

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
JANUARY 12, 2017**

**CALL TO ORDER:** Chair Snow called the Bonner County Planning and Zoning Commission hearing to order at 5:30 p.m. in the 1<sup>st</sup> Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

**PRESENT:** Commissioners Chair Greg Snow; Vice Chair Don Davis; Brian Bailey; Kris Sabo; Taylor Bradish; and Suzanne Glasoe

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Planner III Saegen Neiman; Planner 1 Lindsey King; Planner 1 Caitlyn Reeves; and Administrative Supervisor Tina Smith

**CHANGES IN AGENDA:** None

**PUBLIC HEARINGS:**

**VARIANCE**

**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 V483-16 Variance Request – Bulk/Waterfront Variance – Janet Whitney** is requesting variance approval to allow for an existing second-story addition to a non-conforming (grandfathered) structure, located within the 40-foot waterfront setback. The second story addition would increase the structure's height (bulk). The property is located about 2.3 miles west of Highway 95 on Lakeshore Drive, in Section 4, Township 56 North, Range 2 West, B.M. The site is zoned Suburban and is 0.83 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 Caitlyn Reeves presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. The PowerPoint presentation has been submitted to the file.

**COMMISSION / STAFF DISCUSSION:** Commission and Planner III Saegen Neiman discussed the second story and the grandfathered right.

**APPLICANT PRESENTATION:** Project Representative Clare Marley, AICP, of Ruen-Yeager & Associates submitted the following exhibit prior to the start of the hearing:

Exhibit – A PowerPoint for applicant

Ms. Marley provided a background of the project. She also discussed proposed discussions B-1 and B-2 and how conditions have been met.

**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 Sabo moved to approve this project FILE V483-16, to allow for an existing second-story addition to a non-conforming (grandfathered) structure, 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 Sabo 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 Glasoe seconded the motion.

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

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**Background:**

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**A. Site data:** The subject property is ±0.83 acres located approximately 2.4 miles west of Highway 95 on Lakeshore Drive in Sagle, Idaho. Abutting land includes residential lakefront properties, and rural residential tracts. The subject property is zoned as suburban. The lot fronts on Lake Pend Oreille and currently contains one single family dwelling and one accessory dwelling unit with an attached garage.

**B. Access:** Access is provided by Lakeshore Drive, a public access road with a paved travel surface. The width of the right-of-way is approximately 66 feet and the width of the road is approximately 25 feet.

**C. Environmental factors:** The Lake Pend Oreille base flood elevation (BFE) is 2073.7 feet NAVD 1988. According to the application the repaired foundation lies 2.3 feet above BFE. The property lies within the designated special flood hazard area (zone: AE/X; FIRM: 0950). The site contains mapped wetlands as mapped by the United States Fish and Wildlife Service. The site contains no critical wildlife habitat areas. The site contains slopes of at least 15% as mapped by the USGS data layer on the county mapping service. According to the applicant the site varies from flat benches in the parking area to steeper slopes of up to 25% towards the waterfront.

**D. Services:** The site is serviced 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 to the subject property by Avista Utilities.

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Urban Growth Area	Suburban	± 0.83 acres residential lake front lot
North	Urban Growth Area	Suburban	Residential ±0.295 acres
East	Urban Growth Area	Suburban	Lake Pend Oreille
South	Urban Growth Area	Suburban	Residential ±1.27 acres
West	Rural-5	Rural-5	Rural residential and forest lands

**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) An undue hardship exists because of site characteristics, and special conditions and circumstances exist which are peculiar to the land, structure, or building involved.**

*The subject property has an established non-conforming structure dating back to 1949 according to the Bonner County Assessor records. According to the applicant, provided site plan the structure is 14 feet 7 inches from the Pend Oreille River. The structure was placed prior to the adoption of waterfront setback requirements in 1980 (Ordinance 140). The subject property also contains slopes between 15% and 25% according to the applicant.*

**(b) A literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.**

*Similar variances have been approved by Bonner County where the bulk of a structure has been increased but the new construction has remained within the existing footprint of the structure (V427-12, Thomas; V459-15, Frank; V462-15, McKay). Due to site limitations where building upland of 40 feet from the shoreline was not achievable, the above variance approvals refer to vertical additions and modifications. A literal interpretation would prohibit the repair of the existing 1949 home foundation into compliance with the current floodplain standards.*

**(c) Granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same district.**

*According to the applicant there are homes containing multi-stories both to the north and south of the property. Several variance approvals have been granted by*

*Bonner County regarding a vertical addition to an existing "grandfathered" structure within the 40 foot waterfront setback, where the greatest architectural projection has either stayed within the same footprint or was reduced from the original.*

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

*The home was constructed in 1949, prior to the 1980 adoption of waterfront setbacks. The applicant did not construct the original structure and the second story addition does not encroach further into the waterfront setback, than the greatest architectural projection from the grandfathered structure.*

**(e) The variance requested is the minimum necessary to alleviate the undue hardship.**

*Although the structure's bulk has been increased to add a second story addition, the application notes that the structure does not encroach further into the existing waterfront setback and the home could not be extend away from the waterfront due to steep slopes located behind the structure. With these site constraints a vertical addition is the way to alleviate the undue hardship.*

**(f) The variance is not in conflict with the public interest.**

*According to the applicant at the time the second story addition the foundation of the grandfathered structure was replaced and elevated to meet current floodplain standards by elevating "2.3 feet above base flood elevation". The site is serviced by Southside Sewer and Water District and fronts on a paved public road which will remain unchanged.*

**G. 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.

**H. Land capability report**

A land capability report was submitted to the record by Ruen Yeager & Associates, Inc. in accordance with BCRC 12-233 and 12-222(j), which states:

- The site is suitable for the proposed use, based upon field observations and data available from public agencies regarding the site. The second-floor addition to the site has been in place for about 16 years, and displays no noticeable harmful consequences due to the effects of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage. The home has existed at this site for nearly 70 years.

**I. Agency Review**

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

*Panhandle Health District*

*Bonner County Road and Bridge*

Selkirk Fire District  
Avista Utilities

Southside Water & Sewer District  
Department of Lands (Sandpoint)

*The following Agencies Commented:*

**Bonner County Road and Bridge Department, Response dated October 20, 2016:**

No Comment

**Pat Park, CBO, Comments dated December 28, 2016:**

Mr. Park is an International Code Council Certified Building Inspector and Certified Fire Marshal, he stated that he performed an onsite building inspection of the foundation of the structure. He determined that the home's foundation meets the floodplain standards of BCRC Title 12, subchapter 7.5 Flood Damage Prevention.

#### **J. Public Notice & Comments**

The following public comments were received:

*No Comments*

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#### **Findings of Fact**

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1. The existing residence was constructed in 1949, prior to the adoption of setback and building regulations adopted by Bonner County in 1980 (Ordinance 140).
2. The addition does not encroach further than the previous structure into the 40-foot setback.
3. The foundation of the structure was elevated to 2.3 feet above base flood elevation to meet current Title 12, subchapter 7.5 Flood Damage Prevention.
4. The site contains slopes of 15%-25% grade that slopes steeper towards the waterfront according to the applicant.
5. The site contains mapped wetlands per the United States Fish and Wildlife Wetland Inventory map.
6. The location of the structure partially lies within the mapped special flood hazard area zone AE. (Zone: AE; FIRM: 0950E).
7. The site is serviced by Southside Sewer and Water District.
8. No Adverse agency or public comments have been submitted.

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#### **Conclusions of Law:**

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

##### Conclusion 1

This proposal was reviewed for compliance with the criteria and standards set forth at Sections 12-233 and 12-234, Bonner County Revised Code, storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code, and variance criteria and standards set forth at Section 67-6516, Idaho Code.

##### Conclusion 2

An undue hardship **does** exist because of site characteristics, and special conditions and circumstances that are peculiar to the land, structure, or building involved.

##### Conclusion 3

A literal interpretation of the provisions of this Title **would** deprive the applicant of rights commonly enjoyed by other properties in the same District under the terms of this Title.

##### Conclusion 4

Granting the variance requested **will not** confer on the applicant any special privilege that is denied by this Title to other lands, structures, or buildings in the same District.

##### Conclusion 5

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

##### Conclusion 6

The variance requested **is** the minimum necessary to alleviate the undue hardship.

##### Conclusion 7

The variance **is not** in conflict with the public interest.

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#### **Conditions of approval:**

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##### **Standard permit conditions:**

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- 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.

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#### **Standard and site-specific conditions:**

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

**B-2** Prior to variance issuance, the applicant shall obtain floodplain development permit approval for the construction of an addition within the area of the special flood hazard area.

#### **PRELIMINARY PLAT**

**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 SS1858-16 – Preliminary Plat – Mimi Acres, CDS – Michele Gregory Hurd** is requesting preliminary plat approval for a conservation subdivision of lots ranging from 2.94 to 29.38 acres meeting density of the zone. The subject property is zoned Agricultural/Forestry-10. The site is located off Peterson Road approximately 8-miles north of Priest River in Section 15, Township 57 North, Range 4 West, B.M.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Chair Snow declared that he would recuse himself from this hearing as he has worked with the applicant's representative in the past. Vice Chair Davis continued with the hearing. There were no further disclosures.

**STAFF PRESENTATION:** Planner 1 Lindsey King presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. The PowerPoint presentation has been submitted to the file.

In response to Commission inquiries, Ms. King addressed the following: Development of the larger conservation lot; open space management plan; wetland delineation; and building envelope setbacks.

**APPLICANT PRESENTATION:** Project Representative Roger Gregory of Gregory Investments discussed the proposal. He commented on the following: Impact; larger parcels; wetlands; springtime creek; the American dream; access; and lack of demand in Priest River.

**STAFF INPUT:** In response to a Commission inquiry, Mr. Neiman addressed the building envelope for lot 3.

**PUBLIC/AGENCY TESTIMONY:** The following members of the public commented in opposition to this project:

Myrtle Peterson	David Gallespi	Peggie Frye	Jim Frye
Barbara Gelispie	Ellen Archer	Darwin Kinney	Jeff Archer

**APPLICANT REBUTTAL:** Following public testimony, Mr. Gregory addressed the following: Lot sizes; water; steepness; septic tanks; perk test; and wells.

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

**STAFF INPUT:** In response to Commission inquiries, Mr. Neiman discussed wetlands delineation a conservation subdivision

Ms. King explained the reasoning for the building envelope.

**MOTION:** Commissioner Bradish moved to recommend denial to the County Commissioners. This project FILE SS1858-16 for a conservation subdivision of lots ranging from 2.94 to 29.38 acres meeting density of the zone, and the stormwater plan, based upon the following conclusions: (Refer to the following conclusions of law and specify which conclusions the project meets and fails to meet). 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, conclusions of law as amended. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the plat is to:

- 1) File a new application with the Planning Department and meet te standards required by Bonner County Revised Code; or
- 2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code.

Commissioner Bailly seconded the motion.

**VOTED** upon and the Chair declared the motion carried, with a Vote of 3-2

Following additional discussion the motion was amended as follows:

**MOTION:** Commissioner Glasoe moved to recommend approval to the County Commissioners. This project FILE SS1858-16 for a conservation subdivision of lots ranging from 2.94 to 29.38 acres meeting density of the zone, and the stormwater plan, finding that it is in accord with the Bonner County Comprehensive Plan and Bonner Count 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 Glasoe 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 plat 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.

**VOTE:** Tie Vote with Vice Chair Davis vacating the chair and casting the dividing vote of 3-2 to approve this project.

**VOTED** upon and the Chair declared the motion carried, with a Vote of 3-2

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#### **Background:**

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**A. Site data:** The applicant is requesting the current 40 acres, to be subdivided into our lots, ranging from 2.94 to 29.38. The four proposed building envelopes are designed for the development of single family dwellings, and the remaining larger area (29.38±) shall remain a large acre, "conservation lot".

**B. Access:** Access to the site is provided by Peterson Road, a gravel road 30 feet wide within a 60 foot right of way. Peterson Road is owned & maintained by the county.

**C. Environmental factors:** The four proposed parcels are not located within the special flood hazard zone, or mapped floodway. The majority of the area is forested with trees and other native flora. There are a significant amount of mapped wetlands per the Army Corps of Engineers data base. The applicant has provided a wetland delineation that was prepared by Tom Duebendorfer, MA, PWS. This delineation mapped out the wetland boundaries as well as identified the soils and other vegetation within the area. There are no potential hazards on the subject property. A portion of the proposed conservation area in an Elk wintering area, as well as critical habitat for other species.

**D. Services:** The sites will be serviced by individual well, sewage disposal will be provided by from individual septic systems and drain fields. Power is supplied by Northern Lights Power, and fire protection is provided by West Pend Oreille Fire Department.

#### E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20)	Ag/F-10	Undeveloped land, with forested natural areas
North	Remote Ag/Forest (40+ ac)	Ag/F 40	Undeveloped government land, heavily forested
East	Remote Ag/Forest (40+ ac)	Ag/F 40	Undeveloped government land, heavily forested
South	Remote Ag/Forest (40+ ac)	Ag/F-40	Undeveloped government land, heavily forested
West	Ag/Forest Land (10-20)	Ag/F-10	Developed with a single family dwelling, heavily forested

#### F. Standards review

	Required	Provided
Minimum Lot Size (BCRC 12-411)	10 acres	2.5 acres per conservation subdivision provisions for individual well and septic.
Water supply, BCRC 12-623(b)	Demonstrate sufficient	Idaho Department of Water Resources well logs

	Required	Provided
	production capability	submitted for the area showing production ranging from five to 10 gallons per minute, total depth ranging from 31 feet to 231 feet, and static water level ranging from 22 to 160.
Sewage disposal, BCRC 12-623(c)	Adequate sewage disposal method as approved by Panhandle Health District and/or the state of Idaho	Panhandle Health District approval for 4 lots ( See agency comments below)
Fire risk assessment, BCRC 12-623(d)	Fire risk assessment	Total hazard rating of 24, which indicates a moderate fire hazard rating.
Fire plan, BCRC 12-623(d)	Fire Protection Plan	See condition A-1
Road name, BCRC 12-624(a)	Public Works Approval	See condition B-4
Legal access, BCRC 12-624(c)	Shall be provided	Access is provided by Peterson Road, an existing 60 foot right of way per book 37 of misc. page 225.
Direct frontage, BCRC 12-624(d)	For lots less than 5 acres	Cluster lots in conservation subdivision are exempt from this requirement.
Natural hazards, BCRC 12-626(a)	Designed around	Building envelopes have been identified.
Wetlands, BCRC 12-730	Wetland Reconnaissance	Wetland reconnaissance prepared by Tom Duebendorfer, Certified Wetland Biologist, in accordance with BCRC 12-731(A). The reconnaissance located wetlands, which cover the north easterly portions of the parcels. The nearest home site is outside of the county's 40-foot wetland setback requirement.
Wildlife, BCRC 12-741	Measures may be required per input of Idaho Fish & Game or U.S. Wildlife service	See agency comments below.
<b>Standards for all Conservation Subdivision, (BCRC 12-633).</b>	<b>Required</b>	<b>Provided</b>

	Required	Provided
Minimum Lot Size, BCRC 12-633(D)	The minimum lot size for lots containing both individual wells and septic shall be two and one-half (2 1/2) acres.	All lots are larger than 2.5 acres.
Suitable Land: Cluster lots	Encouraged to cluster	Lots are clustered to avoid floodplain, wetlands, and agricultural uses.
Further Subdivision of Cluster Lots, BCRC 12-633(F)	Prohibited	(See Condition A-3)
Preservation of common open space, BCRC 12-633(H)	Management plan required	(See condition A-4)
Buffering, clustering, BCRC 12-633(K): Common open space to provide buffer to maximum extent possible. Cluster Lots abutting surrounding properties or right of way shall be 70% of zoning minimum lot size or a 100-foot buffer shall be provided.	100 foot landscape buffer	All lots have a 100-foot buffer.

#### G. Stormwater plan

A stormwater management plan is required for all lots at the time of building pursuant to BCRC 12-720.2(a). (See condition B-3)

#### H. Agency Review

The application was routed to agencies for comment on October 11, 2016.

The following agencies commented:

**Bonner County Road & Bridge, memorandum received October 20, 2016:**  
Bonner County Road & Bridge had the following comments:

1. An encroachment Permit could not be located within Road & Bridge records for the existing driveway at 757 Peterson Rd.
  - a. The applicant shall file for an Encroachment Permit for each existing and proposed driveway(s) from Bonner County Road & Bridge Office. Driveways which access 3 or more lots will require a road name be designated, which may be helpful to add as a label on the plat.
  - b. Road & Bridge staff will inspect the existing driveway(s) and notify Applicant if any improvements are needed in order to bring each driveway into compliance with current County standards. All identified work will need to be completed by the Applicant in accordance with the Bonner County Road Standards Manual (BCRSM).
2. Please indicate on the plat: All roads within this subdivision are privately owned and maintained, and have not been constructed to County standards for maintenance.  
These roads shall be maintained at the sole expense of the property owner's sole expense and it is dedicated to the public by the property owners and

accepted into the county maintenance system by the Bonner County Board of Commissioners.

#### Idaho Department of Fish & Game, memorandum received November 28, 2016:

Idaho Department of Fish & Game made specific recommendations for the mitigation of critical wildlife habitat and watercourses that are present on the site. The agency recommended a 40 foot setback from the delineated wetlands. Agency does not consider the wetlands to be of low quality. See list of recommendations below.

Staff note: Bonner County Revised Code Section 12-733 requires a 40' wetland setback to all wetlands mapped on the National Wetland Inventory. Therefore staff does not recommend an additional condition.

#### Department of Environmental Quality, memorandum received November 08, 2016:

The Department of Environmental Quality has advised that storm water controls will need to be developed that adequately protect surface waters and ground water from being impacted during and after construction. Control of sedimentation and erosion during construction activities must be achieved by the use of acceptable best management practices (BPMs) and is considered the responsibility of the owner/developer/contractor for the project. See below for more recommendations.

**Idaho Department of Lands, had no comment, received October 17, 2016.**

**U.S. Fish & Wildlife Service, had no comment, received November 22, 2016.**

**No response was received from remaining agencies.**

#### I. Public Notice & Comments

The following public comments were received:

#### Myrtle M. Peterson, 652 Peterson Rd. In opposition of the Conservation Subdivision.

Mrs. Peterson is opposed to the smaller cluster lots within the conservation subdivision. Stating that "If the party wants to change its plot plan to 10 acre parcels, I would support that but not the 2.94 acre parcel of the plan that states its 2.95 to 29.38 acres." She is concerned with the influence that the property owner may have with the County. See attached letter.

#### Peggie & Jimmie Frye, 757 Peterson Rd. In opposition of the Conservation Subdivision.

The Fries both wrote in a letter and an email opposing the Conservation Subdivision. The letter stated: "It is so simple: 4 lots that add up to 40 acres are not the same as 4 10 acre lots. That has nothing to do with 'meeting density of the zone'. Agricultural/Forestry -10 means that each lot must be 10 acres or more. Averaging the lot size to avoid the zoning laws should now be allowed. There is no valid reason why this application should be granted." See attached letter.

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### Findings of Fact

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1. The subject property is 40 acres zoned Agriculture/Forestry 10. The applicant is proposing a total of four lots, clustering said lots together, that shall range from 2.94 to 29.38 acres. The conservation lot will preserve the majority of the 29.38 acre lot.
2. The proposed building envelopes will meet the setback requirement to wetlands and surface water. The lots will be served by individual wells, and Panhandle Health District approved sewage disposal methods. Fire protection will be provided by West Pend Oreille Fire District. Access will be provided by Peterson Road, a 30 foot wide local access road.
3. The location of the building envelopes, meet the 100 foot buffer requirements. The proposed building sites are greater than the wetland and waterfront setbacks required by BCRC 12-733.
4. Water would be supplied by individual wells. Idaho Department of Water Resources well driller report shows adequate water supply of 5-10gpm. Static water level ranging from 22 to 160 feet. Sewage disposal would be provided by individual septic systems per Panhandle Health District standards.
5. The proposed Conservation Subdivision has been designed so that all natural hazards or potential hazards are located outside of the development area.
6. Access to the site will be provided by Peterson Road, an existing 30 foot wide gravel road, within a public road with a 60 foot right of way. Lots 1-3 would have direct frontage access to Peterson Road, lot 4 would be a private driveway, that accesses from Peterson Rd.
7. The proposed subdivision was reviewed and found to be in compliance with the design criteria in Subchapter 6.2 of BCRC.
8. The subject property is 40 acres, and zoned Agricultural/Forestry 10. The applicant is proposing four single family residential lots clustered to preserve 29± acres as a conservation lot. Mapped wetland and critical wildlife habitat would be within the open area. All standards for the Conservation Subdivision set forth in BCRC have been met.

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### Conclusions of Law:

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

#### Conclusion 1

The proposed subdivision **is** in accord with the purposes of this Title and of the zone district in which it is located.

#### Conclusion 2

The site **is** physically suitable for the proposed development.

#### Conclusion 3

The design of the proposed subdivision **will not** adversely impact Bonner County's natural resources, as identified in the comprehensive plan. Any adverse impacts or potential for impacts shall be mitigated as a condition of approval.

#### Conclusion 4

The public and private services, including but not limited to water, sewer services, solid waste, fire protection, emergency services, and school facilities and transportation, which will serve the proposed subdivision **are** adequate for the needs of future residents or users.

#### Conclusion 5

The proposed subdivision **will not** cause circumstances to exist that will cause future residents or the public at large to be exposed to hazards to health or safety.

#### Conclusion 6

The design of the proposed subdivision or related improvements **will** provide for coordinated access with the county system of roads and with adjacent properties, and **will not** impede the use of public easements for access to, or through the proposed subdivision. The proposed transportation system **is** designed to adequately and safely serve the future residents or users without adversely impacting the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

#### Conclusion 7

The proposed subdivision **is** designed to comply with the design criteria for subdivisions set forth in Subchapter 6.2 of this chapter.

#### Conclusion 8

The proposed subdivision **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	

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### Conditions of approval:

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#### **Required plat notes:**

The following notes shall be recorded on the face of the final plat:

- A-1** "All lots within this subdivision shall be developed in accordance to BCRC Stormwater/Erosion Control standards (BCRC 12-720)"
- A-2** "A defensible space fire risk plan shall be provided by the landowner to the West Pend Oreille Fire District at the time of Building Location Permit / Building Permit and the site shall be developed consistent with the approved plan."
- A-3** Mimi Acres is a Conservation Subdivision. Cluster lots in this subdivision shall not be further subdivided, except in accordance with Bonner County Revised Code, 12-633(F)

- A-4** An open space management plan for Mimi Acres has been filed at Instrument # \_\_\_\_\_
- A-5** "The road within this subdivision is private, and has not been constructed to county standards for maintenance. This road shall be maintained at the sole expense of the property owners until such time as it is constructed to county standards for maintenance at no expense to the taxpayers and is dedicated to the public by the lot owners and accepted into the county's maintenance system by the Bonner County Board of Commissioners."
- A-6** "Any work involving filling, excavating, flooding or draining existing wetlands requires an Army Corps of Engineers, Section 404 permit, prior to beginning work."

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**Standard and site-specific plat conditions:**

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- B-1** A final plat shall be recorded.
- B-2** The preliminary plat shall be valid for a period not to exceed two (2) calendar years from the date of approval. At any time prior to the expiration date of the preliminary plat, the applicant may make a written request to the Planning Director for an extension of the preliminary plat for a period up to two (2) years. The Board of County Commissioners may consider such request for extension at any regular business meeting. The extension request must be approved or denied prior to the expiration date of the preliminary plat.
- B-3** The applicant shall submit prior to ground disturbing activities a temporary erosion control plan and stormwater management plan. The plan shall be provided to the Planning Department prior to ground disturbing activities. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures. The applicant shall provide to the Planning Department upon completing ground disturbing activities a statement that these measures have been installed as per the design specifications as approved. All stormwater facilities shall be installed and functioning as designed or a suitable guarantee of completion shall be in place.
- B-4** The applicant shall obtain encroachment approval from Bonner County Road & Bridge for the existing or proposed driveway(s). The applicant shall make any needed improvements in order to bring the approach into compliance with current County standards. All work shall be completed in compliance with Bonner County Road Standards Manual, Section 3, to the satisfaction of Bonner County Road & Bridge.
- B-5** The applicant shall provide one of the following for all proposed lots:
- (a) Prior to final plat, an approved water and fire hydrant system capable of providing one thousand (1,000) gallons per minute for a minimum of two (2)

hours, where, a community water system exists or is proposed as part of the development and is capable of delivering the pressurized water supply necessary for delivering fire flows as prescribed by International Fire Code, as adopted by the state fire marshal, and such later editions as may be so published and adopted by the state fire marshal, or as amended, modified or superseded, and incorporated herein by reference with a copy on file with the office of the clerk of the Board of County Commissioners, and herein after referred to as IFC.

(b) A note on the final subdivision plat stating: "At the time of Building Location Permit or Building Permit, the lot owner shall install a minimum two thousand (2,000) gallon water storage system, meeting IFC standards." Refill on demand is not required to meet IFC standards.

(c) A note on the final subdivision plat stating: "The installation of an approved International Fire Code residential fire suppression sprinkler system is required in all newly constructed residences."

(d) Prior to final plat, a man-made or natural water source with a dry hydrant capable of delivering adequate water supply as prescribed by International Fire Code.

(e) A note on the final subdivision plat stating: "At the time of building permit or building location permit, the lot owner shall install an approved fire suppression method to the satisfaction of Bonner County [if not within a fire district; if within fire district, use district name and verify district's approval of this note.]

- B-6** The final plat shall depict drainfield site locations to the satisfaction of the Panhandle Health District.
- B-7** The area of mapped wetlands shall be depicted on the final plat, to the satisfaction of Bonner County Planning Department.
- B-8** Prior to final plat approval, the applicant shall obtain encroachment approval for all existing and proposed driveways encroaching onto Bonner County right of way.

**The hearing recessed at 7:17 p.m. and reconvened at 7:25 p.m.**

Commissioner Snow returned to the hearing.

**COMPREHENSIVE PLAN MAP 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.

**Files AM147-16 Comp Plan Map Amendment - Rural Residential to Resort Community and ZC359-16 Zone Change - Rural 5 To Rural Service Center - Langley Properties, LLC** is requesting a comprehensive plan amendment for the subject property from Rural Residential to Resort Community, and a zone change

from Rural 5 (one unit per five acres) to Rural Service Center for the purpose of future residential lots. The subject property is located at 4974 Dickensheet Road in Coolin, in a portion of Section 15, Township 59 North, Range 4 West.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Bradish disclosed he has worked with one of the opposed parties and recused himself from the hearing. Commissioner Bailey disclosed he has worked with the City of Ponderay however would be fair and impartial. There were no further 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. The PowerPoint presentation has been submitted to the file.

In response to Commission inquiries, Mr. Ollerton explained developing below two acres and sewer. He also discussed and corrected typographical errors within the staff report.

**APPLICANT PRESENTATION:** Eric Brubaker of Brubaker Planning presented the project. He commented on the following: The land is flat; parcel size; sewer; future development / growth; protection of village character; affordable housing; land capability report; public lands; endowment lands and East River Road. Mr. Brubaker addressed comments received on this project. He also discussed the potential of using wells for waste water. In response to a Commission inquiry, Mr. Brubaker explained the intent.

**PUBLIC/AGENCY TESTIMONY:** The following members of the public commented on this project.

Dallas Gray advised that he represents the property owner and commented on smaller affordable lots.

Keith Valewski commented on a letter he had previously submitted to the record, state endowment lands, public lands, access, hydrogeological report, wells and health risk.

**APPLICANT REBUTTAL:** Mr. Brubaker addressed the following: Large agricultural lands; access; prescriptive rights; state lands; prior restriction on plat; and the recommendation of the Panhandle Health District on a previous file in 1984.

Dallas Gray commented on research from "dump" issue, landfill closure by Bonner County and hazardous waste.

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

#### **FILE - AM147-16**

**MOTION:** Commissioner Davis moved to recommend approval to the Board of County Commissioners on this project, FILE AM147-16, requesting a comprehensive plan amendment for the subject property from Rural Residential to Resort Community, 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 Davis 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 Sabo seconded the motion.

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

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#### **Findings of Fact**

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1. Surrounding properties range in size from  $\pm 4$  acre to  $\pm 226$  acres.
2. The subject property would be served by an individual well(s) and will annex into the Coolin Sewer District.
3. The property has direct frontage on County Paved Road Dickensheet and County maintained dirt road East River Road.
4. The subject property has little to no sloping.
5. The land to the north of this property is designated Neighborhood Commercial with Resort Community to its north. The east and west lands are designated rural with the south being Idaho State lands.
6. The property has State lands on the North, Rural 5 zoning on the east and west and Rural Service Center zoning to the South.
7. A hydrogeological study has been done stating that the property can support individual wells on the property.

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#### **Conclusion of Law:**

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**Based upon the findings of fact, the following conclusion of law is adopted:**

##### Conclusion 1

The proposed comprehensive plan map amendment **is** in accord with the Bonner County Comprehensive Plan.

##### Conclusion 2

Based on the location of the property, the existing uses within close proximity, the distance between neighbors due to State Highway 95 and the BSNF Right-of-Way, the Transition designation **is** appropriate for this area.

## FILE – ZC359-16

**MOTION TO APPROVE:** Commissioner Sabo moved to recommend approval of this project, FILE ZC359-16, requesting a zone change for the subject property from Rural 5 to Rural Service Center, 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 Glasoe 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 Resort Community.
2. Surrounding properties range in size from ± 0.46 acres to ±226 acres.
3. Surrounding uses include mini-storage, sewer district building, equipment yard, County groomer and EMT building, boat storage and repair, vacant land.
4. The property does not contain floodway or floodplain (DFIRM Panel 0450F, Zone X).
5. Water is provided by an individual well(s).
6. The property has State lands on the North, Rural 5 zoning on the east and west and Rural Service Center zoning to the South.
7. Sewage disposal is provided by Collin Sewer District.
8. The property is located within the Coolin-Cavanaugh Bay Fire District.
9. The use of a Recreational Vehicle Park would require a Conditional Use Permit.

### 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.

- 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.

#### Conclusion 4

The proposal **is** appropriate for the area based on the objective that adequate private and public services are provided.

### Exhibit "A"

#### BONNER COUNTY PROPOSED LAND USE MATRIX - Criteria

	DESIGNATION				
	DENSITY	SERVICES	TRANSPORTATION	SLOPE	USE
Transition	0-2.5 acres	Urban	1	0-10%	Commercial/Industrial/Mix
Neighborhood Commercial	0-2.5 acres	Urban	1	0-10%	Rural/Commercial/Mix
Urban Growth Area	0-2.5 acres	Urban/Partial	1	0-10%	Higher density residential
Resort Community	0-2.5	Urban	1	0-10%	Waterfront residential/recreation
Alpine Community	0-2.5 acres	Urban	1-3	N/A	Recreation/Residential/Mix
Suburban Growth Area	1-5 acres	Individual	2	0-15%	Residential & associated uses
Rural Residential	5-10 acres	Individual	3	0-30%	Rural/small-acreage farms/residential
Ag/Forest Land	10-20 acres	Individual	3-4	≥30%	Ag/residential/forest land
Prime Forest/Ag Land	≥20 acres	Individual	2-4	0-30%	Prime Ag/forest land
Remote Forest/Ag Land	≥40 acres	Individual	5	≥30%	Remote forest/Ag land

General transportation criteria:

- 1: Hard-surfaced road. (Major/minor collector - frontage road, U.S. highway, principal arterial.) (Higher density residential needs hard-surfaced road, but not necessarily highway/frontage etc.) Public right-of-way.
- 2: Public right-of-way; paved
- 3: Public right-of-way, paved or gravel/private easement, International Fire Code standard
- 4: USFS, DOL or private road systems adjoining county or state public transportation systems.
- 5: Roadless, primitive, trail system or unimproved.

Commissioner Bradish returned to the public hearing.



## **ZONE CHANGE AND 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.

**Files ZC360-16 – Zone Change – Rural 5 to Rural Service Center and C997-16 – Conditional Use Permit – RV Storage – Bonnie & Dodd Powell** is requesting a zone change for the subject property from Rural 5 to Rural Service and a conditional use permit for an RV storage center. The subject property is approximately ½ mile south of the intersection of Dufort Road and Highway 95, left on Porter House Road. The subject property is immediately on the right.

### **CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:**

The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Davis advised that when he worked for the Idaho Department of Transportation he reviewed a subdivision in this spot and did not anticipate that this would cloud his judgement. There were no further 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. The PowerPoint presentation has been submitted to the file. Mr. Ollerton addressed a comment received from Martin E. Taylor of James A. Sewell and Associates.

**APPLICANT PRESENTATION:** Project Representative Bryan Quayle of Quayle Land Use Consulting commented on the following: Railroad corridor; previously approved subdivision approach; access; use of property; surrounding uses; character; standards; landscaping; setbacks; buffering; and fencing. He also described the area to be developed.

**PUBLIC/AGENCY TESTIMONY:** Members of the public, Rick Young and Nick Jackson commented on the project.

The following members of the public signed up to testify but did not comment.  
Ellen Archer  
Jeff Archer  
Bea Young

**APPLICANT REBUTTAL:** Following public testimony, Mr. Quayle addressed the following; Noise; no one will be living in the RV; use of property; blocking of view; buffering/setbacks; road maintenance; and access.

**COMMISSION INPUT:** The Commission commented on the ravine, willingness to discuss re-orientation, view and trees.

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

**MOTION:** Commissioner Davis moved to continue this project, FILE ZC360-16, requesting a zone change for the subject property from Rural 5 to Rural Service Center and FILE C997-16, RV Storage, to February 16, 2017 at 5:30 p.m. in the first floor conference room of the Bonner County Administrative Building to look at site plan flexibility, view, access and the blank wall. Commissioner Baily seconded the motion.

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

### **OPEN LINE DISCUSSION:**

Director Ollerton updated the Commission on the following:

- The remodeling of the Planning Department has been completed.
- Tyler software
- The January 26<sup>th</sup> workshop
- Commissioner Dan McDonald will be attending the January 26<sup>th</sup> workshop

Commissioner Bradish will not be in attendance at the January 26<sup>th</sup> workshop and February 2<sup>nd</sup> public hearing.


The Chair declared the hearing adjourned at 9:27 p.m.

Respectfully submitted,

  
Milton Ollerton  
Planning Director

The above Minutes are hereby approved this 20<sup>th</sup> day of April, 2017.

Bonner County Planning and Zoning Commission

  
Don Davis, Chair