

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
JULY 13, 2017**

**CALL TO ORDER:** Chair Davis 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 Don Davis; Brian Bailey; Trevor Kempton; Sheryl Reeve; Suzanne Glasoe; and Vice Chair Kris Sabo (arrived at 5:36 p.m.)

**ABSENT:** Commission Taylor Bradish

**ALSO PRESENT:** Planning Director Milton Ollerton; Planner I Marcus Pecnik; and Administrative Supervisor Tina Smith

**CHANGES IN AGENDA:** None

**APPROVAL OF MINUTES:** The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: June 15, 2017. Hearing no changes or objections, the Chair declared the minutes approved as written.

**CONSENT AGENDA:**

**TIME EXTENSION REQUEST**

**File C987-15 Conditional Use Permit for a Duplex – Benjamin & Karen Milbrath** –The property is known as Lot 5A, Block 1, of the Replat of Lots 3-5 and the Water Tank Site, First Addition to Schweitzer Basin Village. The site is located on Mogul Hill Road in the Schweitzer Community, Section 20, Township 58 North, Range 2 West, B.M. The property is zoned Alpine Village.

**STAFF PRESENTATION:** Planning Director Milton Ollerton presented the time extension request.

**COMMISSION DELIBERATION:** The Commission discussed Findings and the Conclusion.

**MOTION:** Commissioner Bailey moved to approve a time extension for File C987-15 to August 21, 2019. Commissioner Glasoe seconded the motion.

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

**PUBLIC HEARINGS:**

**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 C1001-17 – Conditional Use Permit – RV Park – Valerie Hester** is requesting to install and operate a 25-unit RV park on an existing 2.8-acre parcel located approximately 850 feet south of Dufort Road on Highway 95, zoned commercial. The property is in a portion of Section 32, Township 56 North, Range 2 West.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Planning Director Milton Ollerton presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. He provided the Commission with a map as reference to the project for their review.

**APPLICANT PRESENTATION:** Dan Larson of HMH Engineering discussed the number of sites which would allow for a caretaker.

In response to a Commissioner inquiry, Mr. Larson addressed fire suppression.

In response to a Commissioner inquiry, Landowner Valerie Hester explained access to the project.

**PUBLIC/AGENCY TESTIMONY:** Mary Frazier commented on RV versus mobile home parks, long term residency and the Commission to consider/review mobile and RV park criteria.

Richard Cramer commented on duration of stay and low income housing.

Jennifer Cramer commented on landscaping.

**APPLICANT REBUTTAL:** Landowner Valerie Hester addressed intent for duration of stay is not for long term and landscaping.

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

**STAFF INPUT:** Mr. Ollerton commented on landscaping and standards.

**APPLICANT RESPONSE TO COMMISSION:** Mr. Larson clarified natural tree canopy, landscaping and sewer hook-ups.

Ms. Hester clarified that per Idaho statute, duration would be no longer than eight months.

**MOTION:** Commissioner Trevor Kempton moved to approve this project FILE C1001-17 Crossroad Halo RV Park, 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 Kempton further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Reeve seconded the motion.

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

**Background:**

**A. Site data:** The subject property is a 2.8-acre parcel containing an existing residence and accessory buildings.

**B. Access:** Access to the property is provided by Old Highway 95, an approximately 20 foot wide paved county road located within a 400 foot wide BNSF railroad right-of-way.

**C. Environmental factors:** The subject property gently slopes between separate terraced areas. The property does not contain flood hazard area (DFIRM Panel 0950E, Zone X). The property does not contain mapped wetlands (USFWS National Wetland Inventory). The property does not contain critical wildlife habitat or prime agricultural soils, according to the Bonner County Comprehensive Plan.

**D. Services:** Water would be provided by an individual well. Sewage disposal would be provided by a septic system (DEQ and Panhandle Health District Evaluation). The property is located in the Selkirk (Sagle) Fire, Rescue and EMS District and the Lake Pend Oreille School District.

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Transition	Commercial	Existing Residence and accessory buildings
North	Rural Residential	R-5	Bonner County solid waste facility, State of Idaho gravel pit, RV, boat and auto storage.
East	Rural Residential	R-5	BNSF Railroad and rural residential
South	Rural Residential	R-5	BNSF Railroad transportation corridor, residence and accessory buildings, vacant land
West	Rural Residential	R-5	Excavation company, rural residential uses, northwest is a small engine repair company.

**F. Standards review**

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is in accord with the

general and specific objectives of the comprehensive plan and Title 12 and the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.

- 1) **BCRC 12-220**, et seq, conditional use permit, application and standards: Specific elements required in BCRC 12-220 thru 12-226.:

Provided: Required elements were satisfactorily addressed in the submitted materials.

- 2) **BCRC 12-333 (8)** Adequate water supplies for drinking and fire suppression, as well as approval of sewage disposal sites and methods by the Panhandle health district and/or the state of Idaho, must be demonstrated as appropriate.

Provided: A letter from DEQ stated that the project will include construction of a new public water system and a community subsurface wastewater disposal system. DEQ will review the drinking water portions of the project and may review the wastewater at the request of Panhandle Health. (See attached email)

- 3) **BCRC 12-333 (21)** Site requirements for RV parks include at least 25 percent tree canopy coverage and a maximum of 25 percent impervious surface.

Provided: The applicant responded that the treed coverage is approximately five percent (5%). The final landscape will include the necessary number of trees to be placed to meet or exceed the 25% coverage required.

- 4) **BCRC 12-4.2** Performance standards for all uses. BCRC 12-420.A-J standards.

Provided: Application has been reviewed against these standards.

- 5) **BCRC 12-4.3** Parking standards: RV Sites: 1.25 spaces per unit. 3. Industrial, institutional and commercial uses shall be provided with off street loading spaces, exclusive of access areas, of not less than 12 feet in width. Loading spaces shall not project into public rights of way or setback areas.

Provided: The applicant states that each RV site is sufficient to park a vehicle beside the camp space. Additional overflow parking will be available in the south field.

- 6) **BCRC 12-4.4** Sign standards:

Provided: Any new sign will follow Bonner County standards. A monument sign may be provided for in the future.

- 7) **BCRC 12-4.5** Design standards

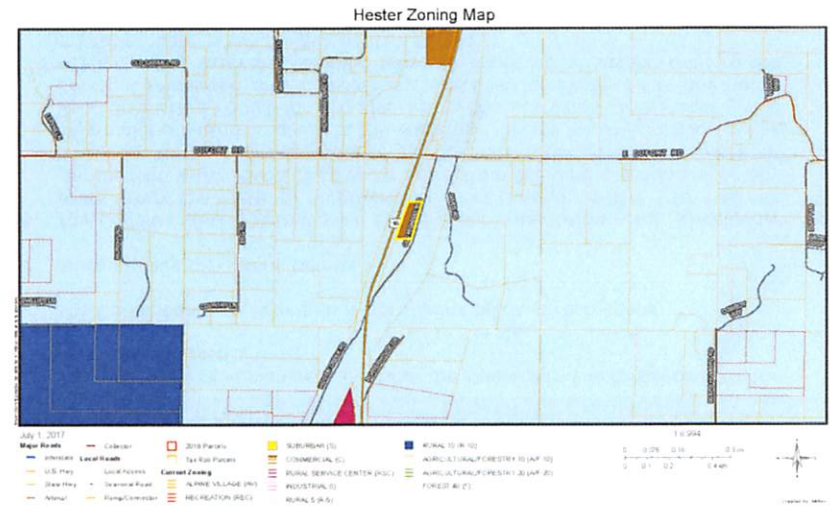
Provided: Reviewed against these standards: A. Adjacent properties are not zoned commercial. F. Lighting: The lighting provided will be downcast pole and exterior at the entrance, outbuildings, and caretaker site. Low voltage lighting may be used around the park loop access road.

8) **BCRC 12-4.6** Landscaping and screening standards

Provided: Landscaping will meet standards as provided above. Add condition that this step must be complete prior to issuance.

**G. Comprehensive Plan Land Use Designation**

The property is designated Transition on the comprehensive plan map, The comprehensive plan designation of Transition provides for a mixture of land uses which may include higher density residential uses, commercial, industrial and light industrial uses. Due to the intensity of land use, these areas require primary transportation routes, urban-like water and sewer services, fire and police services. The change to Transition designation was approved by the BOCC on September 21, 2016 (AM143-16).



Hester Land Use Designation



The property is zoned Commercial (BCRC 12-325):

A. The commercial district is established to promote a range of commercial uses to serve the needs of the immediate area, surrounding rural communities and visitors without adversely affecting adjacent residential neighborhoods. The commercial district is also intended to provide opportunities for a variety of affordable housing types that are within walking distance of commercial services. Intensive large scale commercial development is not appropriate due to the limited density of surrounding unincorporated areas. Access to primary transportation routes and a system of hard surfaced roads are expected and consideration is given to the potential public transportation access. These purposes are accomplished by:

1. Providing for a wide range of small to medium scaled retail, professional, governmental and personal service uses.
2. Allowing for mixed use buildings (housing over office or retail) and a range of housing types, including cottage housing, townhouses, apartments and mobile home parks where sufficient services are provided.
3. Allowing for light industrial uses where activities are conducted primarily indoors and impacts to adjacent uses can be mitigated.
4. Excluding commercial uses with extensive outdoor storage.
5. Excluding large scale commercial uses that would be more effectively located in incorporated cities.
6. Applying simple design standards that enhance pedestrian access and improve the character of the area.

**H. Land Capability Report** A land capability report was submitted to the record by Dan Carlson, AICP, Carlson Development Services, in accordance with BCRC 12-222(j), which concludes that "the subject property has demonstrated the capability to withstand disturbance without risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation, or geological or surface slippage."

**I. Stormwater plan**

A stormwater management plan was required pursuant to BCRC 12-7.2. The plan by Daniel Larson, PE., HMM Engineering calls for temporary erosion control of silt fences and inlet protection. The plan also requires permanent stormwater measures of "grading the site to sheet flow to a grass swale along the northwestern property line...overflowing to a weir, lined with riprap to prevent erosion...and drain to an existing 24" culvert under US-95.

**J. Agency Review**

The application was routed to agencies for comment on April 19, 2017. Please see attached for the following agencies comments:

- *Bonner County Road and Bridge, memorandum received April 24, 2017*
- *Panhandle Health District, letter received May 10, 2017*
- *Idaho Department of Lands, memorandum received May 2, 2017*
- *Department of Environmental Quality, Email received May 9, 2017*
- *Bonner County Schools Transportation, received April 21, 2017*
- *Selkirk Fire, Letter received May 17, 2017*

**K. Public Notice & Comments**

The only public comment received stated that the County does not have a "duration of Stay" for an RV park and this should be addressed in future decision making.

**Findings of Fact**

1. The property has a land use designation of Transition and is a Commercial Zone.
2. The property has direct access to Highway 95 with alternative access off Dufort Road onto Old Highway 95.
3. The property abuts, on the Southeast side, BNSF Railway corridor.
4. Surrounding properties range in size from ±1.7 acres to ±35 acres.
5. The subject property would be served by an individual well and an individual septic system approved by DEQ and Panhandle Health.
6. Surrounding uses include the State of Idaho gravel pit, an RV, boat and auto storage facility, an excavation company, a small engine repair company and the Dufort Solid Waste Facility.

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

Conclusion 4

The proposal is appropriate for the area based on the surrounding uses and the location of the property being on State highway 95.

**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.

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**Conditions to be met prior to issuance of the permit:**

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- B-1** Prior to issuance of the conditional use permit, a landscaping plan shall be submitted.
- B-2** Final approval from PHD shall be issued prior to issuance of the Conditional Use Permit.
- B-3** Conditions suggested by Selkirk Fire District included with this report shall be followed.

**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 C1000-17 – Conditional Use Permit – PUCF - Northern Lights, Inc.** is requesting conditional use permit approval for a power substation located within a public right of way off of Schweitzer Mountain Road, 5 miles North West of Sandpoint, on a 396-acre forested site zoned Agricultural/Forestry 20. The property is located within Section 28, Township 58 North, Range 2 West, B.M.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Planner I Marcus Pecnik presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code. He discussed the striking of Condition A-3.

In response to Commissioner inquiries, Mr. Pecnik explained the location of the sub-station and the removal of Condition A-3.

**APPLICANT PRESENTATION:** Martin E. Taylor of James A. Sewell and Associates advised that he would rely on the application for the details on how it complies with the standards. He commented on additional service for Schweitzer, Independent Highway District, access, relocation of bicycle path, the site plan is survey accurate and Condition A-3.

In response to Commissioner inquiries, Clint Britton of Northern Lights discussed the sub-station, no plans for a gate on the property, plowing and storing snow at switch back, access and described the use of the proposed structure.

**PUBLIC/AGENCY TESTIMONY:** Dr. Elizabeth Wargo commented on the following: Transparency; thoughtfulness on snow planning; bike trail; Condition A-3; lights/noise; gate; wildlife; maintaining security.

**STAFF INPUT TO PUBLIC TESTIMONY:** Mr. Pecnik why there is a recommendation for the deletion of Condition A-3.

**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 C1000-17 NLI power substation, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the staff report was prepared and testimony received at this hearing. Commissioner Sabo further moved to adopt the following findings of fact and conclusions of law striking Condition A-3. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bailey seconded the motion.

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

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**Background:**

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**A. Site data:** The subject property is an existing 396 acre unplatted parcel consisting of dense forest.

**B. Access:** Access to the site is provided by public right of way Schweitzer Mountain Road to Snowplow road and an easement (Book 3 plats, Page 64, Instrument # 455128 dated August 14, 1994).

**C. Environmental factors:** The subject property has significant slopes with portions measuring steeper than 35% grade on the eastern portions of the site. The site does not contain water courses, has no mapped flood hazard area (Zone: X, DFIRM 0705E), or mapped wetlands. According to the Bonner County Comprehensive Plan, the site does not contain any critical wildlife habitats, or prime agriculture soils.

**D. Services:** No sewer or water services shall be provided, as none are necessary.

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Prime Agricultural/Forestry	A/F-20	Undeveloped site, primarily timberland
North	Prime Agricultural/Forestry	A/F-20	Undeveloped site, primarily timberland
East	Prime Agricultural/Forestry	A/F-20	Undeveloped site, primarily timberland
South	Prime Agricultural/Forestry	A/F-20	Undeveloped site, primarily timberland
West	Alpine Village	AV	Partially developed with a single family dwellings.

**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 12-33, Public Use Commercial use, zoning and standards	(3) Access to the site shall be located within a recorded easement or public right of way. (6) "Specified conditions with respect to emissions of noise, light, glare, smoke, odor, dust, particulate matter, vibrations or hours of operation may be prescribed differently from those required in a given district."  (11) "The area of land covered by buildings shall not exceed 35 percent of the total lot area."	(3) Driveway is 30ft wide and gravel, private easement. (6) project will adhere to standards (11) The project is located on an easement within a 396 acre parcel, which represents .003% percent lot coverage, this standard is met.
Minimum Lot/Parcel Size (BCRC 12-411)	•Parcel size: 20 acres •Front setback: 25 ft •Rear setback: 40 ft	•Parcel size: 396 acres •Setback requirements are met.

	•Side setback: 40 ft	
BCRC 12-4.2, Performance standards for all uses	BCRC 12-420.A-J standards.	Application has been reviewed against these standards.
BCRC 12-4.3, Parking standards	Parking requirements.	Application has been reviewed against these standards.
BCRC 12-4.4, Sign standards	•Freestanding signs, building mounted signs, or combination thereof, in an aggregate size not to exceed ninety six (96) square feet in area, shall be allowed, provided no individual sign exceeds sixty four (64) square feet in area.	•Sign not proposed.
BCRC 12-4.5, Design standards	•BCRC 12-453.A-E: N/A •BCRC 12-453.F: Lighting standards. •BCRC 12-453.G-I: N/A •BCRC 12-453.J: Outdoor storage, Industrial •BCRC 12-453.K: n/a, site is unmanned.	•BCRC 12-453.F: There will be minimal additional lighting. (see condition A-2) •BCRC 12-453.J:) •No increase expected
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.
BCRC 12-7.2, Grading, stormwater management and erosion control	• Per BCRC 12-722.4.A and 12-722.2, a grading & stormwater management plan was required for this proposal.	•BCRC 12-724 requirements where met per engineered plans.

**G. Comprehensive Plan Land Use Designation**

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

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

*"Subject to adherence with the storm water management, grading, erosion control and engineering plan made a part of the corresponding conditional use permit application, the area is satisfactorily suited for the intended use. The site has demonstrated that it is capable of withstanding disturbances without risk of harmful consequences as a result of floods, sewage, drainage, erosion, sedimentation, geological or surface slippage pursuant to Bonner County Revised Code, Section 12-222(j)."*

**I. Stormwater plan**

A stormwater plan has been submitted and reviewed per Bonner County Code 12-722, and was found in accordance will all applicable code.

**J. Agency Review**

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

*Panhandle Health District  
Schweitzer Fire District  
Northern Lights Power Company  
Department of Transportation  
U.S. Army Corps (CDA)  
Dept of Water Resources*

*Bonner Public Works Department  
Independent Highway District  
Department of Fish & Game  
Department of Lands (Sandpoint)  
Dept. Env. Quality  
Bonner School #84*

The following agencies responded "no comment"

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

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

**Independent Highway District in a letter dated May 4, 2017**

Staff concludes there are no objections to the project.

**K. Public Notice & Comments**

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

Staff concludes there are no objections to this project.

**Findings of Fact**

1. The subject lot is 396 forested acres in a 20 acre zone.
2. Site exists on 30% slope.
3. The proposed use does not require septic or water services.
4. The proposed site is not staffed.
5. The application states that site is expected to be accessed on a monthly basis.
6. The site already has an area for up to 1-2 vehicles available for parking, per the applicant submitted site plan.
7. According to the application, the proposed facility will consume less than 0.01% of the total parcel area.

8. No adverse public comments have been received.

9. All setback requirements are met.

**Conclusions of Law:**

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

Conclusion 1

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

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

Conclusion 2

This proposal was reviewed for procedural compliance with the criteria and standards set forth at BCRC Title 12-220, use provisions in Title 12-335, density and dimensional standards set forth in Title 12 Chapter 4, the environmental standards and storm water management criteria of Title 12 Chapter 7, Bonner County Revised Code.

Conclusion 3

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

Conclusion 4

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

**Conditions of approval:**

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

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** Lighting shall be directed downward to the intended area to be lighted. All exterior lighting fixtures shall incorporate cutoff shields to prevent spillover into residential areas. Broadcast lighting fixtures that project lighting outward rather than downward are discouraged. Outdoor lighting shall be arranged so that the light is directed downward and away from adjoining properties. Temporary high intensity construction lights should be oriented so as to reduce or eliminate glare onto adjoining properties.

**A-3** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.

**A-4** Prior to building applicant shall obtain an approved building location permit in accordance with BCRC 11-105.

The public hearing recessed at 7:49 p.m. and reconvened at 7:52 p.m.

**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 V489-17 - Variance Request - Front & Side Yard Setback - Dennis James** is requesting a 10-foot front yard setback where 25 feet is required and a 4 foot set back where 5 feet is required for the construction of a two-car attached garage. The property is located on 184 North Beach Road, Lot 4, a portion of Section 5, Township 55N, Range 2W Boise Meridian.

**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 summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

In response to a Commissioner inquiry, Mr. Pecnik addressed impervious surface.

**APPLICANT PRESENTATION:** Martin E. Taylor of James A. Sewell and Associates advised that he would rely on the application materials for how this project complies with the code. He also commented on the following: Merit of the application; encroachment; the site plan being survey accurate; the north western corner; and setbacks. Mr. Taylor explained why a stormwater plan and land capability report was not needed.

In response to Commissioner inquiries, Mr. Taylor explained snow shed, location of garage door, the design is not to conflict with other building and removal of other structure.

Applicant Dennis James explained the need for the garage.

**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 Glasoe moved to approve this project FILE V489-17, which allows for a 10 foot front yard setback where 25 feet is required and a 4 foot side yard setback where 5 feet are 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 Glasoe 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 Kempton seconded the motion.

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

**Background:**

**A. Site data:** The subject property is described as Lot 4, Block 1, Kay's Lake Lots, Section 5, Township 55 North, Range 2 West, Boise Meridian. Abutting land uses include residential lakefront properties, and residential tracts. The subject property is zoned Suburban. Lot 4 has frontage on Cocolalla Lake and currently contains a single family dwelling.

**B. Access:** Access is provided by North Beach Road, a paved road within a 50 foot wide public right of way.

**C. Environmental factors:** The property has waterfront access to lake Cocolalla, it does not lie in a special flood hazard area. (Firm panel: 0950E, Zone: X) Site does not contain mapped wetlands, or slope as mapped by Bonner County. The property is not identified as critical wildlife habitat on the Bonner County GIS Mapping application.

**D. Services:** The site is served by an individual well, and connected to a sewage disposal system PHD permits 09-09-119641. The site lies within the Selkirk Fire District, and the Lake Pend Oreille School District (#84). Power is provided to the property via Northern Lights.

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

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Rural Residential	Suburban	Platted Lakefront Lot, 0.15 of an acre



Compass	Comp Plan	Zoning	Current Land Use & Density
North	Rural Residential	Suburban	Unplatted Lot, 9 acres
East	Rural Residential	Suburban	Platted Lakefront Lot, 0.16 of an acre
South	Waterfront	Waterfront	Cocolalla Lake
West	Rural Residential	Suburban	Platted lake front lot, .15 acres

**F. Standards review**

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

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

**Applicant:**

"..the position of the ca 1955 home has created a circumstance over which the applicant has no control. Thus in order to construct the proposed attached garage, some setback relief is necessary."

**Staff:** Bonner county assessor records show the single family dwelling on site was built circa 1955, and the residential shed built in 1940. Placement of a structure on any portion of the parcel would require a variance due to tight side lot lines and the parcels proximity to the water. In addition when considering placement of a structure on a tight lot, the farther away from the water the applicant is, the better. BCRC 12-234 standard A is applicable.

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

**Applicant:**

"The shed to be removed was built ca 1940 (Bonner County Assessor records). The home was built ca 1955 (Bonner County assessor records). The applicant acquired the property in 2000 (Inst# 567718. Accordingly, the house location as the resulting site constraints have not resulted from the actions of the applicant."

**Staff:** Bonner county assessor records confirm the applicant's claims. BCRC 12-234 standard B is applicable.

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

**Applicant:**

"The applicant desires a modest two car garage, a use commonly enjoyed by most residents. The proposed garage location will actually serve to increase the front yard setback by 6 feet and the side-yard setback by 1 foot because the ca 1940 outbuilding will be removed."

**Staff:** Conflict of public interest is mitigated through the planning department's agency review process and by public notification. During the agency review period County, State and Federal regulatory agencies were notified of the project and were permitted to comment. Idaho Department of Water Resources and Panhandle Health Department returned a "No Comment" response. As noted in section I, below, there were no other negative agency comments and as such Bonner County Planning assumes there are no objections to the project. As noted by Section J, there have been no public comments, as such Bonner County planning assumes there are no objections to the project. In consideration of public welfare Bonner County Revised Code section 12-423 clarifies the need for 2 parking spaces to be provided per dwelling, which the applicant intends to provide. In addition the net setback variance results in a setback increase from 4-feet in the front yard to 10 feet, and a side yard increase to 4-feet from 3-feet. BCRC 12-234 standard C is applicable.

**G. Stormwater plan**

A stormwater management plan was exempted, pursuant to BCRC 12-721.2 (b).

**H. Land capability report**

A land capability report was not submitted to the record by Martin E Taylor, AICP, in accordance with BCRC 12-233 and 12-222(j), which states:

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

1. No additional "impervious surface", as defined in section 12-809 of this title, is created;
2. No additional site disturbance is proposed and no additional development will occur on slopes fifteen percent (15%) or greater;
3. No additional sewage disposal services are associated with the proposal;
4. The area in which the proposed use will occur is not located within a 100-year floodplain as determined from the FEMA flood insurance rate maps; or is not located within a mapped wetland as determined from the U.S. fish and wildlife service national wetland inventory maps; or as determined in writing by the U.S. army corps of engineers;

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

**I. Agency Review**

The application was routed to the follow agencies for comment on April 11, 2017:

Panhandle Health District	Dept. of Water Resources
Bonner County Road Dept.	Dept. of Lands, Navigable waters
Selkirk Fire District	School District #84
Northern Lights	Dept. of Fish and Game
Dept. of Lands (Sandpoint)	Dept. of Env. Quality

*The following agencies commented:*

**Panhandle Health District, Response dated April 27, 2017:**

**No Comment**

**Idaho Department of Water Resources, response dated April 13, 2017:**

**No Comment**

**Northern Lights, Mark Contor, Email response dated April 18, 2017:**

**Commented:** Overhead service and meter service must be taken into consideration, to ensure meter access.

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.**

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**Findings of Fact**

1. According to Bonner county assessor records the existing storage structure on site was constructed in 1940, prior to the adoption of county zoning standards.
2. Kays lake Lots subdivision originally platted in 1953
3. Single family dwelling constructed in 1955
4. The new structure will decrease the encroachment into the front yard setback.
5. No Structures are within the FEMA special flood hazard zone.
6. No adverse agency or public comments have been submitted.

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**Conclusions of Law:**

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

This proposal was reviewed for compliance with the criteria and standards set forth at 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 1

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

Conclusion 2

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

Conclusion 3

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

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**Conditions of approval:**

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**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 construction the applicant shall obtain Building Location Permit approval.
- A-4** Applicant shall ensure access for overhead service and meter service

**OPEN LINE DISCUSSION:**

- Mr. Ollerton updated the Commission regarding land use applications, noting that the Planning Department just received a Planned Unit Development application which is the first one in years.

- Mr. Ollerton provided a review of the items to be discussed at the July 20, 2017 workshop. Topics to discuss will be:
  - The Vacation Rental Ordinance
  - Digital submission of plats
  - Natural Resource Plan
  - Reconsider of the Board of County Commissioners decision
- Mr. Ollerton provided an update on staffing noting that two new planners have been hired. There is also an opening in compliance and possibly an additional one as well. The Commission and staff discussed planner compensation.

The Chair declared the hearing adjourned at 8:29 p.m.

Respectfully submitted,



Milton Ollerton  
Planning Director

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The above Minutes are hereby approved this 7th day of December, 2017.

Bonner County Planning and Zoning Commission



Don Davis, Chair