

**BONNER COUNTY PLANNING and ZONING COMMISSION
PUBLIC WORKSHOP AND PUBLIC HEARING MINUTES
SEPTEMBER 15, 2016**

CALL TO ORDER: Chair Martin called the Bonner County Planning and Zoning Commission public workshop to order at 3:00 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Mitch Martin; Vice Chair Margaret W. Hall; Brian Bailey; and Don Davis (arriving at 6:03 p.m.)

ABSENT: Commissioners Greg Snow and Kris Sabo

ALSO PRESENT: Planning Director Milton Ollerton; Planner III Saegen Neiman; Floodplain Manager Jason Johnson; Bonner County Prosecuting Attorney Bill Wilson; Bonner County Director of Communications Bill Harp and Administrative Assistant III Tina Smith.

Planning Director Milton Ollerton provided a brief introduction of his experience and types of projects he has worked on in his prior position in Arizona.

He discussed how the subdivision proposal came about and advised of the Board of County Commissioners concerns regarding: expense; processing and requirements; and timing for a short plat (one to four lots.) He further advised that staff had made revisions and provided them to the Board at a public hearing conducted on August 4, 2016. The Board requested to allow the Planning and Zoning Commission to listen to their concerns and make changes accordingly.

Mr. Ollerton discussed the proposed changes including the process for a Minor Land Division (MLD) and Short Plat. He addressed sanitary restrictions and also reviewed the current process and expense for a Short Plat.

He reviewed Commissioners Greg Snow and Kris Sabo's comments and suggested recommendations as well as public comments. He also addressed fire safety, the final approval of MLD applications and public noticing.

The Planning and Zoning Commission discussed revised language for who prepares an MLD application.

Mr. Ollerton also discussed proposed changes to the Family Exemption process.

Mr. Ollerton explained the intention of preparing a document that can be presented to the Board of County Commissioners that the Planning and Zoning Commission is satisfied with. This document would be brought forward to the Board of County Commissioners on October 6, 2016 for consideration.

The Planning and Zoning Commission and staff discussed working with and strengthening the proposed MLDs and noticing neighbors who are most impacted.

In response to commission inquiries, Bonner County Prosecuting Attorney Bill Wilson explained that a MLD could not be called a plat because it would not comply with platting requirements for a subdivision per Title 50 Chapter 13. He read Title 50 Chapter 13.01, definition of subdivision into the record and explained what could be allowed as this code is written. He explained the importance in removing the reference to "subdivision" from a MLD. He also added there needs to be a clear distinction between a MLD and a subdivision plat. He discussed "non-subdivision."

Staff and the Planning and Zoning Commission discussed single contiguous ownership.

Commissioner Don Davis commented on the intent of the MLD and discussed the language of "final plat."

Dale Peck of the Panhandle Health District commented on the state statute noting that platting is a means of documenting the land, it is a mapping term. He also commented on the division of five or more lots and documenting divisions of land that are under five lots.

The commission continued their discussion on how the proposed MLD is more straight forward and more simplified. They also discussed the importance of all new and all existing roads being shown.

Susan Drumheller commented on requirements to meet county standards for subdivision.

Following Ms. Drumheller's comment, the commission and staff continued their discussion on the fourteen day notice and further division of an MLD.

Planner II Jason Johnson clarified the radius for noticing. He advised that the County GIS system is not survey accurate. Code requires 300 feet however when the Planning Department is creating notices they use a 310 foot buffer.

Further commission and staff discussion:

- Notification
- Lifting of sanitary restrictions
- Roads
- Design criteria
- Access
- Fire plan
- Wetlands
- Family exemptions
- Time extensions
- Bonner County Revised Code Title 12, Section 650 B6, Section Line to run through a lot.
- Administrative review
- Design standards

- Environmental standards
- Protecting water quality

In response to commission inquiries, Dale Peck discussed sanitary restrictions. He believes all lots should be evaluated. He also commented on the risk with smaller lots.

The following members of the public commented:

Steve Lockwood commented on family division.

Susan Drumheller commented on septic requirements, land divisions and county standards.

Ken Hague commented on the following: This was a good session; in favor of some changes; and family division.

Molly O'Reilly commented on the 45 day comment period for area of city impact response and was in support of Commissioner Hall's concerns regarding county standards be followed.

In response to Ms. O'Reilly's comment, Mr. Neiman clarified the process. Bill Wilson explained the different remedies for Ms. O'Reilly's concerns.

The following members of the public did not wish to comment: Erin Maider & Richard Osterman.

Dale Peck had no further comment but was available for any further questions.

The Commission and staff discussed the language for single contiguous ownership, conformity and design standards.

The Commission recommended a check-list to make the process more clear.

Mr. Ollerton advised that he would prepare a draft to include proposed changes from the Planning and Zoning Commission. He will forward the revised draft to the Commission for any changes they might have. He further added that he wanted to provide the Board of County Commissioners with an explanation and justification for the proposed changes.

In response to a Commission inquiry, Mr. Ollerton provided a status of the open positions for the Planning and Zoning Commission.

In response to Mr. Peck's inquiry, Mr. Ollerton advised that the written draft would be available for review.

In response to a Commission inquiry, Bonner County Director of Communications Bill Harp advised that there is an activity counter per page. He was not sure what portion of the page though.

Staff and the Commission discussed the application contents, notice timeline of 14 days and time extension.

Ms. O'Reilly commented on public comments received. In response to Ms. O'Reilly's comment, Mr. Ollerton advised that if enough comments were received, the MLD application would be forwarded to the Board of County Commissioners to review. The record would include all public comments in opposition. They continued to discuss the criteria when an application should be forwarded to the Board of County Commissioners for review. Mr. Neiman advised that whoever was noticed the first time would be noticed when the application goes before the Board.

Mr. Ollerton will put together a document reflecting all the proposed changes discussed at this hearing.

The Public workshop adjourned at 5:40 P.M.

CALL TO ORDER: Chair Martin called the Bonner County Planning and Zoning Commission public hearing to order at 5:36 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Mitch Martin; Vice Chair Margaret W. Hall; Brian Bailey; and Don Davis

ABSENT: Commissioners Greg Snow and Kris Sabo

ALSO PRESENT: Planning Director Milton Ollerton; Planner III Saegen Neiman; Planner II Jason Johnson; Planner I Lindsey King; Planner I Marcus Pecnik; Planner I Caitlyn Reeves; and Administrative Secretary Tina Smith.

CHANGES IN AGENDA: None

PUBLIC HEARINGS:

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.

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.

File V479-16, Variance Request - Front Yard Setback - Shearer Trust is seeking variance approval to construct a single car garage, that would result in a 7-foot front setback where 25 feet is required. The property is located on 190
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Stewarts Dr. on the water side off East Bottle Bay Road, Lot 4 Block 1, Bel-Tane Acres Subdivision, a portion of Section 33, Township 57N, Range 1W, B.M. The site is zoned Recreation.

STAFF PRESENTATION: Planner III Saegen Neiman 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. Neiman advised that there was an error in the staff report and should state a seven foot setback.

APPLICANT PRESENTATION: Applicant Steve Shearer described his property and structures. He commented on slope, travel path of the road, traffic, garage access, impervious service and drainage.

In response to Commissioner Hall's inquiry, Mr. Shearer explained the travel-way, snow removal and access to proposed garage.

PUBLIC/AGENCY TESTIMONY: There were no members of the public present wishing to comment on this project.

APPLICANT REBUTTAL: None

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

RE-OPEN PUBLIC HEARING: Chair Temple re-opened the hearing for public testimony.

Bruce McKay spoke in support of the project and commented on the design of the project, parking and storage.

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

MOTION: Commissioner Davis moved to approve this project FILE V479-16 to allow for an 18-foot front yard setback where 25 feet is required, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, 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. 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 Hall seconded the motion.

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

Background:

A. Site data: The subject lot is described as Lot 4, Block 1 Bel-Tane Acres. The lot is just under a half of an acre in size, and is zoned Recreation. The site currently contains a single family dwelling with attached garage.

B. Access: Access to the property is provided by Stewarts, an existing county road local access that is maintained privately.

C. Environmental factors: The subject property fronts Lake Pend Oreille. The property is steep; both lots are shown on the county GIS mapping system as greater than 15% grade, sloping toward the lake. Portions of the site are within the special flood hazard area (AE on Flood Insurance Rate Map 0975), but the proposed building sites are not within the flood hazard zone. No mapped wetlands or prime ag soils are designated on-site.

D. Services: Water is provided by an individual well, and sewage is disposed of through the Bottle Bay Recreational Water and Sewer District. The site lies within the Selkirk Fire and Rescue District, as well as the Lake Pend Oreille School District.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Lake Front Properties; Single Family Dwelling
North	Resort Community	Recreation	Lake Front Properties; Single Family Dwelling
East	Resort Community	Recreation	Secondary Lake Lots; Single Family Dwelling
South	Resort Community	Recreation	Lake Front Properties; Single Family Dwelling
West	Lake Pend Oreille	Lake Pend Oreille	Lake Pend Oreille; Single Family Dwelling

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: [Insert specific findings addressing each of the standards.]

(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 lot is steep; resulting in a switch back design of the driveway, limiting the space a single car garage could be located. The additional parking space would also alleviate the need for on street parking on Stewart Drive.

(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.

Several variances have been approved along the Bottle Bay Area, mainly due to the topography in the area, as much of the land in the area slopes toward Lake Pend Oreille. (V402-09, V442-13, V447-14).

(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.

The lots in Bottle Bay Area vary individually in topography and size. Many residences in the area benefit from having accessory structures located within the required 25-foot setback.

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

The application states that the single family dwelling located on the property was required to be placed 75 feet from the ordinary high water mark of Lake Pend Oreille, resulting in less buildable area, if the property was subject solely to Bonner County standards.

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

The applicant is proposing a single car garage. It is also being skewed to fit the existing topography.

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

According to the application, the proposed garage would help alleviate the need for off street parking that occurs on Stewarts Drive. No adverse agency or public comments have been submitted.

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 Bryan Quayle, in accordance with BCRC 12-233 and 12-222(j), which states:

"...in regards to Bonner County Revised Code 12-222(j) the land is capable of withstanding the disturbance associated with the proposed use without substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage."

I. Agency Review

The application was routed to the following agencies for comment on July 22, 2016. The following agencies commented:

Panhandle Health District

Bonner County Road Department

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Selkirk Fire District

School District #83

Department of Lands (Sandpoint)

Bottle Bay Sewer District

Northern Lights

Note: All routed agencies replied with, "no comment"

J. Public Notice & Comments

The following public comments were received:

Staff has received no public comment at the time of report issuance.

Findings of Fact

1. According to county GIS data the entirety of the property is steeper than 15% grade.
2. The property is located within Bel-Tane Acres.
3. The driveway is constructed in a switch back design to access the home.
4. The Bel-Tane Acres homeowner's association requires a 75 foot waterfront setback from the ordinary high water mark of Lake Pend Oreille.
5. The single car garage will alleviate off-street parking needs on Stewarts Drive.
6. No adverse public comments have been submitted.
7. No adverse agency comments have been submitted.

Conclusions of Law:

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.

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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.

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 construction, the applicant shall file a Declaration of Exempt Structure for the placement of the single car garage.

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 V480-16, Variance Request – Front Yard & Water Front Setback – Eric Peterson is seeking variance approval to have a 30-foot waterfront setback where 75 feet is required and an 18-foot front yard setback where 25 feet is required. The property is located in the 2000 block of Highway 57, about two miles north of the intersection of Highway 2 and Highway 57. The site is located on the east side of Highway 57, south of Skunk Cabbage Road in Section 11, Township 56N, Range 5W, 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 Lindsey King presented a summary of the project and previously circulated staff report, concluding this project is not consistent with Bonner County Revised Code. A copy of the PowerPoint presentation has been submitted to the file.

APPLICANT PRESENTATION: Project Representative Martin E. Taylor, AICP, of James A. Sewell and Associates provided a background of the project and discussed the travel trailer and building violation. He advised that this is not a mobile home but a park model travel trailer and is subject to ANSI standards and not built to HUD standards. He also discussed: The handicap access ramp; tote (grey water storage); a previously approved similar variance; ground water contamination; no public interest; and negative building envelope.

In response to Commissioner Bailey's inquiries, Mr. Taylor addressed the axel and propane tank.

Mr. Neiman advised that there are two determinations in the floodplain. He further added there is no FEMA documentation in the file. For clarification, he also read the definition from Title 12 of the BCRC (Bonner County Revised Code) for a structure and recreation vehicle into the record.

Mr. Taylor provided the approximate elevation of the propane tank, in response to Commissioner Bailey's inquiry. Mr. Taylor submitted and discussed:
Exhibit A - Vehicle Registration

In response to Commissioner Hall's inquiry, Mr. Taylor advised that the green structure in one of the presentation slides was a utility cargo container. He also addressed the right-of-way set-back and structure access.

Mr. Neiman clarified what the variance request is for.

Following Mr. Neiman's clarification of the variance request, Mr. Taylor addressed the following inquiries from the Commissioners and staff: Enclosed deck; modification of a park model and mobility; park model/RV regulations; regulating tiny houses/RVs; medical ramp; accommodating a disabled person; previously approved variances; septic tote; pier post construction;

Mr. Taylor discussed and submitted the following exhibits:
Exhibit B – Workers' Compensation Appeals Board, Findings and Award
Exhibit C – Correspondence to Staff, dated September 12, 2016

In response to Commissioner Martin's inquiry, Mr. Neiman explained the regulations for placing a recreational vehicle on a piece of property.

Planner II Jason Johnson addressed water dependent structures and occupancy locations.

PUBLIC/AGENCY TESTIMONY: There were no members of the public wishing to comment on this project.

APPLICANT REBUTTAL: None

FURTHER STAFF AND COMMISSION INPUT: In response to staff's inquiry, Mr. Taylor discussed the sliding doors, ANSI (American National Standards Institute) standards and assessments in regards to these types of structures.

Mr. Johnson advised that only FEMA can determine if a structure is within a floodplain.

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

Mr. Neiman clarified with the Commission the questions it would like staff to research if this project is continued.

MOTION TO CONTINUE: Commissioner Bailey moved to continue this project FILE V480-16 variance to have a 30-foot waterfront setback where 75 feet is required and an 18-foot front yard setback where 25 feet is required, to October 20, 2016 at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building, what would it take for the RV to conform to meet ANSI standards, is the deck the minimum, confirmation from the Panhandle Health District regarding the septic tote. Commissioner Hall 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 V481-16, Variance Request – Side Yard, Water Front & Bulk Setback – Kelly & Diane Prior is seeking variance approval to have a 1 foot side yard setback where 5 feet is required, and a 3 foot waterfront setback where 40 feet is required, authorizing the reconstruction of a ca. 1977 deck and gazebo built on top of the deck. Overall, the project includes a net reduction of 3 square feet of structure located within setbacks established in 1980. A variance is necessary because the "bulk" (size) of the gazebo has increased. The property is located on 699 Kaniksu Shores Rd, in Section 5, Township 57N, Range 1W, 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 Marcus Pecnik presented a PowerPoint presentation 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 Commissioner Hall's inquiry, Mr. Pecnik confirmed the location of the project.

APPLICANT PRESENTATION: Project Representative Martin E. Taylor of James A. Sewell and Associates discussed the setbacks of the Gazebo and proposed Conditions A-3 and A-4.

PUBLIC/AGENCY TESTIMONY: There were no members of the public that wished to comment of this project.

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Hall moved to approve this project FILE V481-16, to allow for an increase in bulk (height/roof profile) of a grandfathered footprint of a legal nonconforming structure located within the required 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 Hall further moved to adopt the following findings of fact and conclusions of law with the amendment to Condition A-3. 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 Bailey seconded the motion.

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

Background:

A. Site data: The subject property is described as Lot 6 of Kaniksu Shores Estates. Abutting land uses include residential lakefront properties, and suburban residential tracts. The subject property is zoned Suburban. The lot fronts Lake Pend Oreille and currently contains a single family dwelling, as well as the gazebo.

B. Access: Access is provided by Kaniksu Shores Road, an existing private local access road with a paved travel surface.

C. Environmental factors: The Lake Pend Oreille base flood elevation is 2073.7. The property lies in a special flood hazard area (Zone: AE/X; FIRM: 0750E), the deck and gazebo will be reviewed for compliance with flood damage prevention ordinances. The site does not contain mapped wetlands, the foundation structure originally constructed in 1977 will decrease in size while the gazebo resting on top of said structure increase in size. The property contains no areas of critical wildlife habitat or steep slopes.

D. Services: The site is served by a community well, and connected to the Kaniksu Shores community sewer system. The site lies within the North Side Fire District, BONNER COUNTY PLANNING AND ZONING COMMISSION SPECIAL WORKSHOP & PUBLIC HEARING MINUTES – SEPTEMBER 15, 2016
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and the Lake Pend Oreille School District (#84). Power is provided to the property via Avista.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Suburban Residential	Suburban	Platted Lakefront Lot, 0.73 of an acre
North	Suburban Residential	Suburban	Platted Lakefront Lot, 0.59 of an acre
East	Suburban Residential	Suburban	Unoccupied, Platted Lakefront Lot, 0.67 of an acre
South	Suburban Residential	Suburban	Lake Pend Oreille
West	Suburban Residential	Suburban	Platted Lakefront Lot, 0.59 of an acre

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.

Applicant: The property as platted includes a peninsula that averages about 20 feet in width within the subject lot. This special condition and circumstance has resulted in an undue hardship and site constraint particular to this lot.

Staff: According to assessors record the waterfront deck and gazebo have been in place since the 1977, a full 3 years prior to the 1980 ordinance adoption requiring setbacks.

(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.

Applicant: Waterfront properties are typically developed with structures such as gazebos and decks. In the subject application, improvements were simply reconstructed. Over 40 similar waterfront setback variances have been approved when limited or restricted building envelopes existed due to setback and site constraints. (See V404-09) which authorized a 21 foot waterfront setback for a gazebo on a lot that contained a limited building area- See also (V203_95) which authorized a 20 foot waterfront setback for a storage building located on a narrow strip of land between Lake Pend Oreille and Bottle Bay Road. See also (V443-13) which authorized a 9 foot waterfront setback and a 3 foot rear yard setback for a gazebo situated between the railroad right of way and the Pend Oreille River.)

Therefore, literally requiring a 40 foot waterfront setback and 5 foot side yard setback would deprive the applicants of the opportunity and common right to enjoy the waterfrontage developed since the 1970s.

Staff: Numerous variances of this "Bulk" type have been approved, frequently for greater dimensional leniencies as stated above.

(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.

Applicant: Several waterfront and front yard setback variances have been approved based on similar constraints and circumstances. Further, as noted, V404-09, V203-95 and 443-13 authorized setback reductions for comparable structures due to similar site constraints. Thus, granting the requested exceptions will not confer upon the applicant special privilege.

Staff: No Comment

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

Applicant: The property was platted in 1972. Deck and gazebo were constructed in the 1970's prior to 1980 adoption of setbacks. The applicants acquired the lot in 2013 (Warranty Deed, instrument 848979). Consequently, special conditions and circumstances did not result from the actions of the applicants.

Staff: The deck and gazebo were constructed in 1977 prior to the 1980 adoption of setbacks.

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

Applicant: The footprint of the project has been decreased. The resulting setbacks are the minimum necessary to authorize the reconstruction.

Staff: No comment.

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

Applicant: Because the overall encroachment has been reduced 3 square feet, granting the requested variances will not result in a public interest conflict.

Staff: The structures footprint will decrease, minimizing the area of impact that the previous structure had been affecting.

G. Stormwater plan

A stormwater management plan was exempted, pursuant to BCRC 12-721.2 (a), the project is a remodel of an existing structure.

H. Land capability report

A land capability report was submitted to the record by Martin E Taylor, AICP, in accordance with BCRC 12-233 and 12-222(j), which states:

- Based on physical site characteristics, the “grandfathered” deck and gazebo development area is satisfactorily suited for the intended use, subject to the corresponding variance request for setback relief. The site has demonstrated since 1977 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. Agency Review

The application was routed to the follow agencies for comment on March 16, 2015:

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Army Corps (Coeur d’Alene)
Northside Fire District	Army Corps (Newport)
Kaniksu Shores Sewer District	Natural Resource Conservation Service
School District # 83	Fish and Wildlife Service
Avista	Forest Service
Dept. of Fish and Game	State Historical Society
Dept. of Env. Quality	Bonner County Schools – Transportation
Dept. of Transportation	Dept. of Lands, Nav. Waters
Dept. of Lands (Sandpoint)	

The following agencies commented:

Panhandle Health District, Response dated August 1, 2016:
No Comment

U.S. Forest Service, response dated August 8, 2016:
No Comment

The Department of Environmental Quality responded on August 26, 2016:
No Comment

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

J. No public comments were received a time of preparation of staff report.

Findings of Fact

- Kaniksu Shores Estates was recorded in 1972, 6 years prior to the adoption of Bonner County Ordinance 136, establishing subdivision standards.
- The existing structure was constructed in 1977, prior to the adoption of setback and building regulations adopted by Bonner County.
- The new structure will reduce the footprint of the existing structure.

- The foundation structure originally being constructed in 1977 will be decreased while the gazebo resting on top of said structure increase.
- The site contains mapped wetlands that are misrepresented on county data, the data should show the wetlands overlay following the shoreline, not encroaching overland, per wetland type found in reconnaissance.
- The location of the structure lies within flood hazard zone AE. (Zone: AE; FIRM: 0750E).
- 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

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 not** 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.

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.
- A-3** Prior to variance issuance, the applicant shall obtain a flood development permit from the Bonner County Planning Department for the structure.
- A-4** The applicant shall file a Declaration of Exempt Structure with the Bonner County Planning Department for the subject structure.

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 V482-16, Variance Request – Minimum Lot Size – Nathaniel & Amanda Story are requesting a lot size minimum variance for an existing ±3.28-acre parcel, where a 5 acre minimum zoning (Rural) was required at the time of the land division. The subject property is located about 3.3 miles east of Sagle on Sagle Creek Road, in Section 19, Township 56 North, Range 1 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 Caitlyn Reeves presented a PowerPoint presentation of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. A copy of the PowerPoint presentation has been added to the file.

In response to Commissioner Martin's inquiry, Ms. Reeves advised that a certificate of compliance had been issued in 2013.

Planner III Saegen Neiman advised commented on the timberland surrounding the property and remedies. He also addressed a property split in 1999.

APPLICANT PRESENTATION: Consulting Community Planner Erik Brubaker for Glahe & Associates discussed criteria for variances. He provided a background on this project. He thanked the neighbors for participating in the process. He also commented on the platting process and how this project meets the variance standards.

In response to Commission Hall's inquiry, Mr. Brubaker explained right-of-way, water and sewer location.

Planner III Saegen Neiman advised that this project would still be subject to platting. He said that a building location permit will not be issued unless the project meets all platting requirements.

PUBLIC/AGENCY TESTIMONY: Irene Rigs, Curt Rigs and Bob Jacobson commented on the following: Road maintenance; road condition; fire access; traffic; culverts and steepness.

APPLICANT REBUTTAL: Mr. Brubaker discussed traffic in rural areas. He also commented that he believed the concerns are about the applicants and who they are rather than the lots and how they were created. He also addressed the following: Issues regarding the road, noting they do need to be dealt with in the appropriate way; and granting this variance does not change the surrounding area.

COMMISSION QUESTIONS TO STAFF: In response to Commission inquires, Ms. Reeves confirmed that one of the properties was 40 acres. She did not know if the contiguous property was 20 acres.

Planning Director Milton Ollerton discussed setting precedence and the recording of deeds.

Ms. Reeves referred to a prior similar variance request, file V438-13 and noted it was approved.

Bill Harp discussed lot sizes and confirmed there were other five acre parcels.

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

MOTION: Commissioner Davis moved to deny this project FILE V482-16 for a lot size minimum variance to allow a ±3.28-acre tract in the Rural-5 zoning district, based upon the following conclusion: The variance **is** in conflict with the public interest. The decision is 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 amended. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the variance is to:

1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or

2) Appeal the Planning and Zoning Commission's decision to the County Commissioners.

Commissioner Hall Seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously with a vote of 3 – 1, with Commissioner Bailey abstaining.

Background:

A. Site data: The site is a ±3.28 acre tract of vacant rural land.

B. Access: The property is accessed from Sagle Creek Road, a public right-of-way classified as "local access", a gravel road that is privately maintained. Sagle Creek road has a 20-foot wide travel area.

C. Environmental factors: The site does not contain any water courses, or springs. The property is located within an unstudied special flood hazard zone (DFIRM Panel #0950E, zone D). The subject property does not contain any mapped wetlands (USFWS National Wetland Inventory). The site does contain slopes between 15 and 29 percent with few areas greater than 30 percent (USGS topographic map).

D. Services: The site would be serviced by an individual well and septic system (application). The property is located within Selkirk (Sagle) Fire, Rescue & EMS District and Lake Pend Oreille School District. The site would be serviced by Northern Lights for electricity. Currently the site is vacant land and no services have been provided.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	R-5	Rural residential; ±3.28 acres
North	Rural Residential	R-5	Rural Residential; 15.73 acres
East	Rural Residential	R-5	Rural residential; 15.73 acres
South	Rural Residential	R-5	Forest management; ±40.33 acres
West	Rural Residential	R-5	Forest management; ±60 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) 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 is a ±3.28-acre parcel that was created in 1999. The subject property did not meet minimum parcel size requirements in place in 1999 and does not meet current requirements. Applicant did not acquire the property until 2016. Applicant cannot obtain a building location permit due to BCRC 12-615(C) stating that the county shall not issue a permit on any parcel which has been divided contrary to the provisions of Bonner County Revised Code. The subject parcel was created from a ±19.11-acre parcel which has since been platted as Lot 1 of Irene's Meadow as a 15.73-acre parcel. Irene's Meadow received after the fact platting approval leaving the ±3.28 acre parcel non-complaint. As a result of the non-complaint spilt, as well as, not meeting current zoning-minimums the parcel would be unable to receive platting approval at its current size without a variance.

(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.

According to the application surrounding properties created in accordance with Bonner County Revised Code are all eligible for a building location permit. Surrounding properties range from 15.73 acres to ±60 acre tracts of land. The literal interpretation of Title 12 would deprive the applicant the ability to develop their land because BCRC 12-130A states: "...The planning director shall not issue a permit unless the intended uses of the buildings and land conform in all respects with the provisions of this title."

(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.

Surrounding properties created in accordance with Bonner County Revised Code are all eligible for a building location permit. Surrounding properties range from 15.73 acres to ±60 acre tracts of land. A similar variance was approved file #V438-13.

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

The subject property was created in 1999, the applicants purchased the property in 2016. Therefore the applicants did not create the non-compliant parcel. A Certificate of Compliance (C of C) was completed in 2013 file #CC241-13. The C of C determined that the parcel was non-compliant.

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

The applicant is requesting a minimum parcel size variance for an existing ±3.28-acre parcel that was created in 1999.

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

The parcel configuration has existed since its creation in 1999. No adverse public or agency comments have been received.

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 not required, pursuant to BCRC 12-233 and 12-222. There is no additional impervious surface or additional site disturbance created as a result of the parcel size variance request.

I. Agency Review

The application was routed to agencies for comment on July 26, 2016. The following agencies commented:

Panhandle Health District: No reply.

Bonner County Road Department: No comment (email dated 8/3/2016)

Selkirk Fire District: No reply.

School District #84: No reply.

Department of Lands (Sandpoint): No reply.

Department of Water Recourses: No comment (returned comment sheet date 8/1/2016).

J. Public Notice & Comments

The following public comments were received: None

Findings of Fact

1. The subject parcel was created October 8, 1999.
2. The parcel was created from a ±19.11-acre parcel to a 15.73-acre parcel and ±3.28-acre parcel.
3. The parcel is zoned Rural-5.
4. The parcel was zoned Rural (5 acre minimum), at the time of land division.
5. A Certificate of Compliance was completed in 2013 and determined the parcel was non-compliant.
6. The adjoining properties are greater than zoning district minimums.
7. There have been no adverse comments from public agencies or the general public on the proposed variance.

8. The remaining 15.73-acre parcel received retroactive platting approval in 2010.

Conclusions of Law:

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** in conflict with the public interest.

The public hearing recessed at 8:26 p.m. and reconvened at 8:32 p.m.

CHAIR INQUIRY: The Chair inquired of staff addressed succession of title and applicant responsibility. Mr. Neiman advised that there could be training which would include decision making.

CONDITIONAL USE PERMITS

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING

ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File C994-16 – Conditional Use Permit – Internet Communication tower – Todd & Jody Russell is seeking Conditional Use approval for the construction of a 160 foot, free-standing wireless communication tower with small building at base of tower to house electronic equipment. This site will offer advanced reliable high speed internet services to residences and businesses in Ponderay, Sandpoint, and surrounding areas. It will also house public safety radio communication equipment. The lot is located about a mile east of Colburn, on an unnamed dirt road, off of Center Valley Road, located in Section 7, Township 58 North, Range 1 West, B.M.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Hall disclosed that she is a member of the Priest Lake Search and Rescue which covers the entire county. She advised this would not influence her decision making. There were no further disclosures.

PRESENTATION: Floodplain Manager Jason Johnson presented a PowerPoint presentation 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. Johnson confirmed the location of Colburn Culver Road, the transfer station, access, and co-location. Mr. Johnson clarified that this proposed tower is for internet communication.

APPLICANT PRESENTATION: Project Representative Eric Lederhos of E. L. Internet Northwest discussed the following: Center Valley Road; temporary access; proposed tower location; tower height; line of sight; co-locating; traffic; maintenance; and encroachment permit. He also addressed the difference between internet and cell towers.

In response to Commission inquiries, Mr. Lederhos described how the tower is constructed and the height of the tower. He also discussed proposed Condition A-11. He also identified the location of the nearest residence and tree buffer. Mr. Lederhos also confirmed it will be galvanized, and further addressed Life Flight access.

COMMISSION INPUT: The Commission discussed proposed Condition A-11.

PUBLIC/AGENCY TESTIMONY: Bonner County Communication Director Bill Harp commented on technology, public safety and co-location. He discussed amending Condition A-15. He suggested that staff review how other jurisdictions have adopted code that makes provisions for public safety and co-location.

Mr. Johnson suggested “fair market price.” Staff and Commission discussed the amendments to Condition A-15. Mr. Lederhos was in agreement with the proposed amendment to Condition A-15.

APPLICANT REBUTTAL: None

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

MOTION: Commissioner Hall moved to approve this project, FILE C994-16 – Russell Communication Tower, 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 Hall further moved to adopt the following findings of fact and conclusions of law with removing Condition A-13, renumbering the remaining conditions and amending Condition A-15, now renumbered as A-14. 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. Commission Bailey seconded the motion.

VOTED upon and the Chair declared the motion carried unanimously, with a vote of 4 - 0.

Background:

A. Site data: The lot is 46.77 acres and is located about 0.95 miles east of Colburn, on an unnamed dirt road that extends north off of Center Valley Road. The parcel is zoned Agricultural /Forestry 10 (A/F-10) and is densely treed.

B. Access: Access is provided via an unnamed dirt road that extends north off of Center Valley Road.

C. Environmental factors: The parcel has some steep slopes, however the proposed tower site is in a relatively flat location. There are no slopes of greater than 15% within 250+ feet of the proposed location. There are no mapped wetlands on or near the site. The site has no Special Flood Hazard Area (flood zone X), per FIRM panel 16017C0495E. There are no mapped waters on or near the parcel in question. The parcel is mapped as moose habitat, and as both elk and white-tailed deer wintering area.

D. Services: This will be an unmanned site with no sewage or water services on site. Fire protection will be provided by Northside Fire District. Electrical service will be provided by Northern Lights, Inc.

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
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Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 AC)	A/F-10	No current use.
North	Ag/Forest Land (10-20 AC)	A/F-10	Single-Family Residential.
East	Ag/Forest Land (10-20 AC)	A/F-10	Single-Family Residential.
South	Ag/Forest Land (10-20 AC)	A/F-10	Single-Family Residential.
West	Ag/Forest Land (10-20 AC)	A/F-10	Crushing and hauling business.

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

	Required	Provided
BCRC 12-220, et seq, conditional use permit, application and standards	•Specific elements required in BCRC 12-220 thru 12-226.	•Required elements were satisfactorily addressed in the submitted materials.
BCRC 12-335, Public Use zoning and standards	•Conditional Use review •Access to the site shall be located within a recorded easement or public right of way.	•Conditional Use application has been submitted. •Condition has been added to this review.
Minimum Lot/Parcel Size (BCRC 12-411)	•Parcel size: 10 acres •Front setback: 160 ft •Rear setback: 160 ft •Side setback: 160 ft	•Parcel size: 46.77 acres •Front setback: ~1300 ft •Rear setback: 260 ft •Side setback: 215 ft
BCRC 12-4.2, Performance standards for all uses	•BCRC 12-420.A-J standards.	•Application has been reviewed against these standards. •Condition A-9 & A-10 added per Road & Bridge comments and BCRC 12-420.D.

	Required	Provided
BCRC 12-4.3, Parking standards	•Parking requirements for communication towers are not specifically defined in code.	•Per the application, the parking area is currently able to accommodate 2-4 cars. •Per Road & Bridge, the access road may need to be improved to commercial access standards prior to BLP issuance.
BCRC 12-4.4, Sign standards	•n/a, no signage proposed.	•No advertising signs are proposed. Only that signage required by a governmental agency will be installed.
BCRC 12-4.5, Design standards	•BCRC 12-453.A-E: n/a, site is unmanned. •BCRC 12-453.F: Lighting standards. •BCRC 12-453.G-I: n/a, site is unmanned. •BCRC 12-453.J: Outdoor storage •BCRC 12-453.K: n/a, site is unmanned.	•BCRC 12-453.F: There will be 1 light inside the building at the base of the tower. There will be no lights outside of the building, other than any legally required by a government agency. •BCRC 12-453.J: No outdoor storage is proposed.
BCRC 12-4.6, Landscaping and screening standards	•No landscape plan submitted, site is currently heavily treed.	•BCRC 12-488.C, the commission may require reasonable restrictions and conditions of development. Staff recommends a 360-degree, 160-foot buffer of trees to be maintained in perpetuity for the life of the tower, see condition A-11.

	Required	Provided
BCRC 12-4.88, Standards for Communication Towers	•Fence six feet (6') in height. •Setbacks equal to tower height. •Mitigate adverse effects of the facility. •Communication towers shall be built to TIA/EIA 222 revision F standards, or as amended, for steel antenna support structures. •New communication towers shall accommodate collocation when possible.	•Fence seven feet (7') in height is proposed. •All proposed setbacks are greater than tower height. •Staff has proposed conditions for this goal. •Condition A-12 added. Application states this will be done. •Condition A-15 added. •The tower will be constructed to accommodate collocation

	<ul style="list-style-type: none"> •Communication towers shall meet all FAA standards. Communication towers shall not penetrate any airspace surface on or adjacent to any public or private airfields as set forth in code. •Tower and equipment shall be removed if tower is unused for a year or more. •Flammable material storage shall be in accordance with international fire code standards. •Communication tower signage standards. 	<ul style="list-style-type: none"> with other communication services. •FAA was routed on this application, comments were addressed. Condition A-13 added. The application states that the tower will meet all operational, construction, and lighting standards of the FAA and will not penetrate any public or private airfields. •Condition A-6 added. •Building will be constructed of non-flammable materials and precautions will be taken to reduce fire risk. •No signage proposed for the site; legally required signs only.
BCRC 12-7.2, Grading, stormwater management and erosion control	<ul style="list-style-type: none"> •Per BCRC 12-722.4.A and 12-722.2, a grading & stormwater management plan was required for this proposal. 	<ul style="list-style-type: none"> •A grading & stormwater management plan was reviewed consistent with BCRC 12-721.2.B and 12-724.1. •Condition A-14 added.

G. Comprehensive Plan Land Use Designation

The property is designated Ag/Forest Land (10-20 acres). The comprehensive plan designation of Ag/Forest Land (10-20 acres) recognizes where steeper slopes prevail (30% or greater) and where transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services.

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

"The site demonstrates the ability to support the proposed wireless communications tower. Access roads leading to the site during construction may need improvement to support the activity. The site is capable of withstanding the disturbance of the proposed tower 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

A stormwater management and erosion control plan was required pursuant to BCRC 12-7.2. The plan by Enviro Assessment, P.C. provides standards for erosion control

and states that all work will be performed in accordance with the applicable grading and erosion control codes of Bonner County, and further acknowledges that any deviation from these codes will result in the stoppage of all work until the violation is corrected.

J. Agency Review

The application was routed to agencies for comment on May 18, 2016. The following agencies commented:

Bonner County Road & Bridge commented that the existing road would need to be upgraded to current commercial access standards during the Building Location Permit process.

Bonner Soil and Water Conservation District and the USDA Natural Resources Conservation Service comments recommended using utilizing SEEP certified contractors in the proposed work, and upgrading the existing access road.

The FAA comments stated that the applicant should perform an initial Part 77 screening to confirm whether the structure would trigger a formal FAA notification requirement. The applicant submitted to the file the printout results of the official FAA Notice Criteria Tool - Desk Reference Guide V 201 4.2.0, dated 6/8/2016, showing that project in question does not exceed the Notice Criteria.

All other routed agencies either did not respond or had no comment.

K. Public Notice & Comments

The following public comments were received:

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

Findings of Fact

1. The subject lot is 46.77 acres in a ten acre zone.
2. The proposed use will not require septic or water services.
3. The proposed location for the use is 250 feet or greater from any steep slopes.
4. The proposed parcel is heavily treed.
5. The proposed use will be mostly unmanned. The application states that site is expected to be accessed 2-8 times per year by a 2-4 man crew driving one vehicle.
6. The site already has an area for 2-4 vehicles available for parking, per the applicant submitted site plan.

7. The fenced area of the new facility will be less than 2,000 square feet. Only about 1,000 square is proposed to be impervious. The site is entirely surrounded by trees and other vegetation.
8. According to the application, the proposed facility will consume less than 0.10% of the total parcel area.
9. Code requires setbacks on all sides equal to the height of the proposed 160 foot tower. The nearest setback proposed is 215 feet.
10. According to the applicant, this facility will provide internet services to areas of the county that currently do not have land-based broadband access.
11. According to the application, the tower will be constructed to accommodate collocation with other communication services.
12. According to the application, the tower will also house public safety radio equipment.
13. All agency comments have been addressed.
14. No public comments have been received.

Conclusions of Law:

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

Conclusion 1

The proposed conditional use permit **is** in accord with the Bonner County comprehensive plan.

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

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

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

Conditions of approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All county setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall provide to the Planning Department prior to ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved. The applicant shall provide to the Planning Department upon completing ground disturbing activities a signed statement from the project engineer or design professional stating that these measures have been installed as per the design specifications as approved.
- A-6** Upon termination of use of a communication tower for a period of not less than one year, the landowner and/or tower operator/applicant shall remove the tower along with all supporting equipment, apparatus and foundation.
- A-7** Once a conditional use permit is approved, the terms and conditions of the conditional use permit become the controlling plan for the use of the property and may only be changed in accord with section 12-266 of this chapter, or applicable code as hereafter amended.
- A-8** Conditional use permits issued under BCRC Title 12 are valid for the life of the use at the location for which the permit was issued, unless an expiration date is specified in the conditional use permit or unless a permit has been revoked under this title. Conditional use permits shall be deemed to run with the land to which they are attached, and the terms of the permits shall not be modified or terminated by a change in ownership of the lands.

A-9 Access to the site shall be located within a recorded easement or public right of way prior to BLP issuance.

A-10 Per comments from Bonner County Road & Bridge, access to the site may need to be modified or upgraded prior to BLP issuance. Final determination of access standards will occur at time of BLP review.

A-11 Per BCRC 12-488.C, a 360-degree, 160-foot buffer of trees shall be maintained around the tower site, in perpetuity, for the life of the tower.

A-12 The proposed communication tower shall be built to telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.

A-13 If the access to the site must be upgraded during the BLP process, an addendum to the grading/stormwater plan may be required to address the new impervious surface of the road.

A-14 The proposed communication tower shall accommodate collocation at a market rate when possible, providing with preference to public safety communication equipment.

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 C995-16 – Conditional Use Permit – Church – New Song Bible Church are seeking conditional use permit approval for an existing church. The church has existed since 1985, but never received conditional use permit approval from Bonner County. The site contains the church and a residence. The site is located in the Sagle Community, on Highway 95, in Section 10, Township 56 North, Range 2 West, B.M.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. Commissioner Davis abstained from this project as he is representing the applicant. There were no disclosures or conflicts.

CHAIR INPUT: The Chair advised that there is a lack of quorum and therefore this project will need to be continued.

MOTION: Commissioner Hall moved to continue this project FILE C995-16 for an existing church, to October 20, 2016 at 5:30 p.m. in the 1st Floor Conference Room of the Bonner County Administration Building.

Commissioner Bailey seconded the motion.

VOTED upon and the Chair declared the motion carried unanimously, with a vote of 3 - 0.

OPEN LINE DISCUSSION: None

The Chair declared the hearing adjourned at 9:40 p.m.

Respectfully submitted,



Milton Ollerton
Planning Director

The above Minutes are hereby approved this 16th day March, 2017.

Bonner County Planning and Zoning Commission



Don Davis, Chair