

Welcome to tonight's City Council meeting!

The elected officials of the City of Bonners Ferry are appreciative of an involved constituency. Testimony from the public is encouraged concerning issues when addressed under the Public Hearing portion of the agenda. Any individual who wishes may address the council on any issue, whether on the agenda or not, during the Public Comments period. Normal business will preclude public participation during the business portion of the meeting with the discretion left to the Mayor and Council. Special accommodations to see, hear, or participate in the public meeting should be made at City Hall within two days of the public meeting.

Vision Statement

Bonners Ferry, "The Friendliest City", strives to achieve balanced growth, builds on community strengths, respects natural resources, promotes excellence in Government, and values quality of life. We are a city that welcomes all people.

AGENDA
CITY COUNCIL MEETING
Bonners Ferry City Hall
7232 Main Street
267-3105
June 1, 2021
6:00 pm

Join video Zoom meeting: <https://zoom.us/j/17672764>

Meeting ID: 176727634

Join by phone: 253-215-8782

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

Each speaker will be allowed a maximum of three minutes, unless repeat testimony is requested by the Mayor/Council

REPORTS

Police/Fire/City Administrator/City Engineer/Economic Development Coordinator/Urban Renewal District/SPOT/Golf

CONSENT AGENDA – {action item}

1. Call to Order/Roll Call
2. Approval of Bills and Payroll
3. Approval of the May 18, 2021 Council meeting minutes
4. Authorize the Mayor to sign the contract with Deaton Tree Service for tree trimming near electric lines

OLD BUSINESS

NEW BUSINESS

5. **Electric** – Consider authorizing permission to seek requests for proposals for Moyie electrical upgrades for GPRs (attachment) {action item}
6. **Sewer** – Discuss authorizing upgrading controls at Lift Station #2 (attachment) {action item}
7. **Planning** – Consider file V03-21 from James Black regarding front and side yard variance – deliberation and decision only (attachment) {action item}
8. **Planning** – Hearing to consider appeal request from Robert Sanborn regarding Administrative Decision regarding a property split (attachment) {action item}

ADJOURNMENT

**MINUTES
CITY COUNCIL MEETING
Bonners Ferry City Hall
7232 Main Street
267-3105
May 18, 2021
6:00 pm**

Mayor Dick Staples called the Council meeting of May 18, 2021 to order at 6:00 pm. Present for the meeting were: Council Members Adam Arthur, Valerie Thompson, Rick Alonzo and Ron Smith. Also present were: City Attorney Andrakay Pluid, City Clerk/Treasurer Christine McNair, City Administrator Lisa Ailport, City Engineer Mike Klaus and Economic Development Coordinator Dennis Weed. Members of the public present were: Marciavee Cossette, Jerry Higgs, Manny Figueroa, Mike Sprugeon, Denise Crichton, Faye Almond, David Clark and Victor Martinez

**Join video Zoom meeting: <https://zoom.us/j/17672764>
Meeting ID: 176727634
Join by phone: 253-215-8782**

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

Jerry Higgs spoke regarding the Dan Moore case.
David Clark spoke regarding the street cleaning in the City and the Comprehensive Plan re-write.
Kyle Harris spoke regarding ADA compliance issues.

REPORTS

City Administrator Lisa Ailport is still reviewing the American Rescue Plan Act and HB389.

Economic Development Coordinator Dennis Weed said the Visitors Center was opened Monday, May 17, 2021. Restaurant owners are doing the best ever. Dennis feels the border won't open until the end of the year or next year.

Urban Renewal District Dennis Weed said they have a meeting to determine who will do the accounting.

CONSENT AGENDA – {action item}

1. Call to Order/Roll Call
2. Approval of Bills and Payroll
3. Approval of the May 4, 2021 Council meeting minutes and May 10, 2021 Special Council meeting minutes
4. Treasurer's Report

Valerie Thompson moved to approve the consent agenda. Rick Alonzo seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes

OLD BUSINESS

NEW BUSINESS

5. **City** – Consider the request from Manny Figueroa regarding the Memorial Day parade {action item}
Manny, with the American Legion Post 55, is requesting the insurance for the Memorial Day parade be waived or have the parade be a City event. Andrakay said if the City sponsors the event, then the City will be responsible. Ron Smith moved to sponsor the Memorial Day parade with the volunteers listed. Valerie Thompson seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes

6. **Electric** – Consider authorizing the Mayor to sign the contract with ALLWEST Testing and Engineering, Inc. for Quality Assurance testing for the Moyie Dam Concrete Rehabilitation Project (attachment) {action item}
Mike asked if there are any questions regarding the memo he provided. Mayor Staples said this is something that we have to do. Valerie Thompson moved to authorize the Mayor to sign the contract with ALLWEST Testing and Engineering, Inc for quality assurance testing for the Moyie Dam Concrete Rehabilitation Project, for the amount of \$43,050.00. Rick Alonzo seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes

7. **Electric** – Discuss the request to purchase a back-up generator for the Moyie Hydro (attachment) {action item}
Mike said this is a needed item for continued communications at the Moyie Hydro. Adam asked if this is something that has not been there. Mike said that is correct. Rick Alonzo moved to approve the purchase of the back-up generator for the Moyie Hydro, in the amount of \$33,730.89. Ron Smith seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes
8. **Electric** – Consider authorizing the Mayor to sign the contract with HDR Engineering, Inc. for the required audit of the Owner's Dam Safety Program (attachment) {action item}
Mike said FERC is requiring an audit of the Owner's Dam Safety Program. Adam Arthur moved to authorize the Mayor to sign the contract with HDR Engineering, Inc for the audit of the Owner's Dam Safety Program, in the amount of \$20,000. Valerie Thompson seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes
9. **City** – Consider authorizing the Mayor to sign the grant match letter for the Economic Development Council (attachment) {action item}
Dennis said this is the same as the last few years. Rick Alonzo moved to authorize the Mayor to sign the grant match letter for the Economic Development Council. Ron Smith seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes
10. **Planning** – Consider authorizing the Mayor to sign the letter of commitment with the Blue Cross Foundation for the Comprehensive Plan rewrite (attachment) {action item}
Lisa said there are some areas of the comp plan that does not allow for growth. This is the first-time grant money has been available for a Comp plan rewrite. Ron asked for a brief explanation of the comp plan. Lisa said the comp plan tells you where we're going. Mayor Staples asked how long this will take. Lisa said possibly two years. Valerie said the Association of Idaho Cities constantly reference the comp plan and she is 100% behind making sure the comp plan is updated. Rick said being involved with Blue Cross is a win-win situation. Ron asked how the community will be involved. Lisa said there will be public involvement. Valerie Thompson moved to authorize the Mayor to sign the letter of commitment with Blue Cross Foundation for the Comprehensive Plan rewrite. Adam Arthur seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes
11. **City** – Consider the proposal by Selkirk Sealcoat to sealcoat asphalt at the City Yard (attachment) {action item}
Lisa said the asphalt at the City yard is in desperate need of maintenance. The Electric department is requesting a 3500 square foot area that needs to be asphalted during this process. Mayor Staples said half of the cost is for the new asphalt. Adam Arthur moved to approved the sealcoat and asphalt for the amount of \$15,796.00 with Selkirk Sealcoat. Valerie Thompson seconded the motion. The motion passed. Adam Arthur – yes, Valerie Thompson – yes, Rick Alonzo – yes, Ron Smith – yes

ADJOURNMENT

The meeting adjourned at 6:48 pm.

INDEPENDENT CONTRACTOR AGREEMENT

AGREEMENT made between the CITY OF BONNERS FERRY, a political subdivision of the state of Idaho, herein "ENTITY" and KENDALL DEATON, herein "CONTRACTOR",

THE PARTIES AGREE AS FOLLOWS:

1. **CONTRACT:** ENTITY hereby employs CONTRACTOR as an independent contractor to complete and perform the following project and work: Power line tree trimming which includes providing a three man crew, chipper, and aerial lift.

CONTRACTOR agrees to provide all materials and services for the project in accordance with the attached written specifications. Specifications and scope of work as shown in attached proposal.

2. **TIME OF PERFORMANCE AND TERMINATION:** Parties agree that CONTRACTOR shall complete the project by December 31, 2021.

3. **COMPENSATION:** ENTITY agrees to pay CONTRACTOR as per Attachment 1 in an amount not to exceed \$5,000.00 without prior approval by Council. Future work completed in the calendar year shall be approved by task order under the rate schedule shown below.

4. **INDEPENDENT CONTRACTOR:** The parties agree that CONTRACTOR is the independent contractor of ENTITY and in no way an employee or agent of ENTITY and is not entitled to workers compensation or any benefit of employment with the ENTITY. ENTITY shall have no control over the performance of this Agreement by CONTRACTOR or its employees, except to specify the time and place of performance, and the results to be achieved. ENTITY shall have no responsibility for security or protection of CONTRACTOR'S supplies or equipment. CONTRACTOR agrees to pay and be responsible for all taxes due from the compensation received under this contract.

5. **WARRANTY:** CONTRACTOR warrants that all materials and goods supplied under this Agreement shall be of good merchantable quality and that all services will be performed in a good workmanlike manner. CONTRACTOR acknowledges that it will be liable for any breach of this warranty.

6. **INDEMNIFICATION:** CONTRACTOR agrees to indemnify, defend, and hold harmless ENTITY, and its officers, agents and employees, from and against any and all claims, losses, actions, or judgments for damages or injury to persons or property arising out of or in connection with the acts and/or any performances or activities of CONTRACTOR, CONTRACTOR'S agents, employees, or representative under this agreement.

7. **INSURANCE:** CONTRACTOR agrees to obtain and keep in force during its acts under this agreement a comprehensive general liability insurance policy in the minimum amount of \$1,000,000 which shall name and protect CONTRACTOR, all CONTRACTOR'S employees, ENTITY and its officers, agents and employees, from and against any and all claims, losses, actions, and judgments for damages or injury to persons or property arising out of or in connection with the CONTRACTOR'S acts. CONTRACTOR shall provide proof of liability coverage as set forth above to ENTITY prior to commencing its performance as herein provided, and require insurer to notify ENTITY ten (10) days prior to cancellation of said policy.

8. **WORKER'S COMPENSATION:** CONTRACTOR shall maintain in full force and effect worker's compensation for CONTRACTOR and any agents, employees, and staff that the CONTRACTOR may employ, and provide proof to ENTITY of such coverage or that such worker's compensation insurance is not required under the circumstances.

9. **COMPLIANCE WITH LAWS:** CONTRACTOR agrees to comply with all federal, state, city, and local laws, rules and regulations.

10. **ENTIRE AGREEMENT:** This is the entire agreement of the parties and can only be modified or amended in writing by the parties.

11. **ATTORNEY FEES:** Reasonable attorney fees shall be awarded to the prevailing party in any action to enforce this Agreement or to declare forfeiture or termination of this Agreement.

DATED this 19 day of MAY, 2021.

ENTITY:

CITY OF BONNERS FERRY

By: _____
Dick Staples, Mayor

ATTEST:

Christine McNair, Clerk

CONTRACTOR:

By: Kendall Deaton
Kendall Deaton

Its: _____
Owner

WITNESS:

Form and content approved by Andrakay Pluid as attorney for the City of Bonners Ferry.

Attachment 1

Deaton's 2021 Rate Sheet

Deaton's

366 S. Sagle Road

Sagle, Idaho 83860

(208) 304-2556

e-mail: deatonstrees@yahoo.com

Bucket Truck with Two Men \$167/ hrs. worked
(one arborist & one groundsman)

Chipper Truck & Chipper \$27/hr.
(for equip.) \$40/man hr.
(normal crew is three men)

Ground Crew \$40/man hr.

Climbers \$67/man hr.

These charges include all equipment and supplies needed to fulfill our part of the work. There may be a move in fee for any move over 50 miles.

Kendall Deaton

208.304.2556



MEMO

CITY OF BONNERS FERRY
CITY ENGINEER

Date: May 27, 2021
To: City Council
From: Mike Klaus, City Engineer
Subject: **Moyie Hydro - Statements of Qualifications Request**

In the fall of 2020, the City received an analysis from Craig Ripplinger and Terry Borden with recommendations for addressing the controls, programming, and automation issues at the Moyie Hydro. Terry Borden, of Adept Consulting worked under the direction of Craig Ripplinger (REL) to develop recommended improvements for the hydro that were provided in report form.

One of the recommended upgrades included was the replacement of the Generator Protection Relays (GPR's) at the two powerhouses. Staff would like to begin the process of replacing the GPR's. The first step in the process is to select an engineering firm to complete the design of the new units. To select a firm, staff recommends soliciting Statements of Qualifications (SOQ's) and selecting the most qualified firm to complete the work.

Attached is a draft SOQ request that staff would like to advertise in the local paper, the Spokesman Review, and the City website. Staff is requesting permission to solicit SOQ's for the proposed GPR projects.

Please let me know if you have any questions regarding this request.

Thank you,

Mike

**Request for Statement of Qualifications
CITY OF BONNERS FERRY – MOYIE HYDRO ELECTRICAL
IMPROVEMENTS**

The City of Bonners Ferry is requesting statements of qualifications (SOQ's) from qualified firms for assistance in performing the design and implementation of new Generator Protective Relays (GPR's) for the City's Moyie Hydroelectric Facility.

The Moyie Hydro project is a 4-Mega Watt Powerplant located on the Moyie River, 7 miles north east of the City of Bonners Ferry. The City owns and operates the facility for the residents and customers of the city.

The City would like to replace the four existing General Electric 489 GPR's with new GPR's manufactured preferably by SEL. Replacement of the GPR's is required because the current units have reached the end-of-life service and are unsupported by General Electric. The City intends to replace all four of the GPR's over a two-to-four-year timeframe. The original GE 489's relays were installed in 2008.

In 2020, the City commissioned a review and report of the hydro automation system prepared by Terry Borden of Adept Consulting. The report identifies some of the relevant and interrelated issues that require addressing with the GPR replacement. The selected consultant is encouraged to become familiar with the report and address within their SOQ how their firm can address document related problems with the replacement of the units. A copy of such report can be obtained by visiting the City's website (<https://bonnersferry.id.gov>) or can be emailed to interested parties upon request.

SERVICES TO BE PROVIDED BY CONSULTANT

1. Review City's existing available information with respect to the GPR's and interrelated components at the Moyie Hydro facility. Some City drawings depicting existing components are inaccurate or incomplete. It is anticipated that the selected firm will need to visit the hydro facility several times and become familiar with the equipment and operations of the dam during planning and design.
2. Design of new Generator Protective Relays (GPR's) to replace outdated and unsupported existing GPR's. Design will include integration of new GPR's with existing peripheral components utilized by the City.
3. Provide complete parts list of components needed for installation of GPR's to the City.
4. Complete design and record drawings, control descriptions, wiring diagrams, and copies of all programming developed for project and submit to the City. All documentation is also to be provided to the City in electronic format, with drawing files to be provided in AutoCAD format.
5. Program GPR's after installation and program modifications of peripheral components, if necessary.

6. Manage the installation of the GPR's using consulting or contracted assistance. However, the City staff, including the City electrician will provide oversight and/or assistance where necessary or needed.
7. Other tasks may be added as needed at the time of project scope development with selected consultant.

Respondents will be evaluated according to these factors:

1. **Capability to Perform Project.** Describe your firm's legal structure, areas of expertise, length of time in business, number of employees, and other information that would help to characterize the firm, firm's commitment to provide necessary resource to perform and complete the project. (2-page limit)
2. **Relevant Project Experience.** Briefly describe other projects executed by your firm that demonstrate relevant experience. However, extensive descriptions of vaguely related projects are discouraged. Also list all public sector clients for whom you have performed similar work in the past five years. For each project mentioned, include the name, address and phone number of a person who can be contacted regarding your performance on the project. When submitting projects for which your firm worked in an auxiliary capacity or in a joint venture or partnership, include the name of the lead firm. (2-page limit)
3. **Qualifications of Project Team.** Provide a professional resume for the key people proposed to be assigned to the project (including any important sub-consultants) and describe relevant related experience. Describe key personnel's proposed roles and responsibilities on this project. Submittals must identify a proposed project manager who would be responsible for the day-to-day management of tasks and would be the primary point of contact with your firm. Include an organization chart of the project team. (2-page limit for management summary, 2-page limit for each resume)
4. **Project Approach.** Describe the tasks that must be accomplished to complete the project. Provide an adequate description of the firm's proposed design and approximate total project cost. Discuss any unique aspects of the project, alternative approaches the City of Bonners Ferry might wish to consider or special considerations related to the design. (2-page limit)
5. **Project Schedule.** Provide a schedule of general project activities indicating the duration of each activity and of the total project. The schedule should reflect realistic activity durations. (2-page limit)

All known design-professional sub-consultants needed to complete the project (individual or firm) must be identified in the consultant's proposal. (This should include all professions listed in Idaho Code 67-2320). If unforeseen conditions require the need for addition of a sub-consultant, those identified in Idaho Code 67-2320 should be hired based on qualifications and not price.

One set of references, brochures or other material that may be helpful in evaluating your firm may be submitted with the proposal package. Proposals will be ranked on qualifications and the City of Bonners Ferry may choose to interview several of the top ranked firms. However, at its discretion, the City of Bonners Ferry may dispense with interviews and select a firm to perform the work. Firms will be evaluated on the basis of the following factors, with maximum points shown for each category:

- Firm history and capability to perform project. 25 points
- Relevant project experience 25 points
- Qualifications of project team. 25 points
- Project approach and schedule 25 points

A selection committee appointed by the City of Bonners Ferry will assist with firm evaluations and make recommendations to the Bonners Ferry City Council who will make the selection. The City of Bonners Ferry will seek to negotiate a contract, a detailed scope of work, fee schedule, etc. with the preferred firm. If unable to reach an agreement, the City of Bonners Ferry will terminate negotiations and commence negotiations with the second-ranked firm, and so forth.

The City Clerk, City of Bonners Ferry, PO Box 149, Bonners Ferry, Idaho 83805, must receive five paper copies, and (1) electronic (in PDF format copy of the Statement of Qualifications by **5:00 p.m.**, local time, on **July 16, 2021**. Any questions regarding the Statement of Qualifications may be directed to Mike Klaus, P.E., City Engineer at (208) 267-0357, mklaus@bonnersferry.id.gov

Qualification of a consultant does not guarantee work will be commissioned.

APPENDIX A
COMMISSIONED REPORT OF MOYIE HYDRO AUTOMATION SYSTEM
BY TERRY BORDEN, ADEPT CONSULTING

DRAFT



MEMO

CITY OF BONNERS FERRY
CITY ENGINEER

Date: May 27, 2021
To: City Council
From: Mike Klaus, City Engineer
Subject: Sewer - Power/Control Upgrades at Lift Station #2

City staff has identified that lift station #2 has two features that need to be corrected.

1. The controls and power features for the lift station pumps are in a vault that is 15-20 feet below grade. Whenever electrical work needs to be done, staff may need to spend significant time in the vault. This scenario creates a safety hazard that would be good to eliminate.
2. When we experience an electrical outage, often both lift station pumps will come on at the same time, after the back-up generator begins to operate. The initial amperage draw of both pumps should be reduced with the use of variable frequency drives (VFD's) for the pump motors.

The proposal includes installing two VFD's in a panel above the lift station vault, where the panel will be accessible without confined space entry. Our City electrician, programmer, and I recommend and request this upgrade. The estimated cost of parts and labor for this upgrade is \$12,000.

Please let me know if you have any questions.

Thank you,

Mike

Lift Station 2 upgrade Parts Cost Estimate

Part Number

M200-06200440A10101AB100

~~01-04501~~

SI-Ethernet

JDL60

CH60J3I

N4124836123PTC

NP4836C

018730-30

118730-00

011419-00

EPDB104

SE2-SW8U

EA3-T4CL

GCX1370-22

AMHMI164CCL

1766-L32AWAA

Description

Control Techniques 15 Hp 230V VFD

~~Micrologix 1400 Processor~~

M200 Ethernet Module

Class J 60 Amp Fuses Box of 10

Class J 60 Amp 3 Pole Fuse Holder Box of 2

48X36X12 Enclosure

48X36 Backpanel

9" Filter Fan

Filter

Fan Thermostat

Power Distribution Block

8 Port Ethernet Switch

4" color touch HMI

3 position Maintained Selector Switch

Clear Cover Kit for HMI and Switches

Micrologix 1400 Processor

Misc Wiring ,Hardware

Supplier	Qty	Cost Ea	Cost
Glaco	2	\$1,500.00	\$3,000.00
Glaco	2	1,500.00	3,000.00
Glaco	2	\$127.10	\$254.20
Automation Direct	1	\$253.00	\$253.00
Automation Direct	1	\$248.00	\$248.00
Automation Direct	1	\$748.00	\$748.00
Automation Direct	1	\$205.00	\$205.00
Automation Direct	1	\$165.00	\$165.00
Automation Direct	1	\$47.00	\$47.00
Automation Direct	1	\$17.50	\$17.50
Automation Direct	4	\$18.50	\$74.00
Automation Direct	1	\$118.00	\$118.00
Automation Direct	2	\$289.00	\$578.00
Automation Direct	2	\$21.00	\$42.00
Gorden Electric Supply	1	\$100.00	\$100.00
Ebay	1	\$547.00	\$547.00
Various	1	\$200.00	\$200.00

Total **\$7,126.70**

- 530

\$ 6,596.70



CITY OF BONNERS FERRY

7232 Main Street
P.O. Box 149
Bonners Ferry, Idaho 83805
Phone: 208-267-3105 • Fax: 208-267-4375

STAFF REPORT FOR VARIANCE APPLICATION – BLACK CITY COUNCIL CONSIDERATION OF P&Z RECOMMENDATION FILE #V03-21

Prepared by: Clare Marley, AICP
City Contract Planner, Ruen-Yeager & Assoc, Inc.

Project Description: Requesting variance approval to allow a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior side yard setback, where 10 feet is required, to allow construction of a single-family dwelling.

Location: 6732 Spokane Street, Bonners Ferry. Corner of North River Drive and Spokane Street.

Legal Description: Lot 8 of Birch Court Subdivision. Section 27, Township 62 North, Range 1 East, B.M.

Parcel Size: ±0.11 of an acre

Applicant: James Black

Applicant Representative: N/A

Application Filed: March 3, 2021

Publication Date: April 29, 2021

Notice Provided: MAIL: May 5, 2021
POST: May 3, 2021
POST: Website May 5, 2021

Hearing Date: Planning and Zoning: May 20, 2021,
Council Consideration: City Council: June 1, 2021

Council Packet: Application, legal notice, site plan, sight triangle plan, staff memo to file

P&Z Recommendation: Unanimous recommendation to approve, with conditions, following May 20, 2021 public hearing. The Commission adopted the findings and conditions as written in the staff report.

Council Consideration:

City Council may act on the recommendation without a public hearing, following consideration at a regular meeting or the Council may require a public hearing before making a decision. This variance request is scheduled for Council consideration at a regular meeting on June 1, 2021. The Council shall consider the application and evidence related thereto and make its decision after receiving the recommendation from the commission (Section 11-7-5, Bonners Ferry City Code).

I. APPLICABLE STATE AND CITY CODES/PROCEDURES

Idaho Code §67-6516, A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration and the manager or person in charge of the local airport if the variance could create an aviation hazard as defined in section 21-501, Idaho Code. Denial of a variance permit or approval of a variance permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

Bonners Ferry City Code:

- §11-1-3: Definitions & Appendix A
- §11-2-4: Schedule of Building Height, Lot Area
- §11-7-1, et seq: Variances
- §11-9-4, Removal of Traffic Hazards

Title 11, Chapter 7, Bonners Ferry City Code, allows for any person or party to file an application for a variance and sets forth the required procedures and standards. Variances are not to be considered a special right or privilege but may be granted upon a showing of undue hardship due to site characteristics and that the variance is not in conflict with the public interest. Standards of review are summarized below.

II. PROPERTY INFORMATION:

1. Site acreage: About 0.11 of an acre
2. Access: Direct access to public rights-of-way of North River Drive and Spokane Street.
3. Services: Proposed city water, sewer, and electric.
4. Surrounding uses and zones:

Compass	Comp Plan Designation	Current Zoning	Uses/Densities
Site	Residential	Residential A	Vacant lot, proposed single family dwelling
North	Residential	Residential A	Spokane Street, residential dwelling
South	Kootenai River	Kootenai River	North River Drive, Kootenai River
East	Residential	Residential A	Vacant residential lot
West	Residential	Residential B	Spokane Street, residential dwelling

III. PROJECT OVERVIEW/SUMMARY



The applicant is requesting approval for a variance to allow a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior side yard setback, where 10 feet is required, to allow for the construction of a single-family dwelling at 6732 Spokane Street. The property is described as Lot 8, Birch Court Subdivision, on Spokane Street and North River Drive in Section 27, Township 62 North, Range 1 East. The site is zoned Residential A.

Lot 8 was platted in 1990. The lot is about 40 feet wide at its widest, but narrows where the lot curves at the intersections of Spokane Street and North River Drive. The lot length is approximately 112 feet at its longest.

City setback standards for the Residential A zone require a minimum 20-foot front yard setback; 10-foot rear yard; 10-foot side interior lot; and 20-foot corner lot (Section 11-2-4). A corner lot is defined as a lot located at the intersection of two or more streets. With the current setbacks, the 40-foot wide lot would have a total of 30-feet of side yard setbacks (20-foot corner lot + 10-foot interior side), leaving 10 feet for a building. Setbacks are inclusive of all eaves and architectural projections under current code. (The Planning and Zoning Commission is reviewing potential changes to the setback codes at this time. If adopted, narrow lots would be entitled to a 5-foot interior side yard setback, inclusive of eaves, but the corner lot setback would be unchanged.)

The requested 6-foot interior setback and 10-foot corner setback would provide an additional 14 feet of buildable area. The applicant states that he proposes to build a 20-foot wide home, with 2-foot eave overhangs.

Greater setbacks are required at street corners to ensure the vision or sight triangle is preserved so that structures are not blocking the motorists' view of oncoming traffic. This safety concern was examined by city staff. See agency comments below. The applicant provided a sight triangle sketch of the property to demonstrate that his 28-foot setback from the north property line to Spokane Street will allow the future home to be placed outside the restricted vision triangle.

Section 11-9-4 of city code states: "It shall be the responsibility of the owner of real property to remove from his property any hedge, shrubbery, fence, wall or other sight obstructions of any nature, except public traffic or highway signs, buildings and trees, where these sight obstructions constitute a potential traffic hazard. Sight obstructions shall be the "sight triangle" as defined in Idaho Code." Idaho Code §49-221 addresses the need to comply with the sight vision triangle, and states:

REMOVAL OF TRAFFIC HAZARDS. (1) It shall be the responsibility of the owner of real property to remove from his property any hedge, shrubbery, fence, wall or other sight obstructions of any nature, except public traffic or highway signs, buildings and trees, where these sight obstructions constitute a potential traffic hazard. The above sight obstructions shall not extend more than three (3) feet, or less than ten (10) feet, in height above the existing center line highway elevation within the vision triangle of vehicle operators. The boundaries of the vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent highways forty (40) feet along each highway and connecting the two (2) points with a straight line. The sight distance obstruction restriction is also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty (40) feet along the railroad property line when intersecting with a highway.

The subject 0.11-acre site is within an area of similar sized and larger residential lots. Some of the lots were developed with single-wide manufactured homes that were later removed, as evidenced by the aerial photos of the vicinity. The site is nearly level. The application states the approval of the variances would allow the construction of a "reasonable-sized" home.

IV. AGENCY COMMENTS

City staff sent a request for public agency comment on March 18, 2021 to city streets, fire, administrator, engineering, and utilities. A summary of an agency review meeting is attached to this report and notes:

- The owner will need to work with city to verify water line locations. Water lines may traverse the center of some of the lots or may be at the front property line, but the owner needs to be aware the line locations are uncertain and need to be located.
- Sewer lines and hookups will also need to be verified as part of the construction process.
- Staff reviewed the applicant's vision sight triangle and requested the applicant add a north arrow to the drawing. Preservation of the vision triangle is an important safety concern on both corners of the lot.
- Access to the lot should be conditioned to require a driveway on the north side only. Removal of south access would adequately address street safety issues.
- The posted speed at the site is 20 mph.
- Pending setback amendment would not resolve all the challenges of this narrow lot, but owner should be aware of the draft ordinance amendment.

V. PUBLIC COMMENTS

No written public comments had been submitted to the record at the time of this staff report or for the Planning and Zoning Commission hearing. One person testified at the Commission public hearing, requesting additional information about city setbacks, the specifics of the subject lot and future construction plans and plans to remove hazardous trees. She did not oppose or support the request.

VI. STANDARDS REVIEW & ANALYSIS:

In order to approve a variance application, Bonners Ferry City Code requires evidence supporting the standards listed in the following table:

Standards Review Table §11-7-1	Findings Based upon evidence of record
A. The variance is not in conflict with the "spirit and intent" of the comprehensive plan and will not effect a change in zoning.	The requested variances will not change the zoning of this neighborhood. The Residential A zone allows single-family residences. The applicant proposes to build a single-family dwelling.
B. Are there exceptional or extraordinary physical circumstances or conditions, applicable to the property involved, or the intended use thereof, causing undue hardship, which do not apply generally to the property or class of use in the district, so that a denial of the relief sought will result in:	The 40-foot wide lot was platted in 1990. The plat shows the lot to be 40 wide at its widest and about 112 feet long. If current setbacks are imposed, it would allow a 10-foot wide home. The application states the lot is further restricted by a corner lot setback and streets on three sides.

Standards Review Table §11-7-1	Findings Based upon evidence of record
1. Undue loss in value of the property?	The application states the building envelope is so small that without a variance it is not feasible to build a home.
2. Inability to preserve the property rights of the owner?	The application states the lot is within an approved subdivision. The lot would be rendered worthless without variances.
3. The prevention of reasonable enjoyment of any property right of the owner?	Without a variance, the application states the lot could not have a reasonably sized and functional home.
C. Is owner able to prove hardship?	The application provide the dimensions of the existing lot, required setbacks, and the effects of the setbacks on the ability to build even a small home.
D. Will the granting of such relief be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements of the other property owners, or the quiet enjoyment of such property improvements?	Staff and agencies reviewed street and safety aspects of the requested variances. The applicant provided the requested sight triangle sketch to demonstrate the future home would not obstruct vision at the street intersections. Staff recommended access be limited to the north side of the property to avoid traffic safety concerns. A condition of approval is included in this report.
E. Is the reason for the variance caused by the owner's, or previous owner's actions?	The application and file record indicate the lots were platted in 1990, prior to some of the current standards. The lots were designed for residential use. The owner recently purchased the lot.

MOTIONS BY THE GOVERNING BODY:

Motion to Approve: I move to approve this File #V03-21, for variances to allow a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior side yard setback, where 10 feet is required, to allow for the construction of a single-family dwelling, finding that it **IS** in accord with the standards of Section 11-7-1 of Bonners Ferry City Code, as enumerated in the findings as presented in the staff report and based upon testimony received at the Commission hearing.

I further move to adopt the conditions of approval as written.

Motion to Require Public Hearing: I move to direct staff to prepare this file, #V03-21 for public hearing before the City Council, allowing sufficient time for legal notice.

Motion to Deny: I move to deny this File #V03-21, for variances to allow a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior side yard setback, where 10 feet is required, to allow for the construction of a single-family dwelling, finding that it is **NOT** in accord with the standards of Section 11-7-1 of Bonners Ferry City Code, as enumerated in the findings as presented in the staff report and based upon testimony received at the Commission hearing because (insert reasons the variance is not in accord with standards).

CONDITIONS OF APPROVAL:

1. The variance approval for a 6-foot interior side yard setback and 10-foot corner lot setback for construction of a single-family dwelling shall expire if construction of the subject dwelling is not commenced within two (2) years of written approval of the variance.
2. Access to the lot to serve the homesite shall be restricted to the northern property line on Spokane Street. The encroachment and access shall be approved by the city street department prior to any construction or lot clearing to ensure safety at the street intersections.
3. The landowner shall maintain a minimum clear vision triangle at the street intersections for all structures, fences, and vegetation, in accord with the standards of Bonners Ferry City Code 11-9-4 and Idaho Code §49-221.



CITY OF BONNERS FERRY

7232 Main Street
P.O. Box 149
Bonners Ferry, Idaho 83805
Phone: 208-267-3105 Fax: 208-267-4375

Variance Application

U03-19

FOR OFFICE USE ONLY:

FILE #	RECEIVED:
--------	-----------

APPLICANT INFORMATION:

Landowner's name: James Black		
Mailing address: PO BOX 186		
City: Sandpoint	State: ID	Zip code: 83864
Telephone: 208-255-6207	Fax:	
E-mail: jblack@revalues.net		

REPRESENTATIVE'S INFORMATION:

Representative's name: Same as above		
Company name:		
Mailing address:		
City:	State:	Zip code:
Telephone:	Fax:	
E-mail:		

PARCEL INFORMATION:

Section #: 27	Township: 62N	Range: 1E	Parcel acreage: 0.11 AC
Parcel # (s): RPB1070000108BA			
Current landowner's name: James Black			
Current zoning: Residential A	Current use: Vacant land		
Directions to site: Site is located North on 95, west on Chinoak, then west on Comanche, south on Birch, west on Spokane St. site on left at west end of Spokane St.			

RECEIVED

MAR 03 2021

CITY OF BONNERS FERRY

APPLICANT NARRATIVE:

V03-19

Project Description (Explain why the variance is necessary- use additional paper if necessary).

Desire to build a reasonable and functional single family home on site. (20 ft wide home with 2 ft overhangs for eaves). With setbacks, home could only be 10-14 ft wide without overhangs. This would create an un-functional home.

REQUESTED SETBACK: Check the appropriate box or boxes and provide the setback requested (ex: if a 10 foot setback is required, the put the requested setback from the property line adjoining the checked box).

Font Yard [] Font Yard Flanking ^{side} 10 ft [] Side Yard 6 ft [] Rear Yard []

Please use the following space to describe your setback request:

Front and rear setbacks are acceptable. I would request a 6ft side yard setback along the east line and a 10ft side flanking setback along the west side where Spokane St runs only the length of my lot out to North River drive.

SITE INFORMATION: Please provide a general description of the lay of the land (ex: is the property flat, have any bodies of water or wetlands present, what existing structures and uses are present etc.)

The parcel is mostly flat and level with a slight incline on the south end of the lot as it approaches N. River Dr.

SITE INFORMATION:

Describe surrounding land uses (ex: residential housing, commercial manufacturing etc):

North Residential

South Kootenai River

East Residential

West Residential / Vacant Land

Describe adjacent zoning and densities (ex: AA, A, B, C, D, M and I, Platted 10k sq.ft., Commercial lots etc):

North Res A - 5000 sq lots

South Kootenai River

East Res A - 5000 sq lots

West Res B - less than 1 acre lots

Surrounding Comprehensive Planning Designations:

North Res

South Kootenai River RECEIVED

East Res

West Res MAR 03 2021

Please explain how the proposed variance will have an effect on adjoining properties relating to noise, glare odor, fumes and vibrations; explain how the proposed variance will fit in with the properties and/or neighborhoods surrounding the lot or parcel?

This parcel was designed for residential use and is located in a residential neighborhood. Allowing for a reasonable sized home to be built on this lot will only positively affect the neighborhood and community.

U03-19

STANDARDS FOR REVIEW (11-7-1)

Will the Variance require a change in zoning? No Yes, Please Explain

Explain how granting of the variance will not be in conflict with the spirit and intent of the comprehensive plan for the city:

this lot was designated for residential use and at one point contained a single wide mobile home. CCR'S restrict mobile homes now. As this is zoned single family Res A, this will fit seamlessly with zoning and comp plan.

Explain how without a variance an undue loss in value will occur:

The building envelope is so restrictive due to the side flanking setback, that the resulting home that could be built would not be functional as a home.

Explain how without a variance the property rights of the landowner will be compromised:

This lot was an approved parcel and it is in a platted subdivision, though without a setback variance it is in essence not feasible to build on rendering the parcel basically worthless.

Explain how without a variance a complete loss of reasonable enjoyment of property rights will occur:

Reasonable enjoyment could occur in a reasonably sized and functional home. Without a variance, one could not be built.

Please explain how the granting of such relief will not be detrimental to the public health, safety or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property improvements:

After granting this variance the lot will be cleaned up with a new home built improving the aesthetics of the neighborhood. All improvements will be on the lot resulting in no detrimental conditions.

Please explain how the reason for a variance was not caused by the owner or previous owner's actions:

lot was platted prior to current zoning and was approved for residential use.

RECEIVED

MAR 03 2021

CITY OF DUNDERS BESSY

U03-19

I hereby certify that all the information, statements, attachments and exhibits submitted herewith are true to the best of my knowledge. I further grant permission to the City and its representatives to enter upon the subject land to make examinations post the property or review the premises relative to the processing of this application.

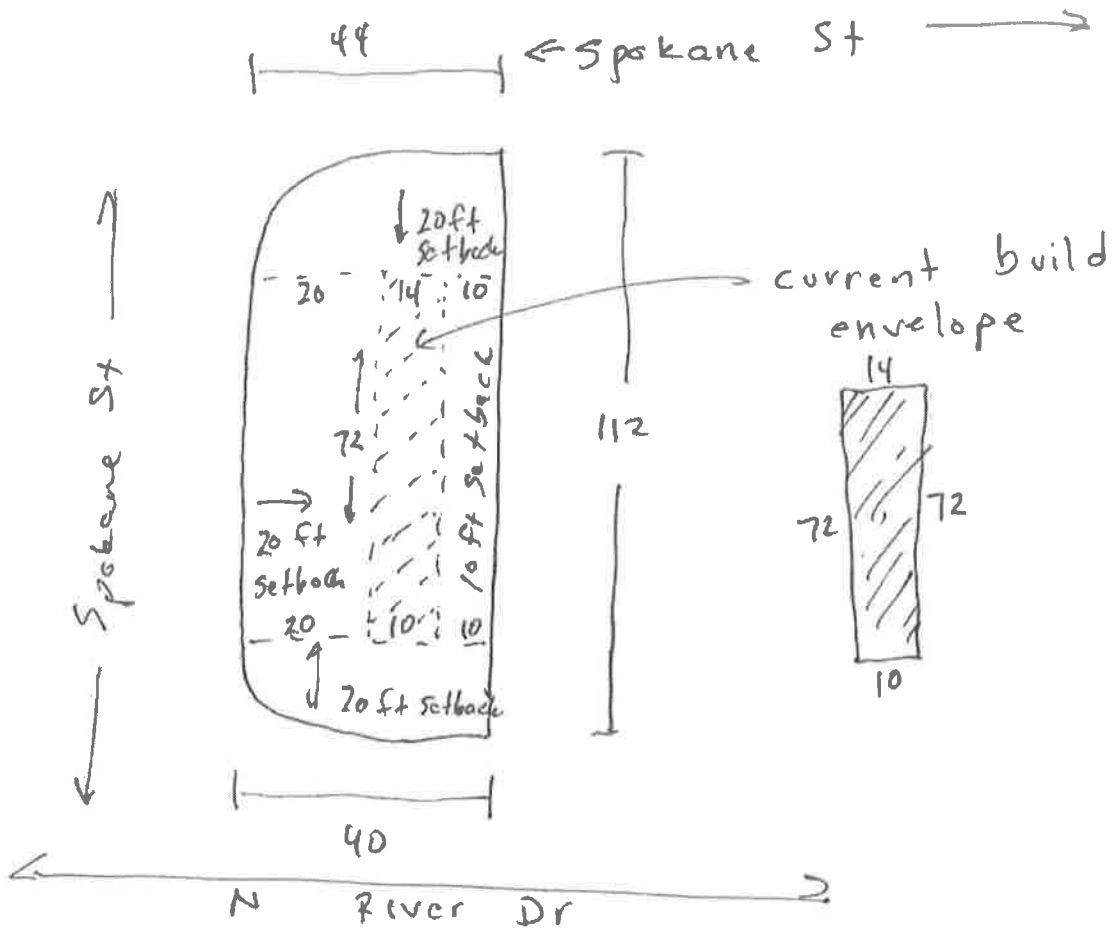
Applicant's signature: JB Date: 3-1-2021

Landowner's signature: JB Date: 3-1-2021

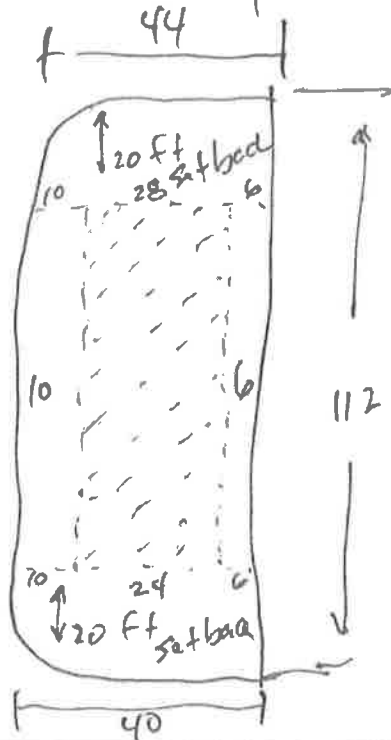
RECEIVED
MAR 03 2021
CITY OF BONNER'S FERRY

U03-19

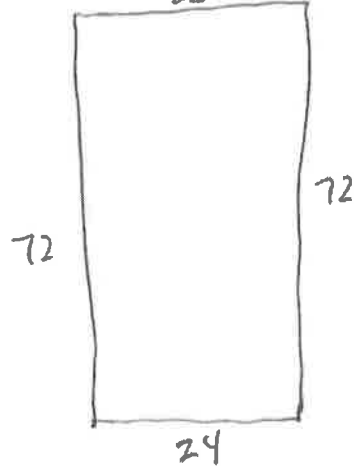
Current Build Envelope



Requested Build Envelope



New build envelope for 20' wide house with 2 ft eaves



RECEIVED

MAR 03 2021

CITY OF KAMAHAMA

U03-19

262703



WARRANTY DEED

Escrow No.: 22050-SF

FOR VALUE RECEIVED

John Emmel, An Unmarried Man

the grantor, does hereby grant, bargain, sell and convey unto

James Black, a married man, as his sole and separate property

whose current address is ~~6732 Spokane St. Bonner Ferry, ID 83805~~
1123 Church St. Sandpoint ID 83864
the grantee, the following described premises, in Boundary County, Idaho, TO WIT:

Lot 8, Birch Court Subdivision, according to the plat thereof recorded in Book 2 of Plats, Page 39, records of Boundary County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that he is the owner in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that they will warrant and defend the same from all lawful claims whatsoever.

Dated: January 6, 2015

SIGN HERE
John Emmel
John Emmel

STATE OF IDAHO }
COUNTY OF BONNER } ss.

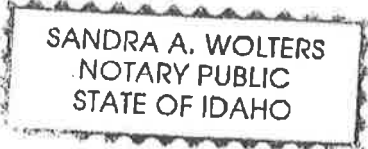
On this 7 day of January, 2015 before me, a Notary Public in and for said state, personally appeared John Emmel known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

Sandra A. Wolters
Notary Public for the State of Idaho

Residing at: Sandpoint ID
Commission Expires: 5-18-16

NOTARIZE HERE



STATE OF IDAHO }
County of Boundary } ss.

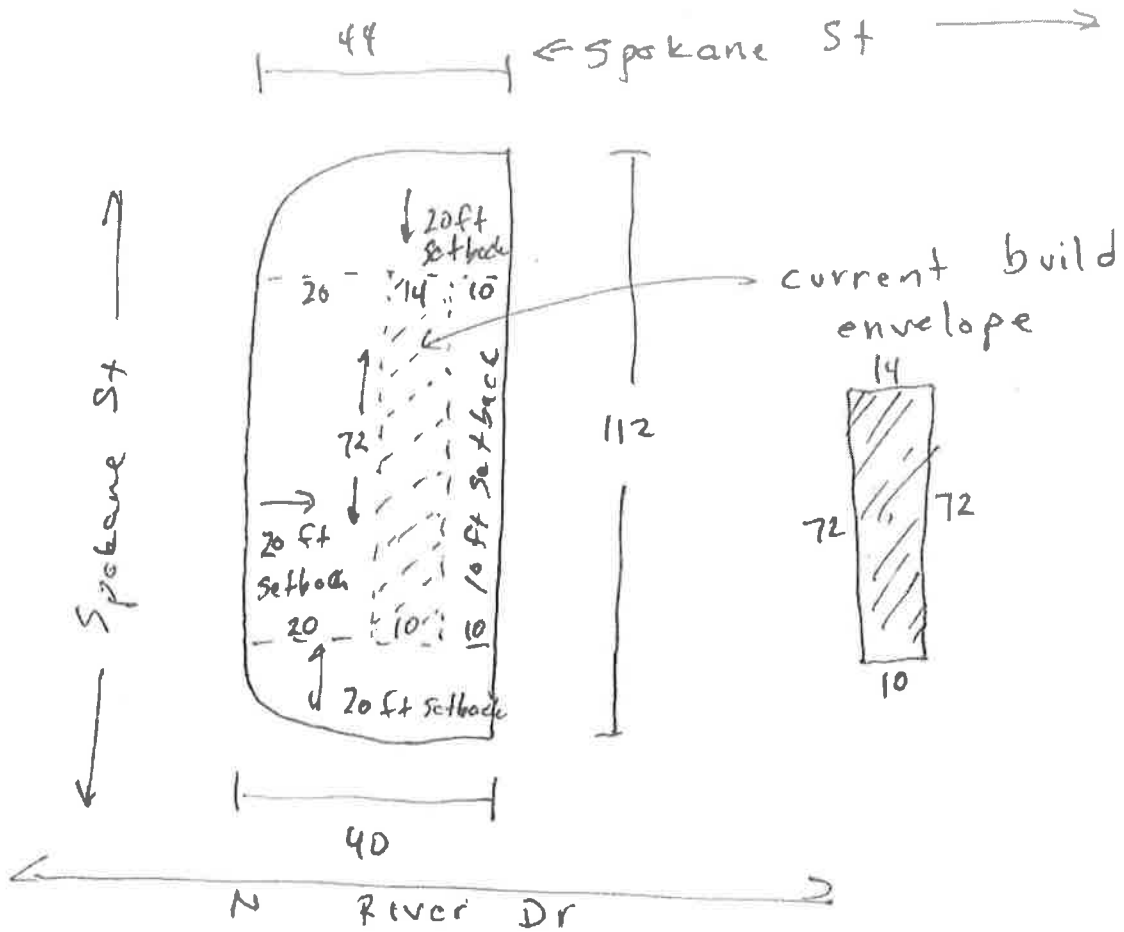
Filed by: Community Title
on 1-9-15 at 2:10
Glenda Poston
County Recorder
By Deputy George

Fee \$ 10.00
Mail to: OT

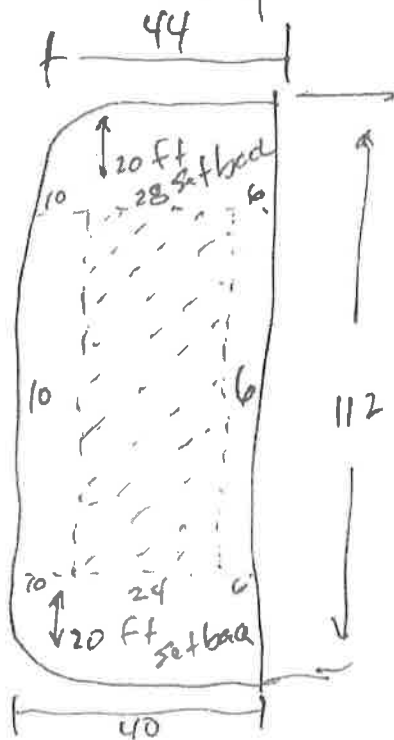
RECEIVED
MAR 03 2021
OFFICE BONNER & PERRY

U03-19

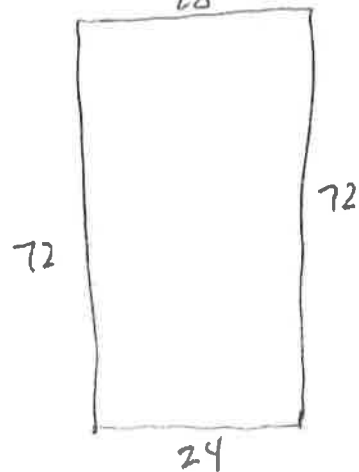
Current Build Envelope



Requested Build Envelope



New build envelope for 20' wide house with 2 ft eaves



RECEIVED

MAR 03 2021

CITY OF SPOKANE



RUEN-YEAGER & ASSOCIATES, INC.
ENGINEERS ♦ PLANNERS ♦ SURVEYORS

MEMO

To: File #V03-21 File Record
From: Clare Marley, AICP, Contract Planner
Date: March 25, 2021

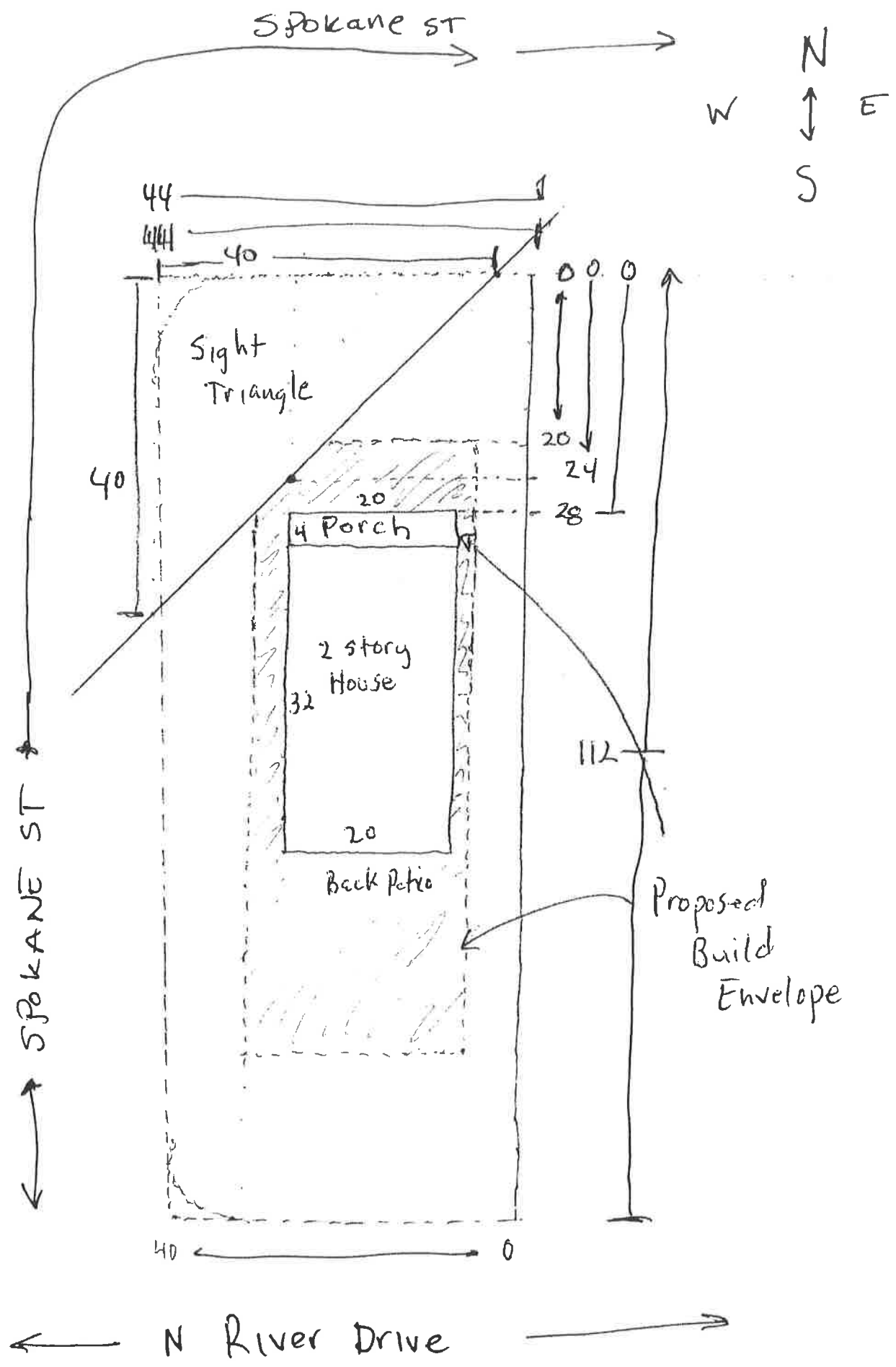
Re: **Application for variance, James Black**

The City of Bonners Ferry sent a request for comment to five local agencies regarding an application by James Black to vary from city setback standards. The applicant is seeking a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior lot setback, where 10 feet is required. The property is located at the corner of Spokane Street and North River Drive. A meeting to consider comments was conducted by city staff March 25, 2021 at Bonners Ferry City Hall.

Invited agencies were: City of Bonners Ferry Street Department; Fire Department; Utility Department; City Administrator; City Electric.

The City received no written agency comment. City Engineer Mike Klaus, City Administrator Lisa Ailport, AICP, Deputy Fire Chief John Youngwirth, Superintendent of Electric Utilities Kevin Cossairt, and Street Superintendent Scooter Drake attended the agency review meeting. The following comments were provided:

- The owner will need to work with city to verify water line locations. Water lines may traverse the center of some of the lots or may be at the front property line, but the owner needs to be aware the line locations are uncertain and need to be located.
- Sewer lines and hookups will also need to be verified as part of the construction process.
- Staff reviewed the applicant's vision sight triangle and requested the applicant add a north arrow to the drawing. Preservation of the vision triangle is an important safety concern on both corners of the lot.
- Access to the lot should be conditioned to require a driveway on the north side only. Removal of south access would adequately address street safety issues.
- The posted speed at the site is 20 mph.
- Pending setback amendment would not resolve all the challenges of this narrow lot, but owner should be aware of the draft ordinance amendment.



Welcome to the Bonners Ferry Planning and Zoning Meeting

The purpose of the agenda is to assist the Commission and interested citizens in the conduct of the public meeting. Careful review of the agenda is encouraged. Testimony from the public will be solicited on issues listed under the appropriate category listed on the agenda. Any individual who wishes to address the Commission on any other subject should plan to speak when, acknowledge by the Chairman, under the agenda item Public Comments.

Special accommodations to see, hear or participate in the public meeting should be made to City Hall within 2 days of the public meeting.

Due to COVID-19 restrictions, seating will be limited. If you wish to participate via the City's on-line opportunities, please log in to the ZOOM-hosted meeting at:

<https://us02web.zoom.us/j/86862147479> or phone at +1 253 215 8782. Meeting ID: 868 6214 7479.

AGENDA
CITY PLANNING AND ZONING COMMISSION
Bonners Ferry City Council Chambers
7232 Main St.
(208) 267-3105
MAY 20, 2021
5:15 pm

PUBLIC COMMENTS

Each speaker will be allowed a maximum of five minutes, unless additional testimony is requested by the Chairman

CONSENT AGENDA

1. Approval of April 15, 2021, Minutes **ACTION ITEM.**

PUBLIC HEARING

2. **File #V03-21 VARIANCE:** James Black is requesting approval for a variance to allow a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior side yard setback, where 10 feet is required, to allow for the construction of a single-family dwelling. The property is described as Lot 8, Birch Court Subdivision, on Spokane Street and North River Drive in Section 27, Township 62 North, Range 1 East. The site is zoned Residential A.

OLD BUSINESS

3. Review City Council comments on setbacks, RV park standards, Accessory Dwelling Units and general yard and structure definitions. **ACTION/DIRECTION TO STAFF TO PREPARE FOR JUNE HEARING**

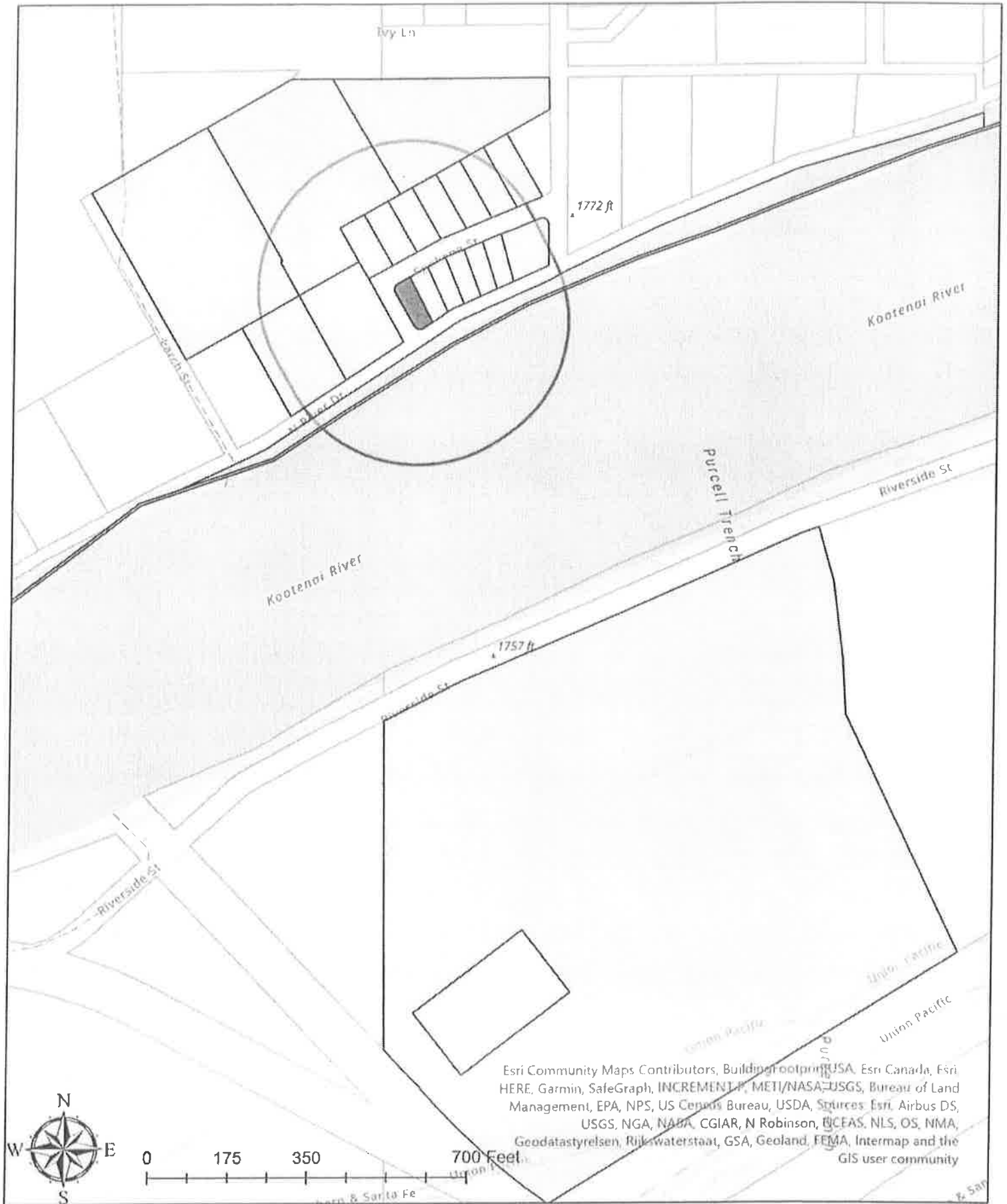
NEW BUSINESS

4. Correction to drafting error in appeal Section 11-15-5, Bonners Ferry City Code. **ACTION/DIRECTION TO STAFF**

UPDATES & ANNOUNCEMENTS

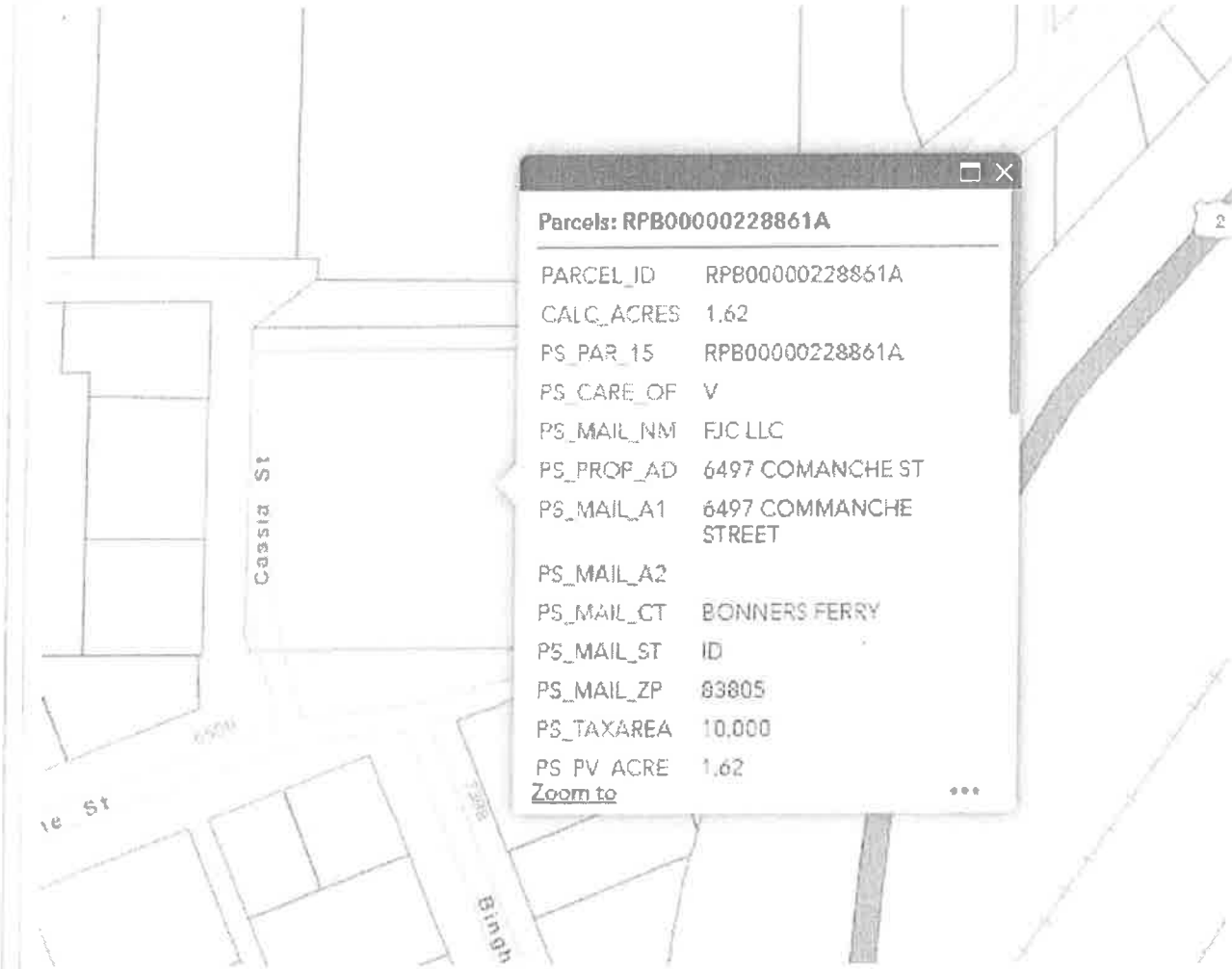
5. Schedule Updates & Announcements -**DISCUSSION/DIRECTION TO STAFF**
 - a. Pending files: Code amendments
 - b. June agenda & attendance for quorum
 - c. Council, Commission and staff announcements

6732 Spokane,, 300 foot buffer



Esri Community Maps Contributors, Building Footprints, USA, Esri Canada, Esri
HERE, Garmin, SafeGraph, INCREMENT.P, METI/NASA, USGS, Bureau of Land
Management, EPA, NPS, US Census Bureau, USDA, Sources: Esri, Airbus DS,
USGS, NGA, NADA, CGIAR, N Robinson, CEAS, NLS, OS, NMA,
Geodätystyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the
GIS user community

6497 Comanche, FJC LLC owner



Vacant land, 6732 Spokane St., James Black



Clare Marley, AICP
 Certified Land Use Planner
 RUEN-YEAGER & ASSOCIATES, INC.
 219 Pine Street
 Sandpoint, Idaho 83864
 208.265.4629
cmarley@ruenveager.com



Jared Yost
 GIS Developer I
 Innovate Technologies
 208-290-1892

Notice of Public Hearing

Notice is hereby provided that a public hearing pursuant to Idaho Code 67-6509 and Bonners Ferry City Code has been set for the City of Bonners Ferry Planning and Zoning Commission for May 20, 2021, at 5:15 pm at Bonners Ferry City Hall to consider a recommendation to the City Council for the following:

File #V03-21 VARIANCE: James Black is requesting approval for a variance to allow a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior side yard setback, where 10 feet is required, to allow for the construction of a single-family dwelling. The property is described as Lot 8, Birch Court Subdivision, on Spokane Street and North River Drive in Section 27, Township 62 North, Range 1 East. The site is zoned Residential A.

The public is welcome and encouraged to attend the hearing or provide written response. Any written comment greater than one (1) page must be submitted at least six (6) days prior to the meeting. Written material not exceeding one (1) page may be read into the record the day of the hearing. Public wishing to speak at the public hearing may do so in compliance with Resolution 2014-06-01, a copy of which is located at City Hall. The hearing will be available via Zoom video conferencing by logging in at: <https://us02web.zoom.us/j/86862147479> or phone at +1 253 215 8782. Meeting ID: 868 6214 7479.

The deadline for submitting written comment and/or material longer than 1 page is May 14, 2021 by 5pm. Written comment can be mailed to City of Bonners Ferry, Planning and Zoning, P.O. Box 149, Bonners Ferry, ID 83805, or faxed to (208) 267-4375.

Complete files are available for view at City Hall, located at 7232 Main, during regular business hours. Anyone requiring special accommodations due to disability should contact the City Clerk at (208) 267-3105 at least two days prior to the meeting.

City of Bonners Ferry Planning and Zoning Dept.

ATTEST: Lisa M. Allport
BFH#10622/AD#453181
APRIL 29, 2021

AFFIDAVIT OF PUBLICATION

State of Idaho

ss

County of Boundary, Celia Lopez being first duly sworn deposes and says that he/she is the book keeper Bonners Ferry Herald, a newspaper printed and published at Bonners Ferry County, Idaho; that the said newspaper has been continuously and uniformly published in said Boundary County during a period of 12 months prior to the publication of the hereto attached notice of publication in the Notice of Public Hearing as it was published in the regular and entire issue of the newspaper for a period of 1 consecutive weeks, commencing on 29 day of April, 2021 and ending on the 29 day of April, 2021 and that said newspaper.

[Signature]

SUBSCRIBED AND SWORN TO before me, this 29 day of April, 2021.

Katrina George

Notary Public-State of Idaho
Residing at: Kootenai County
My Commission Expires 8/29/23





AFFIDAVIT OF PUBLICATION

State of Idaho

ss

County of Boundary, Celia Lopez being first duly sworn on oath deposes and says that he/she is the book keeper of the Bonners Ferry Herald, a newspaper printed and published at Bonners Ferry, Boundary County, Idaho; that the said newspaper has been continuously and uninterruptedly published in said Boundary County during a period of 12 months prior to the first publication of the hereto attached notice of publication in the case of: Notice of Public Hearing as it was published in the regular and entire issue of the said paper for a period of 1 consecutive weeks, commencing on 29 day of April, 2021 and ending on the 29 day of April, 2021 and that said notice was published in said newspaper.

Celia Lopez

SUBSCRIBED AND SWORN TO before me, this 29 day of April, 2021.

Katrina George
Notary Public-State of Idaho

Residing at: Kootenai County

My Commission Expires 8/29/23



~~Boundary County
PO Box 419
Bonners Ferry, ID 83805~~

~~BCSD # 101
7188 Oak St.
Bonners Ferry, ID 83805~~

~~Paradise Valley Fire
PO Box 3213
Bonners Ferry, ID 83805~~

KSPT-KPND-KIBR RADIO
327 MARION
SANDPOINT, IDAHO 83864

~~City of Moyie Springs
PO Box 573
Moyie Springs, ID 83845~~

~~Boundary Volunteer Ambulance
PO Box 441
Bonners Ferry, ID 83805~~

Bonners Ferry Herald
PO Box 539
Bonners Ferry, ID 83805

South Boundary Fire
PO Box 148
Naples, ID 83847

~~Boundary County Road & Bridge
PO Box 1418
Bonners Ferry, ID 83805~~

~~Boundary County Library
PO Box Y
Bonners Ferry, ID 83805~~

~~David Parker, Airport Manager
Boundary County Airport
64602 Hwy 2
Bonners Ferry, ID 83805~~

Cabinet Mountain Water
PO Box 1223
Bonners Ferry, ID 83805

~~Three Mile Water
PO Box 906
Bonners Ferry, ID 83805~~

~~Idaho Transportation Dept.
600 W. Prairie Ave.
Coeur d'Alene, ID 83815~~

~~North Bench Fire District
64464 Highway 2 East/3 Mile
Bonners Ferry, ID 83805~~

Kootenai Valley Times
PO Box 1625
Bonners Ferry, ID 83805

FILE NO.: V03-21 Black

HEARING DATE: 5-20-21

PAGE 1 OF 1

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was mailed to the entities listed above, on May 4th.

2021
Sylvia D. Fairchild

NOTICE OF PUBLIC HEARING

Notice is hereby provided that a public hearing pursuant to Idaho Code 67-6509 and Bonners Ferry City Code has been set for the City of Bonners Ferry Planning and Zoning Commission for **MAY 20, 2021, AT 5:15 PM** at Bonners Ferry City Hall to consider a recommendation to the City Council for the following:

File #V03-21 VARIANCE: James Black is requesting approval for a variance to allow a 10-foot corner lot setback, where 20 feet is required, and a 6-foot interior side yard setback, where 10 feet is required, to allow for the construction of a single-family dwelling. The property is described as Lot 8, Birch Court Subdivision, on Spokane Street and North River Drive in Section 27, Township 62 North, Range 1 East. The site is zoned Residential A.

The public is welcome and encouraged to attend the hearing or provide written response. Any written comment greater than one (1) page must be submitted at least six (6) days prior to the meeting. Written material not exceeding one (1) page may be read into the record the day of the hearing. Public wishing to speak at the public hearing may do so in compliance with Resolution 2014-06-01, a copy of which is located at City Hall. The hearing will be available via Zoom video conferencing by logging in at: <https://us02web.zoom.us/j/86862147479> or phone at +1 253 215 8782. Meeting ID: 868 6214 7479.

The deadline for submitting written comment and/or material longer than 1 page is **May 14, 2021 by 5pm**. Written comment can be mailed to City of Bonners Ferry, Planning and Zoning, P.O. Box 149, Bonners Ferry, ID 83805, or faxed to (208) 267-4375.

Complete files are available for view at City Hall, located at 7232 Main, during regular business hours. Anyone requiring special accommodations due to disability should contact the City Clerk at (208) 267-3105 at least two days prior to the meeting.

City of Bonners Ferry Planning and Zoning Dept.

ATTEST:	Lisa M. Ailport
PUBLISH:	Bonners Ferry Herald April 29, 2021

MAIL:	By May 5, 2021 to landowners within 300'
POST:	Property by May 12, 2021
POST:	Website by May 5, 2021

PARCEL_ID	PS_PAR_15	P:PS_MAIL_NM	PS_PROP_AD
RPB1070000108BA	RPB1070000108BA V	BLACK, JAMES	6732 SPOKANE ST
RPB10700001010A	RPB10700001010A V	WEISLEDER, PETER J	6704 SPOKANE ST
RPB1070000104AA	RPB1070000104AA V	VOGL, MICHAEL L	6691 NORTH RIVER DR
RPB1070000105BA	RPB1070000105BA V	HOWELL, KELLER WILLIAM	6720 SPOKANE ST
RPB1070000106BA	RPB1070000106BA V	HOWELL, KELLER WILLIAM	6724 SPOKANE ST
RPB1070000107BA	RPB1070000107BA V	HOXLEY, MARTHA L	6730 SPOKANE ST
RPB0200002007DA	RPB0200002007DA V	WOOD, VANESSA	6731 NORTH RIVER DR
RPB0200002008AA	RPB0200002008AA V	PARLANE, DANIEL	6739 SPOKANE ST
RPB0200002005BA	RPB0200002005BA V	TUTTLE LARCH STREET LLC	7217 LARCH ST
RPB0200002003BA	RPB0200002003BA V	TUTTLE REV INTER VIVOS TRUST	7215 LARCH ST
RPB02000020010A	RPB02000020010A V	NELSON, KIMBERLY R	6726 IVY LN
RPB02100000160A	RPB02100000160A V	FAIRCHILD, SCOTT	
RPB02100000150A	RPB02100000150A V	FAIRCHILD, SCOTT	6733 SPOKANE ST
RPB02100000140A	RPB02100000140A V	MURRAY, HEATHER M	6725 SPOKANE ST
RPB02100000130A	RPB02100000130A V	FULLER CENTER FOR HOUSING INC	6719 SPOKANE ST
RPB02100000120A	RPB02100000120A V	FULLER CENTER FOR HOUSING INC	6713 SPOKANE ST
RPB02100000110A	RPB02100000110A V	WOLF, FLORA ELIZABETH	6707 SPOKANE ST
RPB02100000100A	RPB02100000100A V	FULLER CENTER FOR HOUSING INC	6701 SPOKANE ST
RPB10700000103BA	RPB10700000103BA V	WEISLEDER, PETER	6687 NORTH RIVER DR
NO RP# - TO 6' OF BANK IN DUNNINGS ACRE TRACTS			
RPB00000274811A	RPB00000274811A V	KOOTENAI RIVER LUMBER CO	6726 RIVERSIDE ST

File no. 003-21 Black

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was mailed to the entities above, on the 4th day of May, 2021

Julia D. Fairchild

PS_TOT_VAL	PS_IMP_VAL	PS_LND_VAL	PS_EX_VAL	PS_NET_VAL	PS_CATS
5000.000000000000	0.000000000000	5000.000000000000	0.000000000000	5000.000000000000	20
20240.000000000000	0.000000000000	20240.000000000000	0.000000000000	20240.000000000000	20
184470.000000000000	156560.000000000000	27910.000000000000	92235.000000000000	92235.000000000000	20 41
13560.000000000000	0.000000000000	13560.000000000000	0.000000000000	13560.000000000000	20
13430.000000000000	0.000000000000	13430.000000000000	0.000000000000	13430.000000000000	20
13760.000000000000	200.000000000000	13560.000000000000	0.000000000000	13760.000000000000	20 30
115870.000000000000	64510.000000000000	51360.000000000000	0.000000000000	115870.000000000000	20 30 47 48
106210.000000000000	65090.000000000000	41120.000000000000	52095.000000000000	0.000000000000	20 30 47 48
146880.000000000000	98670.000000000000	48210.000000000000	0.000000000000	54115.000000000000	20 30 47 48
231460.000000000000	183790.000000000000	47670.000000000000	100000.000000000000	146880.000000000000	20 20 30 41
25420.000000000000	0.000000000000	25420.000000000000	0.000000000000	131460.000000000000	20 20 30 41
20580.000000000000	2790.000000000000	17790.000000000000	8830.000000000000	25420.000000000000	20 20
183680.000000000000	155890.000000000000	27790.000000000000	91170.000000000000	11750.000000000000	20 30
166360.000000000000	138570.000000000000	27790.000000000000	83180.000000000000	92510.000000000000	20 41
0.000000000000	0.000000000000	0.000000000000	0.000000000000	83180.000000000000	20 41
0.000000000000	0.000000000000	0.000000000000	0.000000000000	0.000000000000	81
0.000000000000	0.000000000000	0.000000000000	0.000000000000	0.000000000000	81
0.000000000000	0.000000000000	0.000000000000	0.000000000000	0.000000000000	81
213030.000000000000	185280.000000000000	27750.000000000000	100000.000000000000	0.000000000000	81
0.000000000000	0.000000000000	0.000000000000	0.000000000000	0.000000000000	81
1069510.000000000000	793620.000000000000	275890.000000000000	0.000000000000	113030.000000000000	20 30 41
				1069510.000000000000	21 42

PS_LEGAL_1	PS_LEGAL_2	PS_LEGAL_3	PS_LEGAL_4
LOT 8	BIRCH COURT SUB	SEC 27 T62N R1E	
LOT 1 & 2	BIRCH COURT SUB	SEC 27 T62N R1E	
LOT 4	BIRCH COURT SUB	SEC 27 T62N R1E	
LOT 5	BIRCH COURT SUB	SEC 27 T62N R1E	
LOT 6	BIRCH COURT SUB	SEC 27 T62N R1E	
LOT 7	BIRCH COURT SUB	SEC 27 T62N R1E	
LOT 7 LESS NW 85'	BLK 2	DUNNINGG ACRES TRACTS	SEC 27 T62N R1E
LOT 8 LESS NW 85 FT	BLK 2	DUNNINGG ACRES TRACTS	SEC 27 T62N R1E
LOTS 4&5 AND NW 85' LOTS 6&7	AND 40' ABDN RD	BLK 2 DUNNINGG AC TRACTS	SEC 27 T62N R1E
LOTS 2&3 AND NW 85' LOT 8 AND	40' ABDN RD	BLK 2 DUNNINGG AC TRACTS	SEC 27 T62N R1E
LOT 1, 40 FT ADND RD	BLK 2	DUNNINGG ACRES TRACTS	SEC 27 T62N R1E
LOT 16	REPLAT BIRCH CT/DUNNINGG AC TR	SEC 27 T62N R1E	
LOT 15	REPLAT BIRCH CT/DUNNINGG AC TR	SEC 27 T62N R1E	
LOT 14	REPLAT BIRCH CT/DUNNINGG AC TR	SEC 27 T62N R1E	
LOT 13	REPLAT BIRCH CT/DUNNINGG AC TR	SEC 27 T62N R1E	
LOT 12	REPLAT BIRCH CT/DUNNINGG AC TR	SEC 27 T62N R1E	
LOT 11	REPLAT BIRCH CT/DUNNINGG AC TR	SEC 27 T62N R1E	
LOT 10	REPLAT BIRCH CT/DUNNINGG AC TR	SEC 27 T62N R1E	
LOT 3	BIRCH COURT SUB	SEC 27 T62N R1E	
TAX 3,7,10,21,63,66	LESS TAX 52, 101	SEC 27 T62N R1E	



CITY OF BONNERS FERRY

7232 Main Street P.O. Box 149
Bonners Ferry, Idaho 83805
Phone: 208-267-3105 • Fax: 208-267-4375

STAFF SUMMARY REPORT FOR APPEAL OF BOB SANBORN PROPERTY SPLIT REVIEW ADMINISTRATIVE FILE #AR05-21

- Prepared by:** Lisa M. Ailport, AICP
City Administrator
7232 Main Street
Bonners Ferry, Idaho 83805
- Project Description:** The applicant is seeking an appeal of the decision dated May 5, 2021. The decision is attached to this report.
- Applicant:** Robert (Bob) Sanborn
1421 Fertile Valley Road
Newport, WA 99156
- Council Packet:** Summary Report, Staff Decision letter, Applicant Appeal request, Property Split Review Application

APPLICABLE CITY CODES:

§11-15-5 Appeals and Mediation
§12-1-8, Remedies
Idaho Code, Title 50, Chapter 13

REVIEW OF CITY CODE AND HEARING PROCESSES

Under Bonners Ferry City Code 11-15-5, Appeals and Mediation, any person aggrieved by a ruling of the commission, respecting the interpretation of this act or any officer, department, board or bureau of the city concerning the interpretation of this act may take an appeal to the council in the following manner:

1. Such appellant shall, within fifteen (15) days after either staff or commission makes the decision, file a written notice with the city clerk, together with a filing fee as hereinafter required. The city clerk shall forthwith transmit to the council all papers constituting the record upon which this action was taken.
2. The council, upon receipt of any notice of appeal, shall fix a reasonable time for the hearing of the appeal, but not less than fifteen (15) days nor more than thirty (30) days after

receipt of such notice of appeal and give written notice of such hearing to the appellant, the commission or to any other department of the city which might be affected by the appeal.

3. The commission shall hear and decide the appeal within a reasonable time but in no event more than forty five (45) days after its final adjournment of the hearing. At the hearing, parties in interest may appear in person or by agent or attorney and testify and offer evidence and material relevant to the issue.
4. The council may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination as, in its opinion, ought to have been made on the premises.

The Landowner/applicant has submitted their request in a timely matter together with the \$100.00 fee. The City has fixed the appeal in a timely matter. It is recommended by staff that the following procedure be followed to ensure the applicant is provided due processes for consideration of the appeal.

Hearing conduction

1. Chair opens the hearing, by reading the agenda item.
2. Chair Asks for disclosures and any conflicts of interest.
3. Staff prepare summary of the request- why we are here and what the process is that we are going through.
4. Appellant presents their appeal to the council.
5. Staff presents their decision and reasoning for decision.
6. Rebuttal by Appellant, no new evidence shall be admitted.
7. Council may ask questions of either appellant or staff at any time during the hearing.
8. Chair closes the hearing and then council shall deliberates to a decision; the decision can occur that evening or can be postponed, but no more than 45 days from date of the hearing.
9. Written decision is provided in writing to appellant.

ADMINISTRATIVE REVIEW/SUMMARY

The applicant sought an administrative review and confirmation that lot of ±0.16 acres is a legal parcel or lot by city standards. After a review of a Chain of title report, prepared by Community Title LLC, dated March 25, 2021, staff determined that the lot in question needed to pursue a plat amendment, to remove a plat note on the areas which reads “Not a Building Lot.”

According to the Chain of Title, the original plat was completed in August of 1978 as “Marx Subdivision.” At the time of plat recording the property was in the unincorporated portion of Boundary County. It was not annexed into the City until December of 2001, with ordinance 465.

The County would have had ultimate land regulations over any development that occurred there. However, the plat does contain both the County and the City’s approval signatories on the plat, providing that both entities reviewed and approved the plat at that time.

When the City annexed the plats and land in 2001, they annexed their notes and restrictions as well.

CODE REVIEW AND DETERMINATION

In reviewing city and state code relating to platting and subdivision standards, staff relied on the following in making the determination as provided in the decision letter.

50-1315. EXISTING PLATS VALIDATED. None of the provisions of sections 50-1301 through 50-1325, Idaho Code, shall be construed to require replatting in any case where plats have been made and recorded in pursuance of any law heretofore in force; and all plats heretofore filed for record and not subsequently vacated are hereby declared valid, notwithstanding irregularities and omissions in manner of form of acknowledgment or certificate.

In reviewing this code section, under Idaho law it is clear the city shall honor the existing subdivision as it has been established, regardless of the current nature of the platted lots. For example, if lots do not meet the required lot design standards, the city can not require replatting to correct for irregularities or grandfathered standards. The staff report identifies the 0.16 acre lot as meeting current city codes and standards, or otherwise acknowledges them as grandfathered.

The same is also true in the opposite, the city cannot ignore standards of a plat based on our existing subdivision standards. For example, the note on the plat listing the lot as "Not a Building Lot," was placed as likely a more restrictive covenant of the plat at the time of recording. The city cannot ignore because it is more restrictive, no differently than we can ignore an easement width because our easements standards are less restrictive. Therefore, to address this city relied on Idaho Code 50-1306A to require replatting.

In careful review of the standards of vacating, under Idaho Code 50-1306A, city staff found that vacation of plat procedures does address the standards in which a plat is vacated or replatted, including even parts of plats (§50-1306A(9)). This includes, but is not limited to, plat notes, plat restrictions or plat easements (see statute below).

50-1306A. VACATION OF PLATS – PROCEDURE. (1) Any person, persons, firm, association, corporation or other legally recognized form of business desiring to vacate a plat or any part thereof must petition the city council if it is located within the boundaries of a city, or the county commissioners if it is located within the unincorporated area of the county. Such petition shall set forth particular circumstances of the requests to vacate; contain a legal description of the platted area or property to be vacated; the names of the persons affected thereby, and said petition shall be filed with the city clerk.

Section 50-1306A (9) states "Land exclusive of public right-of-way that has been subdivided and platted in accordance with this chapter need not be vacated in order to be replatted"

CONCLUSION

Staff sees the "Not a Building Lot" as a more restrictive plat note than current city requires, thus requiring the replatting/vacation processes as provided in §50-1306A as a reasonable and necessary process to remove the restriction.



CITY OF BONNERS FERRY

7232 Main Street P.O. Box 149
Bonners Ferry, Idaho 83805
Phone: 208-267-3105 • Fax: 208-267-4375

STAFF REPORT FOR BOB SANBORN PROPERTY SPLIT REVIEW ADMINISTRATIVE FILE #AR05-21

Prepared by: Clare Marley, AICP
Contract Planner
219 Pine Street
Sandpoint, Idaho 83864

Project Description: The applicant is seeking confirmation that parcel of ±0.16 acre is a legal parcel.

Location: The site is located on Vista Drive. The property is known as Assessor's Real Property #RPB064000000COA. The lot is listed as Tax 3 in the Marx Subdivision, Section 22, Township 62 North, Range 1 East, B.M.

Parcel size: ±0.16 of an acre.

Applicant: Robert (Bob) Sanborn
1421 Fertile Valley Road
Newport, WA 99156

Applicant's Representative: N/A

Property Owner: Robert L. Sanborn

Application Filed with City: March 29, 2021

APPLICABLE CITY CODES:
§11-2, Zoning Districts and Maps
§12-3, Subdivisions, Applicability & Exemptions
§12-1-8, Remedies
Idaho Code, Title 50, Chapter 13

PROJECT OVERVIEW/ SUMMARY

The applicant is seeking an administrative review and confirmation that lot of ±0.16 acres is a legal parcel or lot.

PROPERTY INFORMATION

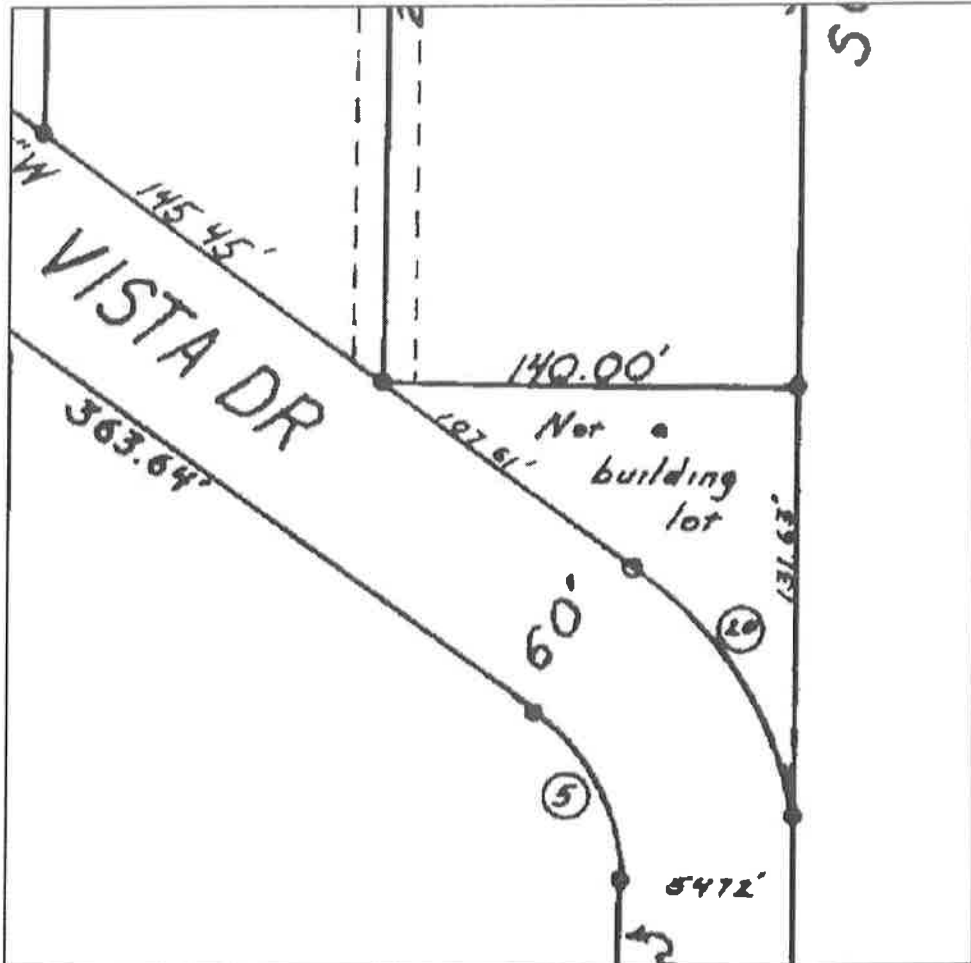
- A. Site Acreage: ±0.16 of an acre or ±6,969 square feet.
- B. Access: The site is served by Vista Drive on the southwest boundary. Vista Drive is a public right-of-way (city street).
- C. Services: The site is not currently served by city sewer and water. The site is within the city fire service area and is served by city police.
- D. Existing structures: There are no structures on the property.
- E. Zoning: Residential A.

In order to determine whether the property was created in conformance with Bonners Ferry subdivision and zoning laws, the administrative review consists of an analysis of the history of the subject property deeds against the effective dates of Bonners Ferry codes. The applicant has submitted a chain of title from Community Title LLC dated March 25, 2021, that reveals the following:

1. Patent recorded as Book 1, Page 344, records of Boundary County, ID (5/15/1900):
2. Patent recorded as Book 2, Page 178, records of Boundary County, ID (5/15/1900):
3. Deed of Records, Book 4, Page 165, records of Boundary County, ID (8/1/1900):
4. Deed of Records, Book 5, Page 617, records of Boundary County, ID (9/1/1907):
5. Deed of Records, Book 6, Page 131, records of Boundary County, ID (5/1/1908):
6. Warranty Deed #39652 (10/22/1942)
7. Warranty Deed #101467 (4/30/1968)
8. Decree recorded #102500 (10/4/1968)
9. Plat recorded #127851 (8/11/1978)
10. Warranty Deed #127853 (8/11/1978)
11. Warranty Deed #202783 (7/27/2001)
12. Warranty Deed #202784 (7/27/2001)
13. Warranty Deed #226544 (5/22/2006)
14. Warranty Deed #285283 (1/26/2021)

ANALYSIS

The lot known as Tax 3 of Marx Subdivision, Book 2 of Plats, Page 17, is the subject of this property split review. The plat was recorded August 11, 1978, before the City of Bonners Ferry annexed the property into the city limits. This 0.16-acre lot is labeled "not a building lot" on the face of the plat, with no explanatory notes. A search of Boundary County records did not reveal a reason for the restrictive label.



The property that formed the future Marx Subdivision was first described at Warranty Deed #127853 (8/11/1978), the same day as the plat was recorded. Prior to 1978, the chain of title reveals the future Marx plat was part of larger parcels of land dating back to May 15, 1900. This "Not a building lot" is included within the boundaries of the plat, as confirmed by the owners' certificate. After the recording of the plat, the first conveyance of the "Not a building lot" lot is shown in the title report as July 27, 2001 at Instrument No. 202783. Rather than a lot description within the Marx Subdivision, the conveyance used a metes and bounds description of the property. This same metes and bounds description is used for three subsequent conveyances of the land. (There is a slight difference with one of the deeds, wherein the directional calls are reversed from north/west to east/south, but this was not a material change to the description.) County Assessor records showed this to be Tax #3 of the Marx subdivision when the first conveyance of this property occurred in 2001. (See attached report documents).

The plat was recorded while the property was in unincorporated Boundary County and was later annexed into the City of Bonners Ferry (date unknown.)

The Remedies section of Bonners Ferry City Code at §Section 12-1-8 paragraph D provides the benchmark dates for determining when a parcel is considered compliant with land use laws of the city. These sections state:

D. For the purposes of the administration of this section, the following shall be considered in compliance:

1. Any lot or parcel which is described on a recorded legal instrument of conveyance prior to December 29, 2005;
2. Any lot or parcel for which a valid building permit has been issued by the City, where on development has occurred and a use has been established in reliance on that permit;
3. Any lot or parcel which is described on a recorded legal instrument of conveyance prior to April 27, 2017, that does not meet lot size or lot dimensional standards.

The size of the lot meets or exceeds the minimum lot area of the Residential A zone district of 5,000 square feet. The lot was described (depicted) on August 11, 1978 as part of the Marx Subdivision plat, but carried the "Not a building lot" label. The land division meets paragraph D1 criteria as being described on a legal recorded instrument of conveyance (the plat) prior to December 29, 2005. The later Tax 3 metes and bounds description also predates the 2005 compliance date, with a recording of July 27, 2001 (Instrument #202783).

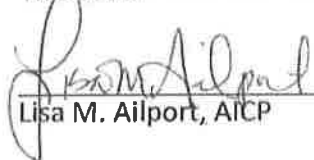
The remaining question is the effect of the label "Not a building lot." The records do not indicate why the lot was not considered a building lot, whether it was due to services, zoning, access, slope, or other issues. Background information does not reveal whether the landowner placed this restriction or the county required it. The city cannot conclude the landowner is permitted to build on the lot without further action to remove the building restriction from the platted lot. To remove the restrictive label, the landowner shall submit an application to the city to amend the subdivision lot.

ADMINISTRATIVE DETERMINATION

On May 5, 2021, the city zoning administrator determined that the lot or parcel known by Boundary County Assessor tax parcel #RPB064000000COA and described in Warranty Deed #285283, is NOT eligible for building permit or development within the City of Bonners Ferry due to the restrictions placed upon the property at the time of plat recording. The steps the land owner may take to bring the subject property into compliance are to:

1. File an application with the City of Bonners Ferry to amend the platted lot;
2. Obtain approval for the amended plat and record the amendment, in compliance with the procedures and standards of the City of Bonners Ferry and the State of Idaho platting requirements.
3. Approval of an amendment to the platted lot does not ensure, guarantee, or entitle the landowner to city utility services.

This action does not result in a taking of private property.



Lisa M. Ailport, AICP

5/5/2021

Approval Date

RIGHTS OF APPEAL

Any person aggrieved by this determination may submit an appeal to the city council, pursuant to Bonners Ferry City Code §11-15-5. Written notice of the appeal shall be filed within 15 days of the decision, together with the required filing fee.

MAP OF THE SUBJECT PROPERTY



Lisa Ailport

From: Bob Sanborn <bluwoodie@yahoo.com>
Sent: Monday, May 17, 2021 12:30 PM
To: Lisa Ailport
Subject: Appeal of #AR05-21.
Attachments: CC&R's.pdf

Lisa,

Please accept this letter as my appeal of your Cinco de Mayo letter to me Re: #AR05-21.

I sent you the appeal letter and \$100.00 check. You should have it soon.

Thank you, bob sanborn

Mr. Mayor and City Council members,

Thank you for your time and attention to my appeal of the property split review, #AR05-21.

I concur with Clare Marley of Ruen and Yaeger that lot #RPB 064 000000 COA satisfies the lot minimum area and exceeds it by 50% for the residential A zone. Additionally, this lot meets the paragraph D1 criteria by having been recorded prior to Dec.29, 2005, (see p.4, Letter of Review, #AR05-21).

In August 1978, Mr. Marx subdivided his land into 1 to 3 acre lots. It is my belief that this .16 acre lot was simply not in character with his aspirational goal of selling and developing 1 to 3-acre view lots in this subdivision. There is no mention made of this lot in the owner's certificate for this plat. This lot complies with the county's regulations for development. Conversely, if the county would have wanted this to be 'unbuildable', it would have required a label on the map and an explanation to that label in the owner's certificate and CCRs. It is not a wetland, open space, nor common ground greenbelt. This is a stand-alone, leftover lot. I own it. I would like to develop it.

I have included Mr. Marx's list of CCRs which were part of the Title Report for this lot, recorded 8-10,11-1978. It appears that at the time of the original subdivision, where this lot was created, Mr. Marx was familiar with and capable of creating a restrictive covenant under the required procedures of Boundary County. The list of restrictions is well developed but does not include any restrictions on this lot concerning development and building.

At the time of the subdivision, approved by Boundary County, this lot, did in fact, satisfy all building lot requirements. This continues to be true under the current city zoning and building codes. Jim Marx's lack of interest in developing this lot should not be interpreted as a restriction. (see surveyor's comment below). I believe, this note

indicates something other than a desire to restrict this parcel from building development forever. Perhaps it was a notice to prospective customers for his lots?

Given the fact Mr. Marx clearly knew how to create a restriction by way of the CCR process, a mere notation, with limited context, on a subdivision map is just that: a mere notation. Without more contextual documentation, it is difficult, if not impossible, to interpret a holographic notation by an unknown author as a binding restriction.

In conclusion, I am asking the city council to exercise its authority and grant this common-sense clarification to the ambiguity left from a 43-year-old plat map notation. The spirit of the original subdivision is not jeopardized by the outcome I am seeking and would allow for reasonably unencumbered use of this lot by myself and all future owners.

"The northeasterly lot is in the Marx Subdivision and the plat does say "not a building lot". I don't think that this is necessarily an absolute restriction as there is no other statement on the plat that specifically states you cannot build on the lot. I would also hope that our crew is being polite but limited in their conversations with adjoining landowners. But I will talk to them this morning and find out."

Thanks – Dick. (with permission)

Respectfully,

Bob Sanborn
509-714-7390

Attachments: Marx CCR



CITY OF BONNERS FERRY

7232 Main Street
P.O. Box 149
Bonners Ferry, Idaho 83805
Phone: 208-267-3105 Fax: 208-267-4375

PROPERTY SPLIT REVIEW APPLICATION

FOR OFFICE USE ONLY – APPLICATION INFORMATION

FILE #: <i>AR05-21</i>	DATE RECEIVED: RECEIVED <i>MAR 29 2021</i>
REQUEST: <i>Property Split Review</i>	CITY OF BONNERS FERRY

FOR OFFICE USE ONLY—DECISION INFORMATION:

DECISION:	DATE OF WRITTEN DECISION:
NOTES:	

APPLICATION FOR PROPERTY SPLIT REVIEW SHALL INCLUDE THE FOLLOWING:

- Completed application form, signed by the landowner;
- Copy of current deed;
- A site plan of the property showing property dimensions, approximate acreage, existing structures labeled as to use, names and locations of all roads, access easements, or rights-of-way serving the property;
- Certified chain of title from a title company showing all recorded transfers of title involving the subject property and parent parcels dating from 1959 to present;
- Copy of the Assessor's Valuation Summary sheet for the subject property;
- Any additional information the applicant believes would be helpful for consideration;
- Appropriate application fee, as set forth by the City.

APPLICANT INFORMATION:

	Mr. Bob Sanborn 1421 Fertile Valley Rd Newport, WA 99156-8371	
	State:	Zip code:
Telephone: <i>509 714 7390</i>	Fax:	
E-mail: <i>blwoodie@yahoo.com</i>		

REPRESENTATIVE'S INFORMATION:

Representative's name: <u>N/A</u>		
Mailing address:		
City:	State:	Zip code:
Telephone:	Fax:	
E-mail:		

PARCEL/LOT INFORMATION: 522, T62N, R1E

Parcel # (s): <u>RPB 064 000 000 COA</u>	Parcel size: <u>.16 ACRE / 7,215 sq'</u>
Legal description: <u>SEE ATTACHED EXHIBIT 'A'</u>	

Current zoning: <u>RESIDENTIAL</u>	Current use: <u>VACANT LAND</u>
Has the city ever issued a building permit for the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, provide permit number and year constructed.	<u>N/A</u>
If there are any surveys of the property, list recording number.	<u>IN PROGRESS BY DICK STAPLES</u>
Access to the site is <input type="checkbox"/> Private <input checked="" type="checkbox"/> Public	Street name: <u>VISTA DRIVE</u>

Note: The property split review is a voluntary application process to determine whether a parcel met the zoning and subdivision laws in effect at the time the division of land occurred. This application is administratively reviewed and can be used to help determine whether a parcel was lawfully divided or whether additional zoning or subdivision standards must be met prior to development. Bonners Ferry City Code 12-1-5(A) does not allow issuance of a building permit, certificate of occupancy, or city utility service for construction of any structure located on a lot or plat subdivided or sold in violation of city subdivision or zoning regulations.

I hereby certify that all the information, statements, attachments and exhibits submitted herewith are true to the best of my knowledge. I further grant permission to the city and its representatives to enter upon the subject land to make examinations or review the premises relative to the processing of this application.

Landowner's Signature: Bob Anderson Date: 3-23-21
 Landowner's signature: _____ Date: _____

RECEIVED
 MAR 29 2021
 CITY OF BONNERS FERRY

Mr. Bob Sanborn
1421 Fertile Valley Rd
Newport, WA 99156-8371

EXHIBIT "A"

[REDACTED]

[REDACTED] (1), [REDACTED] Subdivision, according to the plat in Book Two (2) of plats of page 04, records.

PARCEL II / *APP 064 000 000 COA*

A tract of land situated in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Twenty-two (22), Township Sixty-two (62) North, Range One (1) East of the Boise Meridian, Boundary County, Idaho, more particularly described as follows:

Beginning at the Southwest Corner of said Section Twenty-two (22): thence North 00°03'00" West along the west line of the Section Twenty-two (22) a distance of 1308.01 feet to a point, being the Northwest corner of Marx subdivision as shown on survey of record in Book 2 of Plats at page 17, as Instrument No. 127851, Boundary County Records, thence North 89°48'40" East along the north line of said subdivision, 680.07 feet to a point; thence South 00°02'06" East 858.86 feet along the East line of the said Marx Subdivision to the TRUE POINT OF BEGINNING of this description; thence North 00°02'06" West 131.63 feet to a point; thence west and perpendicular to the east line of the said Marx Subdivision a distance of 140.00 feet to a point on the edge of right of way Vista Drive, thence South 55°37'35" East 107.61 feet to a point, thence on a curve to the right having a central angle of 39°08'52", a radius of 130.0 feet, for an arc length of 88.82 feet, along the edge of right of way known as Vista Drive, to the TRUE POINT OF BEGINNING.

RECEIVED

MAR 29 2021

OFFICE OF COUNTY CLERK



3-23-21

LISA,

PLEASE FIND ENCLOSED THE INFORMATION FOR A PROPERTY SPLIT REVIEW, SINCE I COULDN'T FIND THE APPROPRIATE FORM ON LINE.

By the time you receive this you should have a CHAIN OF TITLE Report for lot number,

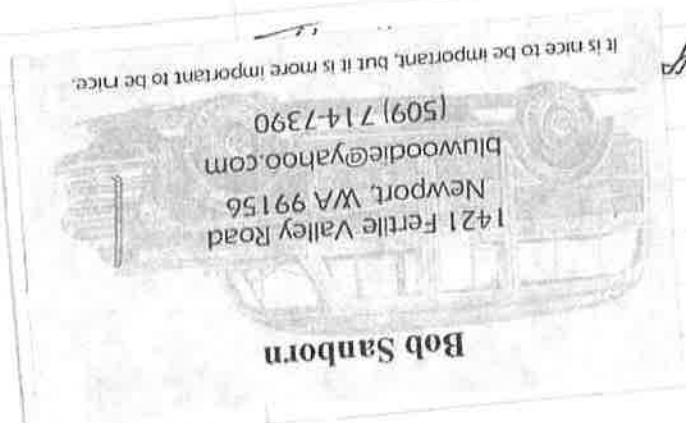
R P B 064 000 000 COA,
LOCATED ON THE EAST SIDE OF VISTA DRIVE, JUST NORTH OF BANIKSU ROAD, BONNERS FERRY CITY LIMITS.

ENCLOSED:

A CHECK FOR THE \$2000 (PERMIT) FEE.

A CARD WITH MY PERSONAL DIRECTORY INFORMATION.

I hope this will be what is needed to achieve your approval for developing, (i.e. sewer, water, electric, and driveway), for parcel R P B 064 000 000 COA.



son

BANDALL W. DAY
ATTORNEY-AT-LAW
P O BOX 138
BONNERS FERRY, IDAHO — 83805
TELEPHONE (208) 267-3198

CONDITIONS OF PROTECTIVE COVENANTS, CONDITIONS & RESTRICTIONS

THIS DECLARATION made on the 10th day of August, 1978, by MARX DEVELOPMENT COMPANY, an Idaho Corporation, whose business address is P.O. Box 922, Bonners Ferry, Idaho 83805, hereinafter referred to as DECLARANT;

W I T N E S S E T H :

WHEREAS, Declarant is the owner of all the property located in Boundary County, State of Idaho, more particularly described as follows:

A parcel of land situate in the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty-Two (22), Township Sixty-Two (62) North, Range One (1) East, Boise Meridian, Boundary County, Idaho.

More particularly described as follows:

Beginning at the Southwest Corner of said Section Twenty-Two (22); thence North $0^{\circ}03'00''$ West along the West line of Section Twenty-Two (22) a distance of 1308.01 feet to the TRUE POINT OF BEGINNING of this description; thence North $89^{\circ}48'40''$ East a distance of 560.07 feet; thence South $0^{\circ}02'06''$ East a distance of 1060.96 feet; thence South $89^{\circ}47'00''$ West along the North right of way of Kaniksu Street a distance of 57.15 feet; thence North $0^{\circ}43'30''$ East a distance of 183.64 feet; thence along an arc of a 70 foot radius curve to the left a distance of 68.85 feet; the long chord bears North $27^{\circ}27'03''$ West a distance of 66.10 feet; thence North $55^{\circ}37'35''$ West a distance of 363.64 feet; thence along the arc of a 130 foot radius curve to the right a distance of 129.28 feet; the long chord bears North $27^{\circ}08'33''$ West a distance of 124.04 feet; thence North $1^{\circ}21'15''$ East a distance of 221.85 feet; thence South $89^{\circ}48'40''$ West a distance of 223.75 feet; thence North $0^{\circ}03'00''$ West a distance of 280.00 feet to the TRUE POINT OF BEGINNING of this description.

WHEREAS, Declarant will convey the said property subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all the property described above shall be held, sold and conveyed, subject to the following easements, restrictive covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, restrictions, covenants and conditions shall run with the real property and shall be binding on all parties having or who will

acquire any right, title, or interest in the above described properties or any part thereof and shall inure to the benefit of each owner thereof.

ARTICLE 1
Area of Application

1. FULLY PROTECTED RESIDENTIAL AREA. The residential area covenants in Article 2 hereof in their entirety shall apply to all of the above described real estate.

ARTICLE 2
Residential Covenants

1. LAND USE AND BUILDING TYPE. No lots shall be used except for single family residential purposes. No buildings shall be commenced, erected, altered, placed, or permitted to remain on any lot other than one detached single family dwelling not to exceed 1½ stories in height and a private garage for not more than three vehicles, with the exception of Lot #14 which may have a 2 story residence.

2. ARCHITECTURAL CONTROL. No buildings shall be commenced, erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finished grade elevation. No fence or walls shall be commenced, erected, placed or altered on any lot nearer to any street than the minimum building set back line unless similarly approved. Approval shall be as hereinafter provided.

3. DWELLING COST, QUALITY AND SIZE. No dwelling shall be permitted on any lot at a cost of less than Thirty Thousand Dollars (\$30,000.00) based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the

covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one story open porches and garages shall not be less than 1080 square feet for a one story dwelling nor less than 1200 square feet for a dwelling of more than one story.

4. BUILDING LOCATION. a. No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than 30 feet to the front line nor 25 feet to any side street line. No building shall be located nearer than 10 feet to an interior lot line.

b. With written approval of the Architectural Control Committee, a one story attached garage may be located nearer to a street than above provided, but not nearer than 10 feet to any street line, where the natural elevation of the lot along the established minimum building setback line is more than either eight feet above or four feet below the established roadway level along the abutting street and where in the opinion of said committee the location and architectural design of such proposed garage will not detract materially from the appearance and value of other properties. Furthermore, under similar conditions and approval, a dwelling may be located nearer to a street than above provided, but not nearer than 20 feet to any street line.

c. Notwithstanding the above, no building shall be commenced, erected or placed on a reserved easement as it appears on the Final Plat of the Marx Subdivision on file with the Recorder's Office of Boundary County, State of Idaho.

5. EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and along the interior five feet of each lot line. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

6. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which maybe or may become an annoyance or nuisance to the neighborhood.

7. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. During the construction of any residence, it shall be permissible for the builder or contractor to place a temporary office and tool shed on the premises which shall be removed immediately following the completion of the building.

8. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

9. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in

any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

10. LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and so long as the care given such animals is accomplished in such a way as to not constitute a source of annoyance to any adjoining property owner. Further, this restriction shall not be considered to prohibit any person from riding a horse about his premises so long as it is not kept or boarded on the premises overnight.

11. GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. The burning in outside incinerators, barbeque pits and the like is prohibited, it being intended that all refuse, trash, garbage, and the like shall be hauled from the subdivision.

12. SEWAGE DISPOSAL. No individual sewage-disposal system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Idaho Department of Health and Welfare. Approval of such system as installed shall be obtained from such authority.

13. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines

extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

14. USE RESTRICTIONS. No manufacturing or commercial enterprises shall be conducted or maintained upon or in connection with any residential lot or lots nor shall said lot or lots, in any way, be used for other than strictly residential purposes except that professional offices may be maintained within the main dwelling upon specific approval by the Architectural Control Committee in each case.

15. REFUSE. Refuse piles or other unsightly objects or material shall not be allowed to be placed or remain upon the premises or easements. The Architectural Control Committee or its agents shall have the right to enter upon said lands and remove such refuse piles or other unsightly objects or materials at the expense of the owner and such entry shall not be deemed a trespass, and owner shall be liable for costs incurred relative thereto.

16. PARKING. No commercial-type vehicles and no trucks shall be stored or parked on any lot except in a closed garage, nor parked on any street. Cars and pickups belonging to a lot owner shall be regularly parked off the street.

17. TRAILER AND BOAT PARKING. Housetrailer or mobile homes shall not be stored or parked on any lot except in a closed garage, nor regularly parked on any residential street or alley. That type of trailer, commonly known as a camping trailer, and boats may be parked by the owner so long as such camping trailer or boats are parked in the rear of the dwelling and within forty feet of the dwelling and in a closed garage. To be at the rear of the dwelling shall be deemed to mean the space between the side building lines extended.

to the rear of the lot. The rear of the dwelling shall be that side opposite the street on inside lots and on corner lots shall be determined by the Architectural Control Committee.

18. GRAVEL PITS. No gravel pit or sand pit shall be maintained or operated on any lot.

19. OBSTRUCTIONS. Outside clotheslines, aerials, antennanes, towers or similar structures must be approved by the Architectural Control Committee. Free-standing basketball backboards shall not be allowed unless specifically approved by the Architectural Control Committee.

20. TREES AND SHRUBS. The removal of trees and shrubs from the lots 12, 13 and 14 shall be prohibited except on written approval of the Architectural Control Committee.

21. BUILDING MATERIALS. All materials used in the construction, alteration or remodeling of any building, wall, fence, or other structure shall be new and of good quality and design. Used materials of good quality may be used in exceptional circumstances, providing the written approval of the use of such materials is first obtained from the Architectural Control Committee.

22. SURFACE WATER. No owner shall collect water at one point and discharge same on to an adjoining lot nor in any way change the natural drainage so as to unduly change the amount of water which runs onto an adjoining property.

23. MAILBOXES. Mailboxes shall be erected at centralized locations as determined by the Architectural Control Committee.

24. CONSTRUCTION, TIME LIMITATIONS. All construction of a residential nature must be commenced within 18 months from purchase date and completed within 18 months from commencement of construction. In the event construction is not commenced within said 18 month period, Purchaser shall resell the property to Seller at the original purchase price, less Sellers original costs.

25. DOUBLE WIDE MOBILE HOMES. No structures commonly referred to as "double wide mobile homes" shall be placed upon any lots without the prior approval of the Architectural Control Committee.

26. DRIVEWAYS. No driveways, private lanes or roads shall enter or exit from Vista Drive or First Street.

27. SEWAGE. Sewage from all lots except Lots 12, 13 and 14 shall be gravity fed to a public sewer system. Sewage from Lots 12, 13 and 14 shall be deposited in a public sewer system by means of individual pumping stations as designed by Durtschi Engineering of Coeur d'Alene, Idaho, as approved by the Idaho Department of Health and Welfare. All costs of connection shall be the responsibility of the lot owner.

28. FUTURE SUBDIVISION. Any future subdivision of any lot, parcel or tract of the aforementioned property is prohibited.

29. PUBLIC DEDICATION. Other than land dedicated to public use as it appears in the Final Plat of the Marx Subdivision, no further lot, parcel or tract of land may be dedicated to public use without the approval of the Architectural Control Committee.

ARTICLE 3

Architectural Control Committee

1. REVIEW BY COMMITTEE. The Architectural Control Committee is composed of James D. Marx, Helen M. Marx, and David Slepnikoff. It is understood that James D. Marx shall have the right and authority to change the membership of said committee by notice in writing to the other members and name new members to the committee in his discretion. The committee shall have the right to refuse to approve any such plans or specifications or grading plans, shall have the right to take into consideration the use and suitability of the proposed building or structure and of the materials with which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structures planned on the outlook from the

adjacent neighboring property, and may in its discretion allow or grant exceptions to these covenants when in its opinion it is advisable to do so.

2. APPROVAL OR DISAPPROVAL. The committee's approval or disapproval, as required in these covenants, shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove, within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

3. DESIGNATION OF REPRESENTATIVE OR SUCCESSOR. A majority of the Committee may designate a representative to act in its behalf in the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to compensation for services performed pursuant to this covenant.

ARTICLE 4 General Provisions

1. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

2. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Costs of enforcing these covenants, including attorney fees

and court costs, shall be paid by any person found in violation of said covenants, conditions and/or restrictions.

3. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

4. NOTICE. Any notice required to be sent to any owner under the provisions of this Declaration shall be deemed to have properly given when mailed, postage prepaid, to the last known address of the person who appears as owner of record at the time of such mailing.

5. CONTRACTS. Every person, who by written contract agrees to purchase any lot, tract, or parcel of land herein described, will be deemed to have made and accepted such contract and agreed to purchase the lands herein described subject to all of the restrictions and conditions herein contained.

6. DEEDS. Every person, who by deed becomes the owner of any lot, tract, or parcel of land hereinabove described, will be deemed to have accepted such deed and title to the land herein described or any portion thereof, subject to all the restrictions and conditions herein contained.

ARTICLE 5
Attest

IN WITNESS WHEREOF, Marx Development Company has executed this document this 10th day of August, 1978.


JAMES D. MARX, President


HELEN M. MARX, Secretary

STATE OF IDAHO:
County of Boundary: ^{ss}

On this 10th day of August, in the year 1978, before me, the undersigned Notary Public for Idaho, personally appeared JAMES D. MARX, known to me to be the president of the corporation that executed the instrument, and HELEN M. MARX, known to me to be the secretary of the corporation that executed the instrument, and acknowledged to me that such corporation executed the same.



Randall W. Day
Notary Public for State of Idaho
Residing at Bonners Ferry, Idaho
My Comm. Exp.: 8-3-80

Supervisor
Office

STATE OF IDAHO } ^{ss} 127854
County of Boundary }

Filed for record at the request of
RANDY Day
on the 11 day of AUG. 19 78 at 4:36
o'clock P.M., and recorded in Book 30
of INST. on page 571

RECEPTION
INDEXED
FILMED
DELIVERED
MAILED

BETTY C. DOUGLAS
County Recorder
By R. James
Deputy
Fee \$ 11.00
Mail to _____