

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
OCTOBER 18, 2018**

CALL TO ORDER: Chair Davis 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; Brian Bailey; Taylor Bradish; Trevor Kempton; Sheryl Reeve; Suzanne Glasoe; and Matt Linscott

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton and Office Manager Jeannie Welter

ANNOUNCEMENTS:

Commissioner Kempton announced he has to excuse himself for the meeting at 6:15 p.m.

CONSENT AGENDA:

APPROVAL OF MINUTES: The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: October 4, 2018. Hearing no changes or objections, the Chair declared the minutes approved as written.

CHAIR VOTE: Commissioner Bailey moved to elect Commissioner Davis as Chair. Commissioner Glasoe seconded the motion. Voted upon and the motion carried unanimously.

Commissioner Glasoe moved to elect Commissioner Bailey as Vice Chair. Commissioner Reeve seconded the motion. Voted upon and the motion carried unanimously.

PUBLIC HEARINGS:

CONDITIONAL USE PERMIT:

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 CM1007-18 – Modification to PUD – Trestle Creek Investments is requesting to modify an approved planned unit development decreasing from nine residential lots to six residential lots with 3 lots dedicated to open space. The

project will remove the proposed wastewater treatment lagoon and land application area to now include a community leach field. The new proposal will replace a hammerhead with a cul-de-sac requiring a stormwater management plan. The project is located off Hwy 200 on Idaho Country road, in a portion of Section 21, Township 57 North, Range 1 East.

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

APPLICANT PRESENTATION: Certified Land Use Planner Marty Taylor, James A. Sewell & Associates stated he relies on the application. The applicant is proposing to take an area that is largely land application and open space and put a leach field there. Reason for change in the level of service is due to lack of practicality developing the former proposed wastewater lagoon and treatment system. It has been approved by Panhandle Health District showing the soil is suitable and within appropriate setbacks.

PUBLIC/AGENCY TESTIMONY: Richard Villelli stated he owned the property for 23 years. He stated the modification design is to put the leach field over a well that he states he currently owns the rights to. He stated the application shows two wells that will be abandoned. He stated he still owns the wells and the permits and water rights are still in place. He stated in the past when the property flooded all eleven septic tanks flooded.

APPLICANT REBUTTAL: Commissioner Bradish asked Mr. Taylor if Mr. Villelli owns the well rights. Mr. Taylor stated that issue was reviewed in the original application that was approved several months prior to this modification request.

Mr. Taylor stated the focus of this should be that the health district has approved this site for subsurface disposal, and that is the agency with purview over the site. He further stated this is not the purview to determine who has the water right.

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

MOTION: Commissioner Kempton moved to recommend to the Board of County Commissioners approval of this project FILE CM1007-17 for modification of a previously approved planned unit development recommending approval of the proposed modifications and attached conceptual land use plan and preliminary plat finding 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 Kempton further moved to adopt the following findings of fact, conclusions of law and conditions of approval. The

action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. Commissioner Bailey seconded the motion.

VOTED upon and the Chair declared the motion carried, 5-1.

Background:

A. Site data: The project encompasses 11.47 acres including submerged acres and approximately 8.86 upland acres. There are 6 planned residential lots consisting of 4.48 acres leaving a remaining 4.38 acres of open space.

- Lot size: All proposed lots are 0.45 acres to 0.80 acres
- Water: 2 wells providing water to all lots
- Sewer: Residential lots have individual septic systems and a community leach field.

B. Access: The site is accessed by Idaho Country Road a private easement stemming from US Highway 200. The road within the subdivision shall be built to a low volume road width and travelway as the trip generation report outlines minimal traffic. The surface of the travelway shall be hard surfaced meeting road requirements outlined in Title 12 Appendix A road standards manual.

C. Environmental factors: No slopes exceeding 30% grade exist on site, A wetland reconnaissance submitted by James A. Sewell and Associates confirms no wetland exist on site.

A portion of the parcel is encumbered by USACE flood easement and the entirety of the lot is in FEMA flood hazard zone AE. D-firm panel 0775E. All applicable Bonner County land use projects are routed through floodplain manager for compliance with FEMA standards.

According to the Soil Survey of Bonner County, soils on site consist of Bonner silt loam, poorly suited to cultivate crops. Associated with western hemlock, western red cedar fir and western white pine. (Natural Resource Element, BC Comprehensive Plan)

D. Services: Lots 1 through 6 will be serviced by individual septic systems and a common leach field.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Single lot
North	Resort Community	R-5	Mobile home park
East	Resort Community	R-5	BNSF
South	Resort Community	R-5	USFWS
West	NA	NA	Pend Oreille

F. Standards review

12-266: MODIFICATION OF TERMS AND CONDITIONS OF PERMIT APPROVAL

A. The terms and conditions of the approval of any permit authorized or required in this title may be modified only by the Planning Director, commission and/or Board as established in this section. This section applies to modifications of approved permits, including, but not limited to, conditional use permits, special use permits, variances, preliminary plats, final plats, lot line adjustments and planned unit developments.

The Planned Unit Development and preliminary plats are recommended by the Planning Commission and approved by the Board.

B. Application for a modification of terms and conditions of approval shall be made to the Planning Department, on forms provided by the department, and accompanied by the fee specified in section 12-265 of this subchapter.

The application to modify the previously approved permit was received, reviewed by the department and sent to agency review. The stormwater management plan and erosion control plan were reviewed by JUB Engineers, INC.

C. A public hearing shall be scheduled and notice provided in accordance with the requirements for the original permit issuance. A public hearing has been noticed and scheduled in accord with the requirements for the original permit issuance. The hearing with the Planning Commission is October 4, 2018 and continued to October 18, 2018.

D. The Planning Director, commission and/or Board shall consider the proposed modification in accordance with the requirements for the original permit application and shall confine the review to the proposed modification. The standards review for the specifics of the modification are as follows:

- 1) Modification of condition A-1 "The use shall be in accordance with the approved site plan." The applicant is proposing to modify the permit eliminating the proposed wastewater treatment lagoon and installing a community leach field. This change required the applicant modify the number of lots and the sizes of those lots on the plat.

Per the application, there are 8.86 unsubmerged acres available on the parcel. With providing only "urban water" the property is allowed a density of two acres per lot. Adding in the planned open space of 4.38 acres where the density bonus allows for 1:1 density for open space. With these considerations, there are 6 building lots available on this parcel. (Table 2-1 BCRC 12-256)

The conceptual land use plan and preliminary plat show the location of the proposed six lots and the open space identifying the community leach field and its reserve.

- 2) Modification of condition C-4 requires installation of temporary and permanent erosion control and stormwater measures as designed and approved. With the change of the lagoon to a community leach field, there is adequate room for a cul-de-sac. This change required modification to the stormwater plans. The condition will be modified that the stormwater and erosion controls shall be installed as approved by the County Engineer review, JUB Engineers, INC.
 - 3) Modification of Preliminary Plat changing from 9 lots to 6 lots meeting the requirements of the changes listed above. With the above changes to the proposal, the density changes allowing only 6 residential lots on the property.
- E. The Planning Director, commission and/or Board shall render a decision in writing on the proposed modification within five (5) working days after consideration of the proposal, and the decision shall conform to the procedures, standards and requirements pertaining to the original permit. (Ord. 501, 11-18-2008)

G. Stormwater plan: A stormwater management plan was required pursuant to BCRC 12-2403(a). The plan by Ashley Williams, P.E. of Welch Comer, provides a stormwater management plan. The modified plan has been reviewed by JUB Engineers on behalf of Bonner County and found to "meet the intent of BCRC 12-7.2."

H. Agency Review: The application was routed to the following agencies for comment on August 6, 2018.

Panhandle Health	Bonner County Road and Bridge
Sam Owen Fire District	Avista
Bonner School District #84	Department of Fish and Game
Department of Environmental Quality	Department of Lands (Sandpoint)
Department of Water resources	BNSF
USACE (CDA, Newport)	Fish and Wildlife service
Bonner County Schools- Transportation	

The following agencies commented:

Bonner County Road and Bridge, email dated August 7, 2018

No comments – the development is on a private road access from Hwy 200 and does not impact the County road system.

Idaho Department of Environmental Quality, email dated August 30, 2018:

Faye Beller of DEQ provided comment on surface water quality and storm water control.

I. Public Notice & Comments: No public comments were received.

Findings of fact and Conclusions of Law for PUD:

Findings of Fact

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1. Bonner County revised code allows for modifications to a previously approved permit.
2. The modifications have been reviewed against the standards and appear to be consistent.
3. The open space provided is approximately 4.38 acres.
4. The number of lots provided with the bonus of open space are six.
5. The change to the stormwater and erosion control plans have been reviewed by JUB engineers.

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

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

The proposed planned unit development or the first phase of it **can** be substantially completed within two (4) years from the date of approval.

Conclusion 4

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC 12-266 Modification of Terms and Conditions of Permit Approval; Title 12, Chapter 4; Title 12, Subchapter 2.5; environmental standards of Chapter 7, Title 12; storm water management criteria and standards set forth in Chapter 7, Title 12; and floodplain standards in Title 14, Bonner County Revised Code.

Conclusion 5

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

AMENDMENTS

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 AM167-18 – BCRC Text Amendment – Title 12 – Bonner County is initiating a text amendment to Title 12, sections 12-215(C) Applications for zone changes and comp plan map amendments, contents; 12-222(J) (Conditional Use

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Permits) applications and contents; and 12-253.1(C) Planned Unit Development application requirements eliminating the requirement for a land capability report and adjusting the lettering in each section as affected.

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

Mr. Ollerton stated there are other areas of the code that cover all of the aspects that a land capability report would cover. He stated the other areas in the code actually cover the information more thoroughly than the land capability report does.

PUBLIC/AGENCY TESTIMONY: Grace Bower stated Kootenai City Council requested that Bonner County continue to require applicants to address potential hazards and risks from property development. She stated it makes no sense to change this document while the area comprehensive are in the making.

Doug Gunter stated he is looking for more information. He stated he is concerned that stormwater issues on commercial projects are not going to be looked at if the land capability report goes away.

STAFF/APPLICANT REBUTTAL: Commissioner Davis stated there are changes to Comprehensive Plans and codes on an ongoing basis.

Commissioner Davis stated there are stormwater plan management requirements that would more than meet and answer better than the land capability report.

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

Motion by the governing body:

PLANNING AND ZONING COMMISSION

MOTION: Commissioner Bradish moved to RECOMMEND approval of FILE AM167-18, amending the sections of Title 12, Bonner County Revised Code, as presented or amended in this hearing, to the Board of County Commissioners based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. 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.

The Bonner County Board of Commissioners initiated an amendment to Title 12. Under the proposed amendment (File #AM167-18), these amendments are to provide for clarifications resulting from questions that occur as the ordinances are being applied.

The land capability report is required in three different sections of the code: zoning and comp plan amendments, conditional use permit, variance, and planned unit developments. The land capability report is not clearly defined. In Section 253.1 Planned Unit Developments, the code identifies a "land capability report" is required with no definition or standard. In Section 215 and Section 222, the code requires a land capability report be prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. This is a vague requirement for the vast possibilities of such an analysis. Some of the requirements of the land capability report are captured through other requirements such as FEMA, PHD or septic requirements, storm drainage and erosion control plans. The vagueness in this requirement could lead to a simple report or require an expensive detailed report.

This is simply a fine tuning of the code. Below are the proposed amendments to each specific section and the description of the changes. The language in **red and underlined** is recommended as additions to the existing code. Those words in **red** and strike through would be deleted from the ordinance.

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

~~C. A land capability report prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. The report will identify the capability of the land to withstand disturbance without risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage.~~

12-222: (Conditional Use Permits) APPLICATION, CONTENTS:

~~J. A land capability report prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. The report will identify the capability of the land to withstand disturbance without risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage. A land capability report shall not be required to be submitted for proposals in which all of the following apply:~~

- ~~1. No additional "impervious surface", as defined in section 12-809 of this title, is created;~~
- ~~2. No additional site disturbance is proposed and no additional development will occur on slopes fifteen percent (15%) or greater;~~
- ~~3. No additional sewage disposal services are associated with the proposal;~~

~~4. The area in which the proposed use will occur is not located within a 100-year floodplain as determined from the FEMA flood insurance rate maps; or is not located within a mapped wetland as determined from the U.S. fish and wildlife service national wetland inventory maps; or as determined in writing by the U.S. army corps of engineers;~~

~~5. Existing structures or uses involved with the proposal have not had a detrimental effect on the subject land and adjacent lands with regard to floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage.~~

12-253.1: PLANNED UNIT DEVELOPMENT APPLICATION REQUIREMENTS:

~~C. Land capability report.~~

Public Comment:

Dover provided comments: "The City Council requests Bonner County continue to require applicants to address the potential for hazards and risks from property development, whether it be in the form of a land capability report or other types of documentation to the record so the county has sufficient evidence to make informed decisions."

There were no other comments received.

Authority

The ordinance amendment is proposed under the authority granted at Idaho Code, Chapter 7, Title 31; Chapter 8, Title 31; and Chapter 65, Title 67; and Article XII, Section 2, of the Idaho Constitution.

Findings of Fact:

1. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, may recommend a zoning ordinance.
2. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
3. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations "...not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein..."

The proposed ordinance adding appropriate sections and deleting such adds to the clarity intended in the interpretation of the Bonner County Revised

Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining the protection of property, peace, good order, comfort and convenience of the county and its inhabitants

4. Further clarifying standards enabling the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

Conclusions of Law:

1. The proposed amendments to Title 12 **IS** in accord with Idaho Code, Chapter 7, Title 31.
2. The proposed amendments to Title 12 **IS** in accord with Idaho Code Chapter 67 Title 65.

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 AM168-18 – BCRC Text Amendment – Title 12 – Bonner County is initiating a text amendment to Title 12, Section 12-268 Application Process & General Provisions. The change would bring the Bonner County agency review process in line with the current Idaho Code requirement of 15 days' notice to agencies prior to a public hearing. The code change will lessen the burden on the applicant by shortening the process by at least 30 days.

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

PUBLIC/AGENCY TESTIMONY: Grace Bower Kootenai City Council stated they only have a meeting once a month. It is not cost effective for us to have meetings more often as we would have to have a planner come back in.

STAFF/APPLICANT REBUTTAL: It was restated by commission and staff that the area of city impact review time frame will not be changing, it will remain the exact same as it currently is now. They further stated area of city impact review is actually going to be written into the code.

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

MOTION: Commissioner Linscott moved to RECOMMEND approval of FILE AM168-18, amending the sections of Title 12, Bonner County Revised Code, as presented or amended in this hearing, to the Board of County Commissioners based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. 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.

The Bonner County Board of Commissioners initiated an amendment to Title 12. Under the proposed amendment (File #AM167-18), these amendments are to provide for clarifications resulting from questions that occur as the ordinances are being applied.

The current code requires the planning department provide all affected agencies the opportunity to review the application for 30 days. Once the agency review is complete, the application is then set for public hearing. In almost every case, there are a couple responses that state "no comment." It is very rare to receive an agency comment that requires a redo of an application. If there are comments received, a condition added to the application can address the concern. This increases the processing time by 30 days.

This is simply a fine tuning of the code. Below are the proposed amendments to each specific section and the description of the changes. The language in **red and underlined** is recommended as additions to the existing code. Those words in **red** and strike through would be deleted from the ordinance.

12-268: APPLICATION PROCESS, GENERAL PROVISIONS:

- D. When the planning director has determined the application is complete and in compliance with this title, the planning director shall send copies of the application to public agencies and entities that may be affected by the proposal, including, but not limited to, the health district, fire districts, irrigation or drainage districts, sewer and water districts, school districts, solid waste and transportation agencies and fish and wildlife agencies. The **notice shall be sent at least fifteen (15) days prior to the public hearing-agencies shall have thirty (30) days to comment on the application.**
- E. Applications for permits within an area of city impact shall be noticed according to the agreements set forth for the individual community.
- ~~E. When the agency comment period is complete, the planning director shall advise the applicant in writing that the comment period is complete and shall forward to the applicant the agency comments or a summary of the comments. The planning director shall advise the applicant if additional agency information is necessary in order to provide adequate evidence that the proposal meets the standards of this title. If additional agency information is~~

~~required, the application shall be considered incomplete at the agency level, pending the receipt of the additional information.~~

- ~~F. On completion of the public agency review, the planning director shall schedule the application to the next available public hearing before the governing body authorized to consider the application, as provided in this title, allowing sufficient time for public hearing notice.~~

Public Comment:

Dover provided comments: "If Bonner County shortens the agency comment period, the Dover City Council desires to see the Area of City Impact comment period specifically listed in the procedures section so that the county continues to afford cities the required 30- or 40-day comment period set by mutual agreements."

There were no other comments received.

Authority

The ordinance amendment is proposed under the authority granted at Idaho Code, Chapter 7, Title 31; Chapter 8, Title 31; and Chapter 65, Title 67; and Article XII, Section 2, of the Idaho Constitution.

Findings of Fact:

5. The Planning and Zoning Commission, per Idaho Code Chapter 65, Title 67, may recommend a zoning ordinance.
6. The Bonner County Planning Department has reviewed the proposed changes against Idaho Code and made amendments to better comply with the Idaho Code, specifically Title 67 Chapter 65.
7. The Board of County Commissioners is authorized by Idaho Code, Chapter 7, Title 31, to adopt ordinances, rules and regulations "...not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein..."

The proposed ordinance adding appropriate sections and deleting such adds to the clarity intended in the interpretation of the Bonner County Revised Code and Bonner County Comprehensive Plan. These actions will further balance the provision of safety, health and prosperity while maintaining the protection of property, peace, good order, comfort and convenience of the county and its inhabitants

8. Further clarifying standards enabling the public and the staff to achieve the best results leading to greater understanding and use of the zoning ordinance.

Conclusions of Law:

3. The proposed amendments to Title 12 **IS** in accord with Idaho Code, Chapter 7, Title 31.

4. The proposed amendments to Title 12 **IS** in accord with Idaho Code Chapter 67 Title 65.

OPEN LINE DISCUSSION:

Request to add Dianne Wheeler as an alternate onto the Selie/Samuels area committee. P&Z stated they would like us to post for the open positions on Facebook so that others in the area can be aware of the openings as well.

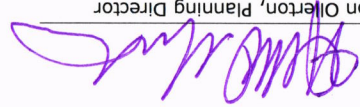
The commission directed staff to get the committee bylaws complete.

Staff updates, BLP count above last year and variance count at 25.

Sub-area plans starting in Priest River/Oldtown and Priest Lake.

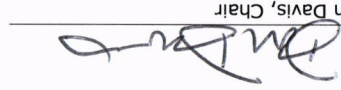
The Chair declared the hearing adjourned at 6:55 p.m.

Respectfully submitted,


Milton Ollerton, Planning Director

The above Minutes are hereby approved this 1st day of November, 2018.

Bonner County Planning and Zoning Commission


Don Davis, Chair