeline, wetlands, and environmental impacts."

Staff Response:

Most concerns revolved around main topics such as:

- Traffic/Road use and impacts
- Fire hazard
- Sanitation
- Privacy/Trespass
- Environmental impacts
- CC&R's

Traffic/Road use and impacts:

Per Bonner County Road and Bridge: "In regards to citizen concerns about the impacts to increased traffic on Shepherds Lane from the proposed disc golf course, it should be noted that if total traffic counts on the road exceeded 100 vehicles per day per lane, the road would meet the criteria for application of magnesium chloride application (road stabilization/dust abatement) by Bonner County. This application would greatly reduce the amount of dust and preserve the quality of the road."

Fire hazard:

Northside Fire Dept. was routed during the agency review period and did not provide the Planning Department with any comments during that time. This is an indication that the proposed use does not pose a significant fire hazard. Moreover, the use shall be operated in accordance with BCRC 12-421: Fire Hazards: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire prevention equipment. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential fire danger involved as specified in the international fire code as adopted by the state of Idaho. (See also section 12-487 of this chapter.) The applicant also proposes designated smoking areas to allow for responsible use of such products.

Sanitation:

Panhandle Health District was routed during the agency review period and did not provide a response. This indicates that the proposed use does not pose a significant hazard in regards to sanitation. Adequate water supplies for drinking and fire suppression, as well as approval of sewage disposal sites and methods by the Panhandle health district and/or the state of Idaho, must be demonstrated as appropriate.

Condition A-5 has been added to address this.

Privacy/Trespass:

The proposed land use shall not occur on any property outside that of the applicant's shown in the aerial view. The proposal conforms to the criteria set forth in BCRC 12-460:

- A. To reduce the visual impacts of parking and storage areas on the street and adjacent properties.
 - B. To enhance the character of commercial and multi-family areas.
 - C. To provide visual screens and barriers as a transition between differing land uses.
 - D. To promote the use of native and drought tolerant species appropriate for the region.
 - E. To provide increased areas for permeable surfaces to allow for infiltration of surface water into groundwater resources, reduce the quantity of stormwater discharge and improve the quality of stormwater discharge. (Ord. 501, 11-18-2008)
- The applicant also states that out-of-bounds will be clearly marked to keep recreators on the course property.

Environmental impacts:

IDEQ, USFS, USFWS, ID Fish & Game, US Army Corp of Engineers, PHD, and Bonner County Floodplain were all routed as part of the agency review process. Some of the above agencies commented, others did not. Having there been no agency with conditions or in objection to the proposed use, staff conclude that this proposal is in accordance with the Natural Resources Component of the Bonner County Comprehensive plan.

Covenants, Conditions & Restrictions (CC&Rs):

Bonner County Planning does not recognize, enforce, or regulate CC&R's. They are viewed by staff as civil agreements between landowners and shall be pursued civilly.

Findings of fact and Conclusions of Law

Findings of Fact

1. This project entails an 18 basket disc golf course, on 40 acres.
2. A disc golf course is defined as a recreational facility.
3. A recreation facility is a conditionally permissible use in the agriculture forestry zone -- subject to site-specific conditions and standards.
4. The proposed use will not create particular hazards to adjacent properties.
5. Special conditions have been mitigated via conditions of approval.
6. The site is accessed by Shepherds Lane, a gravel surfaced road, owned and maintained by Bonner County.
7. On site signage and retail shall be limited via conditions of approval.

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

Conclusion 1

The proposed planned unit development **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

BONNER COUNTY PLANNING AND ZONING COMMISSION PUBLIC HEARING MINUTES – SEPTEMBER 6, 2018
Page 28 of 30

- Recreation
- Community Design
- Special Areas or Sites
- Implementation
- Housing

Conclusion 2

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

Conclusion 3

This proposal was reviewed for compliance with the following criteria and standards:

- BCRC 12-220 et seq, conditional use permit criteria
- BCRC 12-333, Commercial Uses
- BCRC 12-4.2, General Standards
- BCRC 12-4.3, Parking Standards
- BCRC 12-4.4, Sign Standards

Conclusion 4

This proposal complies with the criteria and standards set forth in Conclusion 3.

Conclusion 5

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

Conditions of approval:

Required CUP conditions:

A-1 The use shall be in accordance with the approved site plan.

A-2 All county setbacks shall be met.

A-3 Conditional use permit approval shall expire if the permit has not been issued within two (2) years from the date of approval, or if issued, if the use has not commenced within two (2) years from the date of issuance. At any time prior to the expiration date of the conditional use permit, an applicant may make a written request to the planning director for a single extension of the conditional use permit for a period up to two (2) years. The commission at any regular meeting, or board at any regular meeting, may consider the request for extension. The extension request must be approved or denied prior to the expiration date of the conditional use permit.

A-4 Vehicular occupancy of the facility shall be limited to 30 vehicles at any given time.

A-5 Prior to occupancy/use, the landowners/applicants shall provide documentation confirming an adequate potable water supply and sewage disposal facility. This documentation shall be obtained from Panhandle Health District and Colburn Water Association.

A-6 No commercial uses will be permitted except those related to the sale or rental of equipment associated, or food or beverage sales.

OPEN LINE DISCUSSION:

Discussion regarding electing a new chair and vice chair at the next meeting.
Discussion/decision about the sub-committee membership requirements.
Staff update – upcoming code amendments.
P&Z hearing calendar for 2019

The Chair declared the hearing adjourned at 9:00 p.m.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 20th day of September, 2018.

Bonner County Planning and Zoning Commission


Don Davis, Chair