

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC HEARING MINUTES
AUGUST 17, 2017**

CALL TO ORDER: Chair Don 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; Vice Chair Kris Sabo; Brian Bailey; Taylor Bradish; Trevor Kempton; Sheryl Reeve; and Suzanne Glasoe

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planner I Marcus Pecnik; Planner I Caitlyn Reeves; Planner I Sam Ross; Planner I Marie Holladay; and Administrative Supervisor Tina Smith

CHANGES IN AGENDA: None

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 CM996-17 - Conditional Use Permit Modification - Boat Storage Modification - Bruce French is requesting conditional use permit modification approval to operate a boat storage business. The proposed modification restricts the boat storage business access to Cavanaugh Bay Road. Boat storage is conditionally allowed within the Rural Service Center zoning district. The site is located off of Cavanaugh Bay Road in the Coolin Community, in Section 10, Township 59 North, Range 4 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 summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Martin E. Taylor, AICP, of James A. Sewell and Associates advised that the applicant has offered a self-imposed restriction to the use of the facility in regards to access. He explained the applicant concurs with the

modification. He further explained that the project being considered this evening is only the modification of approving a self-imposed condition.

PUBLIC/AGENCY TESTIMONY: Chuck Willits spoke in opposition of this project. He commented on Highland Drive access and landowners who opposed this project at the Board of County Commissioners public hearing.

APPLICANT REBUTTAL: Mr. Taylor discussed access for the boat storage. He explained why there is a self-imposed condition. In response to a Commissioner inquiry, Mr. Taylor discussed the west 29 feet.

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

MOTION: Commissioner Kempton moved to approve this project FILE CM996-17 French Modification limiting the access to the outside boat storage on Lot 12B, Block 1 of Langley's Addition to be off Cavanaugh Bay Road through Lot 2, Block 1 of Langley's Addition, finding that it is in accord with the general and specific objectives of 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. Commission Kempton further moved to adopt the following findings of fact and conclusions of law 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 Glasoe seconded the motion.

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

Background:

A. Site data: The site is located within the Coolin community, and the particular use will be located on Lot 12B, Block 1 Langley's Addition to Coolin and Lot 2, Block 1 Langley's Addition to Coolin. The total area for the proposed use will be 2.88 acres. Currently the site is utilized as a boat repair business on Lot 2 of Langley's Addition to Coolin. The boat repair business uses a 6,000 square foot shop, constructed in 2016. Lot 2 is currently zoned Rural Service Center, and Lot 12B is currently zoned Suburban with an application for zone change to Rural Service Center filed with the Bonner County Planning Department.

B. Access: The site fronts two public rights-of-way. Lot 12B, Block 1 Langley's Addition to Coolin fronts Highland Drive, a 60-foot wide right-of-way developed with a gravel travel surface. Lot 2, Block 1, Langley's Addition has frontage and access to Cavanaugh Bay Road, a paved road lying within a 60-foot right-of-way. The applicant is proposing to only access the business from the frontage road, Cavanaugh Bay Road.

C. Environmental factors: The property is flat, with little to no grade. No surface water, flood hazard area (Zone: X; DFIRM 0430), or wetlands exist on site. Currently the property is heavily timbered, although the proposed boat storage

facility would be mostly cleared, with the exception of an evergreen buffer to neighboring properties, according to the application.

D. Services: According to the application, potable water is to be served to the site via an individual well that produces about 10 gallons per minute. Sewage is to be disposed of via the Coolin Sewer District, a wastewater and lagoon wastewater treatment system, serving the Coolin Community. Fire protection is served by the Coolin Cavanaugh Fire District, and the site lies within the West Bonner School District. The closest solid waste facility is the Dickensheet Station.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Suburban	Vacant Land
North	Resort Community	Suburban	Vacant Land
East	Resort Community	Suburban	Single Family Dwelling
South	Resort Community	Rural Service Center	Neighborhood Commercial
West	Resort Community	Recreation	Single Family Dwelling

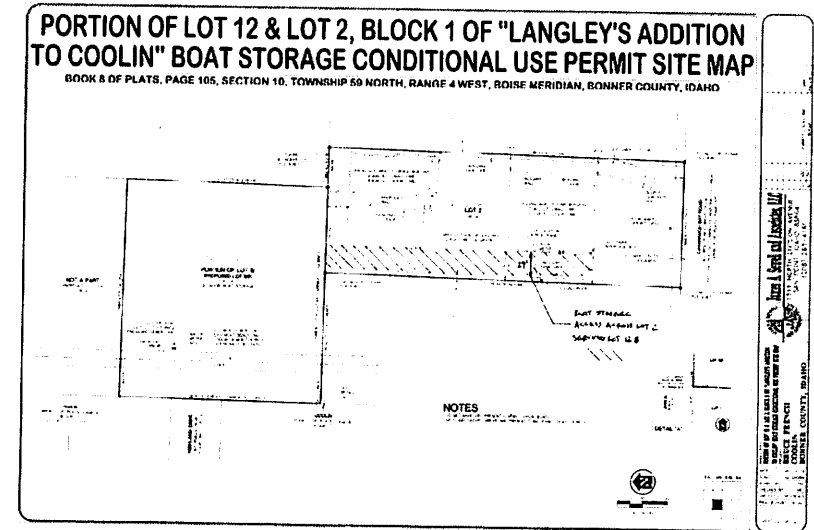
F. Standards review

BCRC 12-266 specifies that review of the proposed modification shall be in accordance with the requirements for the original permit, and shall be confined to the proposed modification. The applicant is proposing to prohibit the use of Highland Drive for the use of the boat storage business.

Provided: The applicant is requesting a specific change to an approved conditional use permit.

BCRC 12-486 specifies standards for setbacks, landscaping, security fencing, signs, lighting, distance between structures, sufficient land area or hours of operation.

Provided: The applicant is showing access to the outside boat storage with a ±29 foot roadway along the West boundary of Lot 2.



J. Agency Review

The application was routed to agencies for comment on June 26, 2017. The following agencies commented:

There were no comments received

K. Public Notice & Comments

The following public comments were received:

Chuck Willits - July 28. Provided comments on the rezone application and the conditional use permit. The comments were forwarded to the Commission though appearing not to be relevant to this specific application. In considering comments, BCRC 12-266 D. states: "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."

Findings of Fact

1. The applicant has an existing Boat Repair business on Lot 2, Block 1 Langley Addition.

2. The applicant has submitted a zone change application to change Lot 12B from Suburban to Rural Service Center.
3. Cavanaugh Bay Road is a paved county road lying within a 60-foot wide public right-of-way.
4. Access to Lot 12B is provided through Lot 2 on the west side of the property off of Cavanaugh Bay Road.
5. A Conditional Use Permit was approved by the Planning Commission on February 2, 2017 granting approval to operate a boat storage business.

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 Title 12, Chapter 2.6 Modification of terms and conditions of permit approval and Chapter 4.86 Standards for Rental Warehouses, Ministorage, Boat Storage.

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. Access to the boat storage facility shall be via Lot 2, Block 1, Langley's Addition to Coolin (Book 8, Plats, Page 105). Access to the boat storage facility via Highland Drive is prohibited.
- A-2** All county setbacks shall be met.

- A-3** 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.

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 C1003-17 – Conditional Use Permit – PUCF – Northern Lights, Inc. are requesting conditional use permit approval for a Power substation located at 478658 Highway 95, North West of Sandpoint, on a 1 acre developed site zoned Rural 5. The property is located within Section 35, Township 58 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 Marc Pecnik clarified the location of the project. He presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. In response to Commissioner inquiries, Mr. Pecnik explained the landscaping of the property and also advised that the City of Ponderay did not comment on this project.

APPLICANT PRESENTATION: Martin E. Taylor, AICP of James A. Sewell and Associates provided a background on this project. He said he would rely on the application on how this project complies with the standards. He commented on the following: No adverse comments received; survey accurate site plan; purchase contract; access; public comment; fire danger; lighting; off-site vegetation; electromagnetic fields; property values and neighbors powerline.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Bradish moved to approve this project FILE C1003-17 NLI power substation, 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 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 conditional use permit is to complete the Conditions of Approval as adopted. 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.

Background:

A. Site data: The subject property is a 1.09 acre unplatted parcel consisting of open pasture.

B. Access: Access to the site is provided by a private driveway via public right of way (HWY 95), No encroachment permit needed as ITD Representative Robert Beacher stated in Email dated 3-2-17. Access onto the driveway is protected by a gated chain link fence, in addition an additional gated fence is proposed to surround the project site.

C. Environmental factors: According to the application and Bonner County GIS mapping application, the project site has no measurable slope, site does not contain mapped wetlands, has no mapped flood hazard area (Zone: X, DFIRM 0710E). Sand creek lays over 600’ feet to the west of the project area.

D. Services: No sewer or water services shall be provided, as none are necessary. Northside fire station is approximately 1 mile away.

E. Zoning and Current Land Use

Compass	Zoning	Current Land Use & Density
Site	R-5	Developed Residential
North	R-5	Developed Residential
East	R-5	Developed Residential
South	R-5	Developed Residential
West	R-5	Developed Residential

12-323 Rural District:

A. The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:

1. Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
2. Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
3. Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.

B. Use of this zone is appropriate in areas designated by the comprehensive plan as follows:

1. R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:
 - a. Characterized by slopes that are steeper than thirty percent (30%).
 - b. Located within critical wildlife habitat as identified by federal, state or local agencies.
 - c. Contain prime agricultural soils.
 - d. Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in [title 2](#) (public roads) of this code or appendix A (private roads) of this title or are absent.
 - e. Within the floodway.
 - f. Contain limited access to public services.

2. R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above. (Ord. 501, 11-18-2008)

F. Standards review

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.

1. BCRC 12-220, et seq, conditional use permit, application and standards.
Required: Specific elements required in BCRC 12-220 thru 12-226.
Provided: Required elements were satisfactorily addressed in the submitted materials.

2. BCRC 12-335, Public Use Table, zoning and standards.
BCRC 12-611 (b)
Required: (3) Access to the site shall be located within a recorded easement or public right of way.
(6) "Specified conditions with respect to emissions of noise, light, glare, smoke, odor, dust, particulate matter, vibrations or hours of operation may be prescribed differently from those required in a given district."

(11) "The area of land covered by buildings shall not exceed 35 percent of the total lot area."
Provided: (3) Driveway is 20ft wide and gravel, private drive.
(6) project will adhere to standards.
(11) The project is located on an easement within a 1.08 acre parcel, which represents .004% percent lot coverage, this standard is met.
3. Minimum Lot/Parcel Size (BCRC 12-411).
Required: Parcel size: 20 acres, Front setback: 25 ft , Rear setback: 40 ft, Side setback: 40 ft.
Provided: Parcel size: 1.08 acres, Setback requirements are met.
4. BCRC 12-4.2, Performance standards for all uses.
Required: BCRC 12-420.A-J standards.
Provided: Application has been reviewed against these standards.
5. BCRC 12-4.3, Parking standards.
Required: Parking requirements.
Provided: Gravel Parking area, application has been reviewed against these standards.
6. BCRC 12-4.4, Sign standards.
Required: Freestanding signs, building mounted signs, or combination thereof, in an aggregate size not to exceed ninety six (96) square feet in area, shall be allowed, provided no individual sign exceeds sixty four (64) square feet in area.
Provided: Sign not proposed.
7. BCRC 12-4.5, Design standards.
Required: BCRC 12-453.A-E: N/A
BCRC 12-453.F: Lighting standards
BCRC 12- 453.G-I: N/A
BCRC 12-453.J: Outdoor storage, Industrial,
BCRC 12-453.K: n/a, site is unmanned.
Provided: BCRC 12-453.F: There will be minimal additional lighting. (see condition A-2), BCRC 12-453.J: No increase expected.
8. BCRC 12-4.6, Landscaping and screening standards.
Required: No landscape plan submitted, site is currently heavily treed.
Provided: BCRC 12-488.C, the commission may require reasonable restrictions and conditions of development.

9. BCRC 12-7.2, Grading, stormwater management and erosion control
Required: Per BCRC 12-722.4.A and 12-722.2, a grading & stormwater management plan was not required for this proposal.
Provided: Applicant has submitted a letter dated 6-7-17 providing evidence that due to the nature of soils and grasses present on site, any construction of storm water mitigation features to offset excess run off will result in undo site disturbance, Staff is in agreement with the assessment, as such has granted administrative exception pursuant to BCRC 12-721.2(b).

G. Comprehensive Plan Land Use Designation

The property is designated Rural on the Bonner County Comprehensive Plan Map. The comprehensive plan designation of Rural provides limited residential densities and permitted uses to those that are compatible with rural pursuits, and nearby resource production districts, and can be adequately supported by rural service levels.

H. Land Capability Report A land capability report was submitted to the record by Martin E, Taylor, in accordance with BCRC 12-222(j), which states:

"Based on the grade of the site and the lack of flood hazards, the area is satisfactorily suited for the intended use. The site has demonstrated that it is capable of withstanding disturbances without risk of harmful consequences as a result of floods, sewage, drainage, erosion, sedimentation, geological or surface slippage pursuant to Bonner County Revised Code, Section 12-222(j)."

I. Stormwater plan

Administrative exception pursuant to BCRC 12-721.2(b) has been granted.

J. Agency Review

The application was routed to the following agencies for comment on March 22, 2017

*Panhandle Health District
Department of Fish & Game
Department of Transportation
U.S. Army Corps (CDA)
Dept of Water Resources*

*Bonner Public Works Department
Schweitzer Fire District
Department of Lands (Sandpoint)
Dept. Env. Quality
Bonner School #84*

The following agencies responded "no comment"

Department of Environmental Quality, Fay Beller, Email dated May24, 2017

Idaho Department of Lands in a letter dated May 12, 2017

Independent Highway District in a letter dated May 4, 2017

Staff concludes there are no objections to the project.

K. Public Notice & Comments

No public comments were received at the time of this staff report.

Staff concludes there are no objections to this project.

Findings of Fact

1. The subject lot is 1.09 surrounded in open pasture in an R-5 Zone.
2. Minimal slope on site
3. The proposed use does not require septic or water services.
4. The proposed site is not staffed.
5. Site to be protected by chain link fence and locked gate.
6. The application states that site is expected to be accessed on a monthly basis.
7. The site already has an area for up to 1-2 vehicles available for parking, per the applicant submitted site plan.
8. According to the application, the proposed facility will consume less than 0.01% of the total parcel area.
9. No adverse public comments have been received.
10. All setback requirements are met.

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 procedural compliance with the criteria and standards set forth at BCRC Title 12-220, use provisions in Title 12-335, density and dimensional standards set forth in Title 12 Chapter 4, the environmental

standards and storm water management criteria of Title 12 Chapter 7, Bonner County Revised Code.

Conclusion 3

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

Conclusion 4

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

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** Lighting shall be directed downward to the intended area to be lighted. All exterior lighting fixtures shall incorporate cutoff shields to prevent spillover into residential areas. Broadcast lighting fixtures that project lighting outward rather than downward are discouraged. Outdoor lighting shall be arranged so that the light is directed downward and away from adjoining properties. Temporary high intensity construction lights should be oriented so as to reduce or eliminate glare onto adjoining properties.
- A-3** 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-4** Prior to building applicant shall obtain an approved building location permit in accordance with BCRC 11-105.

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 V490-17 – Variance Request – Front Yard Setback – Royal Shields Jr. is requesting a 5-foot front yard setback where 25 feet is required for the construction of a three-car attached garage. The subject property is located within the Sandy

Cove Subdivision, Lot 14, Sagle Idaho, Section 25 Township 57 North, Range 2 West, B.M. The site is zoned Rural 5.

STAFF INPUT: Planning Director Milton Ollerton requested that this project be continued to a date certain to allow the applicant time to submit a stormwater plan.

MOTION: Commissioner Sabo moved to continue this project FILE V490-17, which allows for a 5 foot front yard setback where 25 feet is required to September 14, 2017 at 5:30 p.m. Commissioner Reeve seconded the motion.

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

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

File V487-17 - Variance Request - Waterfront Setback - BDJ Family Limited Partnership is requesting variance approval to allow for the replacement of an existing non-conforming deck within the required 40-foot waterfront setback. The subject property lot is described as lot 11 of Luttons Lake Lots. The subject property is located about 0.5 miles west of Highway 200 on Red Fir Road, in Section 2, Township 56 North, Range 1 East, B.M. The site is zoned recreational and is 2.367 acres.

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 Cait Reeves presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. In response to a Commissioner inquiry, Ms. Reeves explained "bulk."

Planning Director Milton Ollerton explained that the applicant is making the structure more useable.

Ms. Reeves explained a stormwater plan has been submitted.

APPLICANT PRESENTATION: Joshua Tripp of Place Landscape Architecture commented on the property being surveyed, land capability report, stormwater measures and repairs/restoring landscaping.

In response to a Commissioner inquiry, Mr. Tripp confirmed there is a stormwater plan and that there will be a concrete deck and floor. He also discussed mitigation and landscaping.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Kempton moved to approve this project FILE V487-17, requesting a variance approval to allow for the compliance of reconstruction of an existing structure with an addition of a storage facility increasing the bulk, located within the 40-foot waterfront setback, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Kempton 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 Sabo seconded the motion.

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

Background:

A. Site data: The subject property is ±2.367 acres located approximately 2 miles west of Highway 200 on Red Fir Road in Hope, Idaho. The subject property is zoned recreation. The lot fronts on Lake Pend Oreille and is the location of the previous Red Fir Resort.

B. Access: Access is provided by Red Fir Road, a public access road with a paved travel surface. The width of the right-of-way is approximately 60 feet and the width of the road is approximately 25 feet.

C. Environmental factors: The lot fronts on Lake Pend Oreille. The site contains no special flood hazard area (zone: X; FIRM 0981E). The site contains mapped slopes of at least 15% as mapped by the USGS layer on the county mapping service. The site contains no critical wildlife habitat areas. The site contains no mapped wetlands as mapped by the United States Fish and Wildlife Service.

D. Services: The site is serviced by an individual septic system and an individual well. The site lies within the Sam Owen Fire District and the Lake Pend Oreille School District (#84).

E. Comprehensive Plan, Zoning and Current Land Use

According to the applicant the new structure will mitigate the risks and improve water quality by reducing the sediment movement into the lake.

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	± 2.367 acres residential lake front lot
North	Resort Community	Recreation	Lake Pend Oreille
East	Resort Community	Recreation	±24.031 residential common lot; Highlands homeowners association
South	Resort Community	Recreation	Residential ±0.58 acres
West	Resort Community	Recreation	Residential ±0.81 acres

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.**

The subject property has an existing deck of 1769 square feet approximately 16'-4" from the ordinary high water mark of Lake Pend Oreille. The site also contains slopes along the waterfront of at least 15% according to the USGS topographic layer on the county mapping application. According to the application the proposed structure of 1720 square feet will be placed inside the existing deck footprint reducing the overall footprint by 49 square feet remaining 16'-4" from the ordinary high water mark.

- (B) **Special conditions and circumstances do not result from the actions of the applicant.**

The variance requested is seeking compliance for the reconstruction of an existing deck with a vertical bulk increase reducing the overall footprint of the structure. Applicant did not build existing structure and therefore did not create the nonconforming structure. The applicant states that the reconstruction is taking place to repair an unsafe structure due to failing decking material and cabling.

- (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.**

According to the applicant the existing structure's deck surface was falling and the sediment under the deck was starting to sluff off into the lake.

I. Agency Review

The application was routed to the following agencies for comment on October 12, 2016.

- Panhandle Health District*
- Sam Owen Fire District*
- Department of Lands (Sandpoint)*
- Idaho Department of Fish and Game*
- Idaho Department of Lands Navigable Waters*
- Idaho Department of Water Resources*
- United States Fish and Wildlife Service*
- Bonner County Road and Bridge*
- Avista Utilities*
- Ellisport Bay Sewer District*

The following Agencies Commented:

Bonner County Road and Bridge Department, response dated June 16, 2017

No Comment

Panhandle Health District, response dated May 30, 2017

No Comment

Idaho Department of Water Resources, response dated May 26, 2017

No Comment

Sam Owen Fire District, response dated June 7, 2017

No Comment

Idaho Department of Lands, Navigable Waters

Received the notice and stated that if the project was taking place over the artificial high water mark (AHWM) then they needed to place an application with Idaho Department of Lands.

J. Public Notice & Comments

The following public comments were received:

No Comments

Findings of Fact

1. The addition does not encroach further than the previous structure into the 40-foot setback.
2. The reconstruction of the deck results in an overall reduction of floor area by 49 square feet where the existing structure was 1769 square feet and the proposed structure will be 1720 square feet.

3. The proposed vertical addition is located under the proposed reconstructed deck.
4. The site contains slopes of 15%-25% grade that slopes steeper towards the waterfront according to the applicant.
5. The site is serviced by an individual well and septic system.
6. No Adverse agency or public comments have been submitted.

Conclusions of Law:

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

Conclusion 1

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

Conclusion 2

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

Conclusion 3

The granting of the variance **is not** in conflict with the public interest in that it **will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

Conditions of approval:

Standard permit conditions:

- A-1** 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.

Standard and site-specific conditions:

- B-1** Prior to variance issuance, the applicant shall obtain a building location permit approval from the Bonner County Planning Department.

AMENDMENT AND 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 AM155-17 - Comprehensive Plan Amendment - File ZC362-17 Zone Change Request - Rural Residential to Suburban Growth Area - Dale Robertson Revocable Trust & Darrell & Cheryl Lee Berreth are requesting a comprehensive plan amendment from Rural Residential to Suburban Growth Area and a zone change from Rural 5 to a Suburban Zone. The Suburban Growth Area designation allows for parcels 2.5-acre in size to 5.0 acres. The subject property is located in Laclede, Idaho in Section 29, Township 56N, Range 3 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 summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. In response to a Commissioner inquiry, Mr. Ollerton confirmed that this project is bringing this property into the proposed zoning code.

Mr. Ollerton advised that there was an error on Conclusion 1 noting it should state "comprehensive plan amendment" instead of zone change.

APPLICANT PRESENTATION: Project Representative Lance Miller, PLS provided a background of the project and discussed the intent of the landowner. He also commented on sewage disposal, effect of 2008 zone change, spot zoning, surrounding parcels and suburban zoning.

PUBLIC/AGENCY TESTIMONY: None

APPLICANT REBUTTAL: None

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

File AM155-17

MOTION: Commissioner Sabo moved to recommend approval to the Board of County Commissioners on this project, FILE AM155-17, requesting a comprehensive plan amendment for the subject property from Rural Residential to Suburban Growth Area, 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.

Background:

A. Site data: Four parcels totaling ±14 acres.

B. Access: Access to the property from Highway 2, West to Thistledown Lane, left over tracks, turn right, parcels begin in 50 feet and continue Southwesterly to River Birch Road. Thistle Down Lane is a 25’ and 30’ wide easement with a 20’ wide surface, mostly level grade.

C. Environmental factors: The parcel slopes slightly towards Pend Oreille River. There are no wetlands present while the flood plain skirts the lake-side of the property.

D. Services: Water and Sewer is provided by existing individual use. The properties are serviced by the Westside Fire District, the Laclede solid waste site, and in the Priest River School District.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	R-5	Residential and vacant land
North	Rural Residential	R-5 R-10	Residential – 1-acre lots, River Birch Estates
East	Rural Residential	R-5	Residential – Unplatted 2-4 acres
South	Rural Residential	Suburban	Suburban - ±0.6 acre lots, Schweitzer Villa
West	Rural Residential	R-5	Residential

G. Standards review

Comprehensive Plan Amendment:

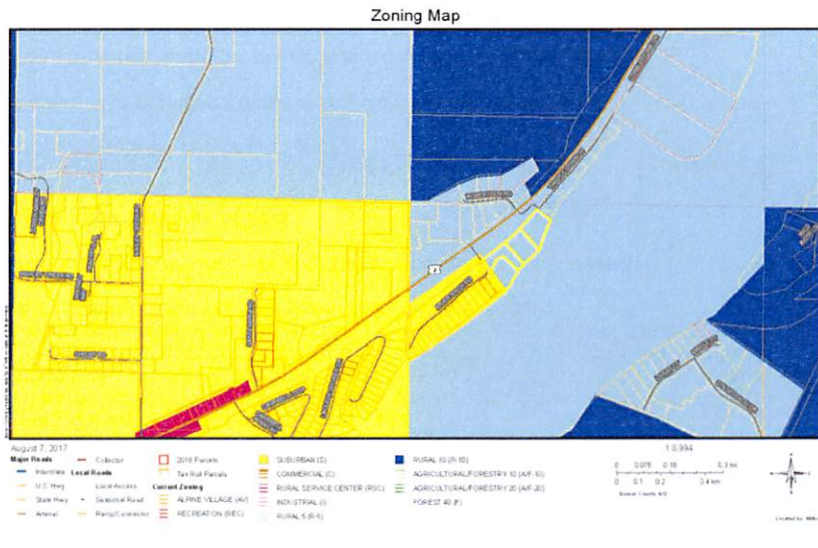


The Bonner County Proposed Land Use Matrix of the Bonner County Comprehensive Plan (See attached Exhibit "A") contains the criteria used to establish land use designations.

The Suburban Growth area suggests a density range of 1-5 acres with individual services for water and sewer. It allows access on a paved or graveled public right-of-way or private easement. It suggests the slope be between 0-15% best for residential and associated uses.

The applicant’s parcels range from 2.6 to 5 acres with existing wells and septic systems on three of the four parcels. The access is provided by a paved and then graveled access by Thistledown Lane or a paved access on River Birch Road. The slope of the property ranges from level to slightly sloping and the property is currently used as residential.

Zone Change Request



The applicant is requesting a zone change from Rural Residential to Suburban. BCRC 12-324 B. Use of this zone (Suburban) is appropriate in areas designated by the comprehensive plan as transition, urban growth area, resort community or suburban growth area in the comprehensive plan where a network of hard surfaced roads provides good access to primary transportation routes or potential public transportation systems. Urban services may not be available immediately, but are capable of being extended or constructed in the area.

Urban services are not immediately available to the subject parcels, however, the LaCleda Water Company comes to the subject property line. The Suburban District requires lots to be 2.5-acres if urban services are not available. Each parcel is larger than 2.5 acres. Access is provided by Thistledown Lane or River Birch Road. The area is serviced by the Westside Fire District, Northern Lights Inc., The LaCleda solid waste site and the West Bonner County School District.

I. Land Capability Report Lance Miller, PLS submitted a land capability report in accordance with BCRC 215 C. He concluded that the "request would present no adverse impact or risk of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage on the subject land."

J. Stormwater plan

A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

K. Agency Review

The application was routed to agencies for comment on June 22, 2017.

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|------------------------------------|---------------------------------------|
| Panhandle Health District | Dept of Water Resources |
| Bonner County Road and Bridge | Fish and Wildlife Services |
| Westside Fire District | Natural Resource Conservation Service |
| West Bonner County School District | Northern Lights Power |
| Dept of Fish and Game | Dept of Env Quality |
| Dept of Transportation | Dept of Lands, Sandpoint |
| Dept of Lands, Nav Waters | Laclede Water District |

Bonner County Road and Bridge replied "No comments"

Panhandle Health District replied "No comments"

Department of Environmental Quality replied:

Storm water controls will need to be developed that adequately protect surface waters and ground water from being impacted during and after construction. The local storm water control authority should be contacted for details on the appropriate collection/treatment/disposal requirements. Control of sedimentation and erosion during construction activities must be achieved by the use of acceptable best management practices (BMPs) and is considered the responsibility of the owner/developer/contractor for the project. The project may require compliance with the Construction General Permit, a program administered by the U.S. Environmental Protection Agency. This requirement is designed to prevent pollution of waters of the U.S. during construction projects. More information on this requirement can be found at:

<http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/Region+10+CGP+resources/>

Department of Water Quality stated they have no comments specific to the file. However, they did provide additional information on permitting a well or taking water from the lake.

L. Public Notice & Comments

The adjoining neighbors were noticed through the mail on July 24 and legal posting in the newspaper on July 26.

No Comments Received.

Findings of Fact

1. Three of the properties are 2.6-acres or larger while the fourth is 5.06-acres.
2. The neighboring properties range in size from 0.6-acres to 4-acres.
3. The comp plan change is compatible with the neighboring properties in size and use.

4. The proposed amendment is adjacent to a Suburban Growth Area
5. The property has access off River Birch Road or Thistledown Lane.
6. The parcels have Panhandle Health District approved septic systems and individual wells.

Conclusions of Law:

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

Conclusion 1

The proposed comprehensive plan amendment **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 | |

File ZC362-17

MOTION: Commissioner Sabo moved to recommend approval of this project, FILE ZC362-17, requesting a zone change for the subject property from Rural 5 to Suburban, 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 Findings of Fact

1. The applicants are requesting a comprehensive plan amendment for the subject property to Suburban Growth Area.
2. Surrounding properties range in size from ± 0.6 acres to ± 4-acres.
3. The properties to the Southwest is currently zoned Suburban.
4. The property has access off Thistledown Lane and River Birch Road.
5. The parcels meet the zoning requirement of the Suburban district of being 2.5-acres or larger if urban services are not available.

6. The parcels have Panhandle Health District approved septic systems and individual wells.
7. The area is serviced by the Westside Fire District, Northern Lights Inc., The LaCleda solid waste site and the West Bonner County School 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.

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 Suburban zoning district, provided at Chapter 3, Bonner County Revised Code.

Conclusion 4

The proposal **is** appropriate for the area based on the surrounding uses and the location of the property.

OPEN LINE DISCUSSION: The following items were discussed with staff and the Commission:

- Changing the motions to include conclusions.
- Shortening of staff presentations.
- Schedule updates.
- The Board of County Commissioners is considering a 25' shoreline setback.
- The Planning Department is now fully staffed.
- Budget / computer software.

The Chair declared the hearing adjourned at 7:12 p.m.

Respectfully submitted,

Milton Ollerton
Planning Director

The above Minutes are hereby approved this 21st day of September, 2017.

Bonner County Planning and Zoning Commission



Don Davis, Chair