



# PLANNING AND DEVELOPMENT SERVICES

5500 S 5<sup>th</sup> Ave | Pocatello, Idaho 83204 | 208.236.7230 | [www.bannockcounty.us](http://www.bannockcounty.us)

## AGENDA

### BANNOCK COUNTY

### REGULAR PLANNING & DEVELOPMENT COUNCIL MEETING

APRIL 19, 2023 – 5:15 PM

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The public meeting will be held in Conference Room 1, Office of Planning and Development Services, 5500 S 5<sup>th</sup> Ave, Pocatello, ID 83204. Due to limited seating in the conference room, the meeting will also be available via web-conference and telephone. **Details on how to access the Zoom meeting information are given at the end of this agenda.**

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Any citizen who wishes to address the Council, must first complete a sign-up sheet and give their name and address for the record. If a citizen wishes to read documentation of any sort to the Council, they must have a copy available to submit as part of the record. There will be a three (3) minute time limitation for presentations by citizens. The purpose of this agenda is to assist the Council and interested citizens in the conduct of this public meeting. **Citizens should examine the agenda for the item of their interest. However, citizens are advised that only Public Hearings allow for public comment during the discussion / consideration process.** Citizens have an opportunity to be heard by the Council if the item meets the criteria as described in the agenda. *You must sign in at the start of the meeting to be recognized.*

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**RECESS:** The Council Chair or Vice Chair may call a recess, as he/she deems necessary, to allow Council members and participants a brief rest period.

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Bannock County complies with requirements of the Americans with Disabilities Act. Special accommodations can be provided with three (3) days advance notice by calling 208.236.7230, emailing [zoning@bannockcounty.us](mailto:zoning@bannockcounty.us), or coming into the office.

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| AGENDA ITEM NO. | 1. | ROLL CALL AND DISCLOSURE OF CONFLICT OF INTEREST – EX-PARTE COMMUNICATION AND SITE VISIT<br><br>Disclose any communication, including who was there and the basic substance of conversation. Disclose if a site visit was made, location(s) of the site visit and what was seen. |
| AGENDA ITEM NO. | 2. | PRELIMINARY BUSINESS   |

- a) Agenda Clarification and Approval (**Action Item**)
- b) Swear-In to Planning and Development Council – Tam Maynard

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|-----------------|----|--|
| AGENDA ITEM NO. | 3. | APPROVAL OF MINUTES ( <b>ACTION ITEM</b> ) |
|                 | a) | none                                       |

### **PUBLIC HEARING ITEMS**

**(The procedure used for conducting the public hearings is at the end of this agenda.)**

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| AGENDA ITEM NO. | 4. | CONDITIONAL USE PERMIT: EVENT CENTER –<br>The applicant, Cody Redford, petitions for a conditional use permit to establish an event center. The development will have private water and sewer disposal. The affected property is known as parcel RPR4015027906 and is currently addressed as 2080 W Portneuf Road, Inkom, ID 83245. The land is located in the Residential Rural zoning district. At the hearing, the Council shall evaluate the proposed use against criteria established in §530 of the Zoning Ordinance. Type of action: Decision.<br><b>(ACTION ITEM)</b> |
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| AGENDA ITEM NO. | 5. | CONDITIONAL USE PERMIT: OUTDOOR EVENT SPACE –<br>The applicant, Neil Mathews, petitions for a conditional use permit to establish an outdoor event space. The development will have private water or sewer disposal. The affected property is known as parcel RPR4225013401 and is currently addressed as 7239 E Hwy 30, Lava Hot Springs, ID 83246. The land is located in the Agricultural zoning district. At the hearing, the Council shall evaluate the proposed use against criteria established in §530 of the Zoning Ordinance. Type of action: Decision.<br><b>(ACTION ITEM)</b> |
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### **BUSINESS ITEMS**

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| AGENDA ITEM NO. | 6. | VARIANCE EXTENSION REQUEST: R-O-W SETBACKS –<br>The applicant, Jameson Root, requests an extension of a variance. The original approval date was September 21, |
|-----------------|----|--|

2022 and the six-month approval expires April 1, 2023.  
The tax parcel number is RPRRMCM000900 and is  
currently addressed as 9167 W Cinnamon Ridge,  
Pocatello, ID 83204. Type of action: Decision.

**(ACTION ITEM)**

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| AGENDA ITEM NO. | 7. | VARIANCE EXTENSION REQUEST: COTTAGE DWELLING - The applicant, Jeremy Rowberry, requests an extension of a variance. The original approval date was September 21, 2022 and the six-month approval expires April 1, 2023. The tax parcel number is RPRRHAL000500, and is currently addressed as 13348 N Smith Road, Pocatello, ID 83202. Type of action: Decision.<br><b>(ACTION ITEM)</b> |
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| AGENDA ITEM NO. | 8. | ITEMS OF INTEREST<br>a) Update on recommendations to Commissioners<br>b) Discussion of upcoming hearing items<br>c) Announcements |
|-----------------|----|---|

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| AGENDA ITEM NO. | 9. | CITIZEN COMMENTS<br>This time has been set aside to hear items from the audience, not listed on the agenda. Items which appeared somewhere else on the agenda will not be discussed at this time. The Council is not allowed to take any official action at this meeting on matters brought forward under this agenda item. You must sign in at the start of the meeting in order to be recognized. Note: Total time allotted for this item is fifteen (15) minutes, with a maximum of three (3) minutes per speaker. |
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| AGENDA ITEM NO. | 10. | WORK SESSION<br>a) None |
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| AGENDA ITEM NO. | 11. | ADJOURN |
|-----------------|-----|---------|
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The application for each item will be available to the public by request at Planning and Development Services office and on the department's website at [www.bannockcounty.us/planning](http://www.bannockcounty.us/planning). Written testimony of fewer than two (2) pages must be received by the Planning and Development Services office no later than April 11, 2023. Written

testimony may also be sent to [zoning@bannockcounty.us](mailto:zoning@bannockcounty.us). Any written testimony not received by the deadline must be brought to the council meeting and presented at the public hearing. All submitted testimony shall be considered public record. Discriminatory testimony shall not be permitted. Written testimony must comply with standards established in §560.7 of the Bannock County Zoning Ordinance.

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### **PUBLIC HEARING PROCEDURE**

1. A presentation is made by the applicant. (Time limit 6 minutes)
2. An explanation of the subject of the hearing is presented by the Planning and Development Service staff. (No time limit)
3. Testimony is given by the audience in favor of the proposal and then neutral on the proposal and against the proposal. Questioning of the participants, and rebuttals are entertained by the Planning and Development Council (time limit 3 minutes; may allow designation of additional time from sign in sheet)
4. The applicant may rebut the arguments offered by the opposition.
5. The Planning and Development Council discusses the hearing subject; they may direct questions to the staff, the applicant and the audience during this stage of the hearing process.
6. The hearing is closed to oral testimony from the applicant and the audience. The hearing process is concluded.

The Council accepts oral testimony and may accept limited written testimony from those in attendance, but only if the parties have filled out the testimony sign-in sheet. **If you have submitted written testimony as part of the packet, you cannot also give an oral testimony unless it is to read the written testimony into the record.** In order to keep a clear audio recording of this hearing, when testifying, a person must come to the podium and state his/her full name and address. Comments will not be accepted from the audience seats and discriminatory testimony shall not be permitted. There shall be no booing, hissing, or cheering.

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### **INFORMATION FOR ZOOM REGISTRATION**

Time: Apr 19, 2023 05:15 PM Mountain Time (US and Canada)

#### **Join Zoom Meeting**

<https://uso6web.zoom.us/j/86734325263?pwd=bTJXRozWWGJkazFzaUMzTkY2NnF3UTog>

**Meeting ID:** 867 3432 5263

**Passcode:** 787729

One tap mobile

+17193594580,,86734325263# US

+12532050468,,86734325263# US

Dial by your location

+1 719 359 4580 US  
+1 253 205 0468 US  
+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
+1 669 444 9171 US  
+1 669 900 6833 US (San Jose)  
+1 646 931 3860 US  
+1 689 278 1000 US  
+1 929 436 2866 US (New York)  
+1 301 715 8592 US (Washington DC)  
+1 305 224 1968 US  
+1 309 205 3325 US  
+1 312 626 6799 US (Chicago)  
+1 360 209 5623 US  
+1 386 347 5053 US  
+1 507 473 4847 US  
+1 564 217 2000 US

Meeting ID: 867 3432 5263

**Find your local number:** <https://uso6web.zoom.us/j/keHtKeV6PO>

AGENDA ITEM NO. 4  
CONDITIONAL USE PERMIT  
EVENT CENTER



# PLANNING AND DEVELOPMENT SERVICES

5500 S 5<sup>th</sup> Ave | Pocatello, Idaho 83204 | 208.236.7230 | [www.bannockcounty.us](http://www.bannockcounty.us)

## CONDITIONAL USE PERMIT PUBLIC HEARING: April 19, 2023 STAFF REPORT

**FILE #:** CUP-23-3  
**LOCATION:** RPR4015027906, addressed as 2080 W Portneuf Rd.  
**REQUEST:** Conditional Use Permit to establish an indoor event center with parking on approximately 7.44 acres currently zoned residential rural.

**APPLICANT:**  
Cody Redford  
2080 W Portneuf Rd.  
Inkom, ID 83245

**OWNER:**  
Cody Redford  
2080 W Portneuf Rd.  
Inkom, ID 83245

**RECOMMENDATION:** Staff recommends approval with the following conditions:

1. Hours of operation 9am-12am.
2. Landscaping buffer of 50' to limit noise, lighting, and off property interaction.
3. Multimodal path from parking area to event center not along the road.
4. Signs if any shall be flat mounted to the structure.
5. Road Signs will need to be placed notifying traffic of blind approach, at applicant cost.
6. Installed lighting will need to meet Bannock County ordinance per section 475.10.

Council may wish to add additional conditions as needed.

**REQUEST & BACKGROUND:** The applicant, Cody Redford, petitions for a conditional use permit to establish an Event Center. The development will have private water or sewer disposal. The affected property is known as parcel RPR4015027906 and is currently addressed 2080 W. Portneuf Rd. The parcel is located approximately .25 miles from the City of Inkom boundary. The applicant has proposed the hours of operation to be 7 days a week, appointment only. The land is located in the Residential Rural zoning district.

### SITE CHARACTERISTICS AND ZONING:

**ZONING:** Residential Rural

**PROPERTY SIZE:** ~ 7.44 acres

**VIEWS:** The property is visible from north, south, and west.

**EXISTING STRUCTURES:** Single Family Dwelling, a barn, and 8 agricultural structures.

STAFF REPORT  
CONDITIONAL USE PERMIT- Redford  
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**SURROUNDING LAND USES AND ZONING:**

NORTH: Bare ground and agricultural ground; it is within the Residential Rural, Residential Suburban, and Multiple Use zone.

EAST: Residential uses; it is within the Multiple Use zone.

SOUTH: Bare ground; it is within the Agricultural zone.

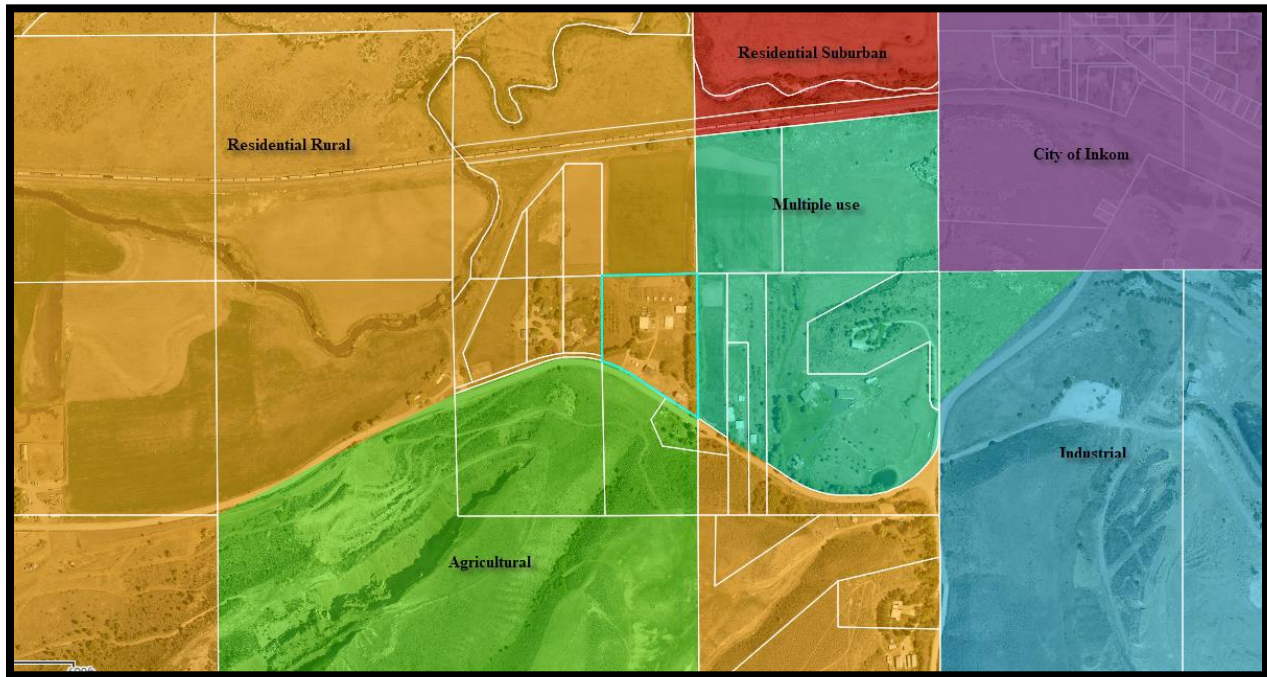
WEST: Bare ground, and residential uses; it is within the Residential Rural zone.

**APPLICABLE LAWS AND PLANS:**

1. Idaho Code §67-6512, SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES
2. 2021 Bannock County Comprehensive Plan
3. Bannock County Zoning Ordinance, 1998-1, specifically:
  - a. §320 RESIDENTIAL RURAL DISTRICT
  - b. §395 USE REGULATION SUMMARY
  - c. §530 CONDITIONAL USE



## SITE MAP



## ZONING MAP

### CONDITIONAL USES (ZONING ORDINANCE §530)

A conditional use may be granted to an applicant if the proposed use is otherwise prohibited by the terms of the ordinance, but may be allowed with conditions under specific provisions of the ordinance and when it is not in conflict with the comprehensive plan.

### STANDARDS FOR APPROVING A CONDITIONAL USE PERMIT (ZONING ORDINANCE §530.6)

The Planning and Development Council may grant a conditional use permit if it makes affirmative findings on each of the following standards:

- A. The proposed use would not adversely affect surrounding properties to a materially greater extent than would a permitted use in the district.**

#### Staff Findings of Fact

There are currently residences to the south, east and west of the proposed conditional use permit. Parcels to the north are bare ground.

Other uses in the Residential Rural zone that are permitted are as follows:

All uses permitted by conditional use permit in the Residential Suburban district, except attached housing unless such housing is in an open space designed subdivision.

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CONDITIONAL USE PERMIT - Redford  
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The Use Regulation Summary chart includes the following as permitted uses in the Residential Rural zone:

1. Boarding House
2. Duplex
3. Bed and breakfast with fewer than 6 bedrooms
4. Commercial Livestock
5. Day care center 1-6 children
6. Day care home 1-6 children
7. Fire station
8. Golf course
9. Park
10. Public service facilities
11. Religious assembly
12. Academic schools
13. Commercial stables

The Council should review these uses to determine whether this proposed use would adversely affect surrounding properties to a materially great extent than would a permitted use in the district.

**B. The proposed use would not cause an undue disruption of travel or an extraordinary increase in the volume of traffic in the vicinity of the proposed use.**

Staff Findings of Fact

Staff finds there will be an increase in traffic. As this parcel is located 0.25 miles from city limits, it should only increase for a small section of Portneuf Rd. There may be an increase from local travelers that are currently using this route. Applicant has proposed 3 employees at this time.

**C. The proposed use would not damage the public health, safety, or general welfare within its vicinity, or be materially injurious to properties or improvements in the vicinity.**

Staff Findings of Fact

The location of the proposal is within a populated area. Approval for ingress and egress may be granted by Bannock County Road and Bridge. In the event of an emergency, Council should consider health and safety.

**D. The proposed use would be consistent with the goals and policies of the Comprehensive Plan.**

Staff Findings

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CONDITIONAL USE PERMIT - Redford  
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Staff has identified the following applicable goals and policies (others may be identified by the Council):

The Bannock County Comprehensive Plan states:

*Policy 1.1.1: Collaborate with developers to ensure that new development bears the costs associated with providing services to said development.*

*Objective 1.5: Ensure that the County's land use policies and regulations do not violate private property rights.*

*Policy 1.5.2: Ensure land use actions, decisions and regulations align with the County's responsibility to protect public health, safety and welfare.*

*Policy 3.2.3: Ensure that impacts of adjacent land uses are mitigated (e.g. agricultural, commercial, industrial and residential) through buffer zones, design standards and other land use policies.*

*Objective 4.1: Ensure County Functions, policies and services support economic development efforts.*

*Objective 4.2: Support the development of a skilled, talented and trained workforce and increase access to livable wage jobs and higher-paying job opportunities.*

*Objective 4.5: Encourage businesses and developments to incorporate active lifestyle elements in their projects and activities to enhance the well-being and health of the workforce and residents.*

*Policy 5.2.5: Encourage new residential and commercial developments with the County incorporate appropriate pedestrian and biking facilities and connections to the on-street network.*

*Policy: 5.3.1: Design roadways to meet the safety and access needs of current and future traffic conditions.*

- E. The proposed use would be designed to be as compatible in terms of building height, bulk, scale, setbacks, open spaces, and landscaping with adjacent uses as is practical.**

**Staff Findings of Fact**

The structure is currently in place. When remodeling the structure the applicant will be required to comply with all Bannock County Ordinances and building code.

**CONDITIONS OF APPROVAL (ZONING ORDINANCE §530.7)**

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CONDITIONAL USE PERMIT - Redford  
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Upon the granting of a Conditional Use Permit, conditions may be attached to a permit including, but not limited to, those:

- A. Minimizing adverse impact on other developments, such as:
  - 1. Requirements for special yards, open space, buffers, fences, walls, and screening.
  - 2. Requirements for installation and maintenance of landscaping and erosion control measures.
  - 3. Requirements for road improvements and dedications.
  - 4. Regulations of signs.
  - 5. Regulation of hours or other characteristics of operation.
  - 6. Establishment of development schedules or time limits for performance or completion.
- B. Controlling the sequence and timing of development,
- C. Controlling the duration of development,
- D. Assuring that development is maintained properly,
- E. Designating the exact location and nature of development;
- F. Requiring the provision for on-site or off-site public facilities or services;
- G. Requiring more restrictive standards than those generally required in an ordinance; and
- H. Imposing other conditions that the Planning and Development Council deems necessary to ensure compatibility with surrounding uses, to preserve the public health, safety and welfare and to ensure compliance with the standards listed in Section 530.6.

#### **IDAHO CODE REGARDING CONDITIONAL USE PERMITS**

IC 67-6512(a): Denial of a special use permit or approval of a special use 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 requirements established thereby.

IC 67-6512(e): Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section 21-501(2), Idaho Code, of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.

#### **AGENCY COMMENTS:**

- 1. SIPH (4/10/23)
- 2. DEQ (4/10/23)

#### **PUBLIC COMMENTS:**

- 1. Burton (4/10/23)
- 2. Hahn (4/10/23)
- 3. Whitworth (4/11/23)
- 4. Lish (4/12/23)

**REPORT BY:**

Jim Bagley, Planner

[jamesb@bannockcounty.us](mailto:jamesb@bannockcounty.us)

208-236-7230

**REPORTED DATE:** April 12, 2023

*\*Staff comments in this report are based solely upon evidence available at the time of the report.*

*Additional information may be brought to light at or before the hearing.*

**EXHIBITS:**

1. Application
2. Site Plan
3. Evidence of Notices (on file with Staff)
4. Applicable Laws (on file with Staff)
5. Agency/Public Comments (if any)

# EXHIBIT 1

## APPLICATION AND SITE PLAN



Bannock County, ID

03/30/2023

## CUP-23-3

### Conditional Use Permit

**Status:** Active**Date Created:** Feb 22, 2023

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### Applicant

Cody Redford  
crredford79@gmail.com  
2080 West Portneuf Road  
PO Box 76  
Inkom, ID 83245  
2083174804

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### Conditional Use Permit

**Parcel #**

RPR4015027906

**Zoning**

Residential Rural

**Please describe your project.**

The project will focus on the restoration and rehabilitation of the 'white barn' in Inkom. The barn is estimated to be 100 years old. Restoration will include improvements that will return the barn to its former glory and provide a community gathering location. Improvements will focus on meeting the needs necessary for use by the public.

**What product or service are you providing?**

Community Event Venue

**Proposed hours of operation**

By Appointment Only

**Proposed days of the week operation will be in use**

7 Days a week - by appointment only

**Method for Handling Waste**

PSI

**Proposed number of employees**

3

**Equipment and Machinery Use**

Landscape Maintenance

**Water Supply**

Private

**Sewage Disposal**

Private

**Will Existing Buildings be Utilized?**

Yes

**Will New Buildings be Required?**

No

**If yes, describe:**

The project will focus on the restoration and rehabilitation of the 'white barn' in Inkom. The barn is estimated to be 100 years old. Restoration will include improvements that will return the barn to its former glory and provide a community gathering location. Improvements will focus on meeting the needs necessary for use by the public.

**Vehicles Used in Operation:**

None

**Will there be any emissions, such as smoke, dust, etc.?**

No

**Daily One-Way Vehicle Trips, Including Employees, Deliveries, etc.**

Traffic would be limited to appointment only events.

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**Standards for Approval**

1. The proposed use would not adversely affect surrounding properties to a materially greater extent than would a permitted use in the district.
2. The proposed use would not cause an undue disruption of travel or an extraordinary increase in the volume of traffic in the vicinity of the proposed use.
3. The proposed use would not damage the public health, safety, or general welfare within its vicinity, or be materially injurious to properties or improvements in the vicinity.
4. The proposed use would be consistent with the goals and policies of the comprehensive plan of the county.
5. The proposed use would be designed to be as compatible in terms of building height, bulk, scale, setbacks, open spaces and landscaping with adjacent uses as is practical.

**Narrative addressing how your application meets criterion 1**

Surrounding properties would not be adversely affected. All efforts will be made to minimize any disturbance to the surrounding properties and improvements would add value to the surrounding properties.

**Narrative addressing how your application meets criterion 2**

The use would not cause and undue disruption of travel or an extraordinary increase in the volume of traffic in the vicinity on a regular basis. Increased traffic would be sporadic and very by the size of the event.

**Narrative addressing how your application meets criterion 3**

The proposed use will not damage the public health, safety, or general welfare within its vicinity, or be materially injurious to properties or improvements in the vicinity.

**Narrative addressing how your application meets criterion 4**

The proposed use is consistent with the goals and policies of the Bannock County Comp Plan by meeting the needs of the local growing community of Inkom.

**Narrative addressing how your application meets criterion 5**

Improvements will be made to the existing 100 year old structure and include improvements to the overall appearance of the structure and area surrounding it. The improvements would be designed to be as compatible in terms of building height, bulk, scale, setbacks, open spaces, and landscaping with adjacent uses as is practical.

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**Acknowledgement****Electronic Signature [Typed Name of Applicant]**

Cody Redford

**Date**

02/22/2023

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**P&Z Council Public Hearing Information**

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# EXHIBIT 2

## PUBLIC COMMENTS

## Conditional Use Permit Response for Parcel RPR4015027906

Bradley Burton <bburton@mvmfamilymed.com>

Sat 4/8/2023 4:47 PM

To: Planning and Zoning <zoning@bannockcounty.us>

April 8, 2023

Bannock County Planning and Development Council

Regarding CUP-23-3 on parcel RPR4015027906

To Whom It May Concern:

This is a response to the notice of public hearing regarding the conditional use permit 23-3 on parcel RPR401527906 to establish an Event Center by refurbishing the historic "White Barn".

My wife and I live on the neighboring property just west of the proposed Event Center. We think that the restoration of this 100 year old barn into an Event Center would preserve the farming and ranching heritage that is characteristic of this area and would make available a unique and attractive place to host events, however, there are some safety issues and quality of life concerns that need to be addressed if this project were to be approved.

The conditional use permit standards for approval states several things, including:

"The proposed use would not damage the public health, safety, or general welfare within its vicinity, or be materially injurious to properties or improvements in the vicinity."

Our concern is that the increased traffic generated by the change in land use (e.g. community gathering events, weddings, etc.) would cause additional safety concerns for our family, friends visiting us, and cyclists who frequent this route due to the limited vertical and horizontal sight distance challenges already prevalent.

The county has already acknowledged significant horizontal curvature of the roadway by the placement of two MUTCD W1-5 signs located at approximately 2312 Portneuf Rd and at 1750 Portneuf Rd (both sides of our property). The American Association of State Highway Transportation Officials (AASHTO) requires minimum horizontal sight distances for vehicles turning left and right to see objects 3.5 feet above the roadway that is a factor of the speed of the roadway. The posted speed limit on Portneuf Road is 35 mph.

The horizontal sight distance looking east from our property traveling east towards the smaller proposed parking lot is approximately just over 300 feet, which is inadequate according to AASHTO (AASHTO requires at least 390 feet at a 35 mph speed)

In addition, due to the elevation change and the horizontal curvature of the roadway, the location of the smaller proposed parking lot makes visualizing exiting traffic and cyclists traveling east a safety hazard. A significant blind curve is present. This is compounded by our experience that motorists rarely travel at the posted speed limit which would subsequently endanger the safety of motorists exiting the parking lot and those on the road, including our family and any other cyclists using the roadway.

The Bannock County comprehensive plan was reviewed and an integral part of this plan is to protect and enhance resident's quality of life. We moved out to this rural area for the peace and quiet that is in abundance here. There is no county noise ordinance that we could find and we are concerned about the possibility of this becoming a problem without having any recourse.

In order to abide by the "standards of approval" of the conditional use permit for parcel # RPF4015027906, we would recommend that the county survey both the horizontal and vertical sight distance requirements required by AASHTO and consider the following options:

1) To deny the permit since it is adding traffic to the neighborhood and further exacerbates the insufficient site distance problems which "endangers the safety and general welfare within its vicinity."

2) To add right-in and right-out access only to the new smaller proposed parking lot, east of the white barn on Portneuf Rd, so as to prevent traffic from turning left out of the parking lot into this blind spot.

3) To change the speed limit of Portneuf Rd to 25 mph through this dangerous section of roadway and add appropriate traffic calming measures to the roadway so compliance is obtained that puts the speed in compliance with the required sight triangle calculations.

4) If there is no county ordinance, establish an enforceable noise ordinance to ensure the peace and tranquility of our current surroundings which will enhance our quality of life.

We appreciate your time and attention to our concerns regarding the safety issues, and potential detriment to our quality of life this proposed conditional use permit creates near our home on the roadway.

Sincerely,  
Brad and Lori Burton  
2176 W. Portneuf Road  
Inkom Id 83245

Sent from my iPad

Greetings,

Our names are David & Natasha Hahn.

We live at address 1966 W. Portneuf rd.

We are directly located next to the section of plan where the parking lot is planned.

We would like to let you know that the proposed parking lot for 50 cars would greatly reduce the value of our property.

The heat from a parking lot would directly affect our home & increase the energy needed to maintain home temperature. Parking lot plans do not mention. Safety lights needed in the parking lot.

If any lights were to be installed, they would be lighting up my home every night as the parking lot is so close to my home. My living room, kitchen & dining room as well as 3 bedrooms all face the property where the proposed 50 car parking lot in the plan is to be built. Again, it would be detrimental and deprive us of our ability to sleep without the night. Artificial lighting is directly linked to sleep depredation & could cause other direct health issues. By allowing this change to our rural properties, you will be allowing another to inflict harm from parking lot lights on our homes. Would any of you wish to have your home located under parking lot lights? We would not be able to open our windows and have the night air come in without light coming in as well.

To round it all up it's very easy to see the negative effect of this planned venue. There is also the noise and traffic we would now be subjected to when all customers even come to look at the venue as well as any and all events. The coming and going of staff and catering as well as all coming & goings from customers & the public in the parking lot. Along with the increase of traffic will be the increase of noise from Music, live bands, or all noise. Including customers & their guest hanging out in the parking area, customers guest may bring alcohol or other drinks now subjecting our home and family to even more disruption of our ability to find peace, quiet, the ability to I just listen to the beauty of the birds happy chirping. We currently have a pair of owls that (hoot) call out to each other at night it is wonderful to hear them. The coyotes yelping at night is also fun to listen to, as they all get answers from other coyotes then where it sounds as if every coyote in the area all yelping together. We are also a main migration route for the local deer & moose. Other wildlife uses the field next to us. (This field is the proposed parking lot for 50 cars.) This planned venue will negatively affect the migration path for wildlife.

There will also be the increased amount of traffic this venue would create. In one direction the traffic would not have adequate time and safety to stop and turn into a parking lot. Due to a blind hill and corner. In the other direction is another blind corner where bicyclists tend to stop by the pond, and they do not all stay off the road. The safety of the public is at risk with the increase in traffic that the planned venue would create.

Now the old barn sits on a plot of land of 8 + acres that is connected to the house. The planed parking lot is on a separate plot of land & This plot is 3+ acres.

On the first plot of land, the house gets its water from the only well that is located east of the barn and goes to the pump house behind the old barn in a small building attached to the back of that barn. There is no water nor sewer currently in the old barn. This well feeds the resident from the pump house on that 8-acre parcel.

We were told by Richard Spencer, (the previous owner), The barn itself is a hazard. Richard Spencer stated he had an engineer out to inspect old barn as he was interested in fixing it. We were told by Richard that the engineer told him that sections of the foundation were collapsing & needed to be completely rebuilt.

On The 2nd plot of land 3+ acres where the parking lot is planned to be built.

The impact on Portneuf road could be devastating during any flooding. Not only along with the hazards of flooding to our home again and now possibly the barn. The parking area would have to be raised and improved. Effectively changing the flow of all waters from the Indian Creek. This parcel of land that is the proposed parking lot is one of the main flooding relief area for the Indian Creek and if a parking lot is to be built there, it will push the higher flows west into other properties and cause more problems possibly more flooding on down the stream to other properties that now are not set up to handle.

Like the Riverwoods Event Venue on Bannock Hwy., it will cause many complaints. Not only the Neighbor's but traffic also and water flow problems.

To round it all up it's very easy to see the negative effect of this planned venue.

It would negatively Impact not only our Home & Family and property but, the surrounding areas & our neighbors, the wildlife, the safety to public and water flow of the Indian Creek during spring runoff flow.

We humbly ask for a permit to be denied.

Thank you.

David & Natashia Hahn

hondo.idaho@ hotmail.com

# EXHIBIT 3

## AGENCY COMMENTS



April 7, 2023

Mr. Hal Jensen, Planning Director  
Bannock County Office of Planning & Development Services  
5500 S. 5<sup>th</sup> Ave  
Pocatello, ID 83204

Subject: Conditional Use Permit – Event Center – Redford

Dear Mr. Jensen:

The Idaho Department of Environmental Quality (DEQ) has reviewed the subject documents and would like to offer the following comments:

This proposal indicates that the facility will utilize a private water system to provide drinking water for the facility. The applicant should be made aware that a drinking water system serving an average of at least 25 individuals for at least 60 days out of the year, regardless of configuration, qualifies as a public water system as defined in the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08). If the occupancy of the facility would meet or exceed this threshold, the facility would be regulated as a public water system.

Several requirements for a public drinking water system include obtaining DEQ review and approval for the source (well) and distribution system and routine water sampling. Due to these considerations, the applicant must contact DEQ to request additional information regarding the construction and operation of a public drinking water system. Additionally, public drinking water system construction plans & specifications must be prepared by a professional engineer and must be submitted to DEQ for review and approval prior to construction in accordance with Idaho Code 39-118.

This proposal indicates that the wastewater at the proposed facility will be disposed of via a private wastewater system. If the proposal is to utilize a septic system, the applicant will need to contact Southeast Idaho Public Health (SIPH) for more information and to submit a septic system application.

If a septic system is proposed and is determined to have daily wastewater flow in excess of 2,500 gallons per day, it would need to be designed as a Large Soil Absorption System (LSAS), which would require design by a licensed professional engineer, along with DEQ review and approval.

DEQ's General recommendations for land development projects are also attached.

If you have questions or comments, please contact me at 208-236-6160 or via email at [Allan.Johnson@deq.idaho.gov](mailto:Allan.Johnson@deq.idaho.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Allan Johnson', is positioned above the typed name.

Allan Johnson, P.E.  
Regional Engineering Manager  
DEQ Pocatello Regional Office

EDMS 2023AGD1916

Attachment: DEQ General recommendations for land development projects.

c: Katy Bergholm, Regional Administrator, DEQ Pocatello Regional Office  
Ken Keller, Environmental Health Director, Southeast Idaho Public Health

## **General Recommendations**

The following comments are generally applicable to land development projects or other land use activities with the potential to cause impacts to ground water, air quality or surface water. DEQ provides this guidance in lieu of more site-specific comments when information regarding the land use proposal is limited.

### **Engineering**

DEQ recommends consolidation of drinking water and/or wastewater services wherever feasible especially in areas where ground water used for public drinking water supplies is potentially impacted. DEQ considers the following alternatives generally more protective of ground water resources than using individual well and septic systems for each lot, and we recommend that the county require the developer to investigate the following options:

- Provide either a centralized, community drinking water or centralized community wastewater system or both, or
- Connect each lot to an existing community drinking water system or to an existing community wastewater system or both.

In accordance with Idaho Code 39-118, construction plans & specifications prepared by a professional engineer are required for DEQ review and approval prior to construction if the proposed development is to be served by either a community drinking water or sewer system. DEQ requires that a water system serving 10 or more connections is constructed and operated in compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems."

### **Air Quality**

New emission sources are generally required to follow applicable regulations for permitting or exempting new sources. These are outlined in the Rules for the control of Air Pollution in Idaho.

Of particular concern is IDAPA 58.01.01.200-228 which establishes uniform procedures and requirements for the issuance of "Permits to Construct".

Sections 58.01.01.220-223 specifically may be used by owners or operators to exempt certain sources from the requirements to obtain a permit to construct.

Land development projects are generally required to follow applicable regulations outlined in the Rules for the control of Air Pollution in Idaho. Of particular concern is IDAPA 58.01.01.650 and 651 Rules for Control of Fugitive Dust.

Section 650 states, "The purpose of sections 650 through 651 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust."

Section 651 states "All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following:

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing building or structures, construction operations, the grading of roads, or the clearing of land.
02. Application of Dust Suppressants. Application, where practical of asphalt, oil, water, or suitable chemicals to, or covering of dirt roads, materials stockpiles, and other surfaces which can create dust.

03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations.

04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts.

05. Paving. Paving of roadways and their maintenance in a clean condition, where practical.

06. Removal of Materials. Prompt removal of earth or other stored materials from streets, where practical.”

### **Surface Water Quality**

Land disturbance activities associated with development (i.e. - road building, stream crossings, land clearing) have the potential to impact water quality and riparian habitat.

If this project will ultimately disturb one or more acres and there is a possibility of discharging stormwater or site dewatering water to Surface Waters of the United States, the operator may need to submit a Notice of Intent (NOI) for coverage under the Idaho Pollutant Discharge Elimination System (IPDES) 2022 Construction General Permit (CGP). NOIs can be submitted via the IPDES E-Permitting System (<https://www2.deq.idaho.gov/water/IPDES/>). The 2022 IPDES CGP requires a Storm Water Pollution Prevention Plan (SWPPP), implementation of Best Management Practices (BMPs) to reduce the sediment and other pollutants discharged and requires regular site inspections by persons trained and knowledgeable about erosion, sediment control, and pollution prevention.

Site contractors should remove equipment and machinery from the vicinity of the waterway to an upland location prior to any refueling, repair, or maintenance. After construction is completed, disturbed riparian areas should be re-vegetated.

### **Waste Management - Hazardous Material - Petroleum Storage**

With the increasing population in southeast Idaho, to ensure sufficient solid waste capacity and service availability. It is recommended that subdivision developers be instructed to contact the appropriate solid waste collection provider and landfill for solid waste disposal coordination.

Accidental surface spills of hazardous material products and petroleum hydrocarbon products (i.e., fuel, oil, and other chemicals) are most associated with the transportation and delivery to work sites or facilities. The following Idaho, storage, release, reporting and corrective action regulations may be applicable:

- Hazardous and Deleterious Material Storage IDAPA 58.01.02.800
- Hazardous Material Spills, IDAPA 58.01.02.850
- Rules and Standards for Hazardous Waste IDAPA 58.01.05
- Petroleum Release Reporting, Investigation and Confirmation IDAPA 58.01.02 .851
- Petroleum Release Response and Corrective Action IDAPA 58.01.02.852

Please note, The Idaho Release, Reporting and Corrective Action Regulations, IDAPA 58.01.02.851; require notification within 24 hours of any spill of petroleum product greater than 25 gallons and notification for the release of lesser amounts if they cannot be cleaned up within twenty-four (24) hours. The cleanup requirements for petroleum are also contained in these regulations.

For reporting requirements of hazardous substances please see Idaho Statute Title 39 Chapter 7, Hazardous Substance Emergency Response Act including section 39-7108 Notification of Release is Required.

## Conditional Use Permit - Cody Redford

Ken Keller <KKeller@siph.idaho.gov>

Mon 4/10/2023 10:32 AM

To: Planning and Zoning <zoning@bannockcounty.us>

Cc: 'Allan Johnson' <Allan.Johnson@deq.idaho.gov>; Adam Settell <asettell@siph.idaho.gov>

Dear Bannock County Planning and Development Services,

Southeastern Idaho Public Health (SIPH) is writing in response to your request for preliminary comments regarding the proposed Conditional Use Permit (CUP) for Parcel # RPR4015027906. The property is located at 2080 Portneuf Road. The Legal Description is Section 29, Township 7 South, Range 36 East, B.M.; Bannock County, Idaho. The applicant is Cody Redford.

Care must be taken in the development of this property in order to meet all setback requirements for individual subsurface sewage disposal systems (IDAPA 58.01.03.). Additional, detailed information is required to determine the suitability of the property for subsurface sewage disposal. The number of people the proposed event center is designed for is valuable information in determining the size and complexity of a potential subsurface sewage disposal system and determination of the type of water system needed.

Additional site considerations for the approval of a subsurface sewage disposal systems include: Septic system proximity to surface water, slope of proposed septic system location, soil suitability and other limiting layers such as shallow ground water and bedrock. These are preliminary comments. SIPH has not received any applications, conducted an onsite evaluation or observed test holes on this proposed site.

If you have any questions or comments, please feel free to contact me at [kkeller@siph.idaho.gov](mailto:kkeller@siph.idaho.gov) or (208) 239-5276.

Sincerely,

*Ken Keller*

Environmental Health Director

1901 Alvin Ricken Dr.  
Pocatello, ID 83201  
(208) 239-5276

Siphidaho.org



[Southeastern Idaho Public Health Website click the image blocks below to access our facebook twitter and calendar](#)

"Every day, in every way, empowering & improving health!"



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Bannock County Planning and Development Council

April 19, 2023

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# EXHIBIT 4

## ORDINANCE EXCERPTS

refiled for twelve months following Board of County Commissioners' action on them unless the rezoning application was rejected conditionally to permit reapplication.

### 530 CONDITIONAL USES:

A conditional use may be granted to an applicant if the proposed use is otherwise prohibited by the terms of the ordinance, but may be allowed with conditions under specific provisions of the ordinance and when it is not in conflict with the comprehensive plan. The allowance of a conditional use is discretionary with the Planning and Development Council and may be granted only in the best interests of the general public. The applicant for a conditional use permit shall carry the burden of proof in showing that the proposed use does not conflict with the spirit or purpose of the comprehensive plan of the county and the standards for conditional use permits set forth in this Ordinance.

#### 530.1 JURISDICTION:

The Planning Director shall be responsible for administration of the Conditional Use Procedure, and the Planning & Zoning Commission shall be responsible for review, evaluation, and action on all applications for a Conditional Use Permit.

#### 530.2 CONCURRENT APPLICATIONS:

Application for a Conditional Use Permit and for rezoning for the same property may be made concurrently, subject to the fees applicable to both a conditional use permit and a rezoning. The Planning and Development Council may hold the public hearing on the rezoning and the conditional use permit at the same meeting and may combine the two hearings. In such cases, the date of the Planning and Development Council's decision on the Conditional Use Permit application shall be deemed to be the same as the effective date by the Board of County Commissioners of an ordinance changing the zone boundaries, provided that if the Board of County Commissioners modifies a recommendation of the Planning and Development Council on a concurrent zoning reclassification, the Conditional Use Permit application shall be reconsidered by the Planning and Development Council in the same manner as a new applications; provided, however, that no additional fee shall be required.

#### 530.3 APPLICATION AND FEE:

Application for a Conditional Use Permit shall be filed with the Planning Director at least thirty days prior to the public hearing. The application shall include the following:

1. Name and address of the owner and applicant.
2. Address and legal description of the property.
3. If the applicant is not the legal owner of the property, a written statement signed

by the owner that the applicant is the authorized agent of the owner of the property.

4. A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the findings required for approval of the application. For uses involving public assembly or industrial processing, or uses potentially generating high volumes of vehicular traffic, the Director may require specific information relative to the anticipated peak loads and peak use periods, relative to industrial processes and the ability of the use to meet performance standards, or substantiating the adequacy of proposed parking, loading, and circulation facilities.
5. Site plan, preliminary building elevations, preliminary improvement plans, and such additional maps and drawings, all sufficiently dimensioned, as required to illustrate the following:
  - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
  - b. The location and dimensions of boundary lines, with distances and bearings, easements, and required yards and setbacks, water courses, drainage features and location and size of existing and proposed roads and 100-year flood plains.
  - c. The location, height, bulk, general appearance, the intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting sites
  - d. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs, and lighting.
  - e. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements.
  - f. For sites with an average slope greater than 10 percent, a plan showing existing and proposed topography and grading and proposed erosion control measures.
  - g. The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.
6. Any applicable fee established by the Board of County Commissioners.

#### 530.4 PUBLIC HEARING AND NOTICE:

The Planning and Development Council shall hold a public hearing on each application for a conditional use permit. Notice shall be given as prescribed in Section 560. At

the public hearing, the Planning and Development Council shall review the application and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the standards prescribed in Section 530.6

#### **530.5 ACTION BY THE PLANNING AND DEVELOPMENT COUNCIL:**

The Planning and Development Council shall act on the application not more than 30 days following the closing of the public hearing on a conditional use permit. The Commission may grant a conditional use permit as the permit was applied for or in a modified form, or subject to conditions, or may deny the application.

#### **530.6 STANDARDS FOR APPROVING A CONDITIONAL USE PERMIT:**

The Planning and Development Council may grant a conditional use permit if it makes affirmative findings of fact on each of the following standards:

- A. The proposed use would not adversely affect surrounding properties to a materially greater extent than would a permitted use in the district.
- B. The proposed use would not cause an undue disruption of travel or an extraordinary increase in the volume of traffic in the vicinity of the proposed use.
- C. The proposed use would not damage the public health, safety, or general welfare within its vicinity, or be materially injurious to properties or improvements in the vicinity.
- D. The proposed use would be consistent with the goals and policies of the comprehensive plan of the county.
- E. The proposed use would be designed to be as compatible in terms of building height, bulk, scale, setbacks, open spaces, and landscaping with adjacent uses as is practical.

#### **530.7 CONDITIONS OF APPROVAL:**

Upon the granting of a Conditional Use Permit, conditions may be attached to a permit including, but not limited to, those:

- A. Minimizing adverse impact on other developments, such as:
  - 1. Requirements for special yards, open space, buffers, fences, walls, and screening.
  - 2. Requirements for installation and maintenance of landscaping and erosion control measures.

3. Requirements for road improvements and dedications.
  4. Regulations of signs.
  5. Regulation of hours or other characteristics of operation.
  6. Establishment of development schedules or time limits for performance or completion.
- B. Controlling the sequence and timing of development,
  - C. Controlling the duration of development,
  - D. Assuring that development is maintained properly,
  - E. Designating the exact location and nature of development;
  - F. Requiring the provision for on-site or off-site public facilities or services;
  - G. Requiring more restrictive standards than those generally required in an ordinance;
  - H. Imposing other conditions that the Planning and Development Council deems necessary to ensure compatibility with surrounding uses, to preserve the public health, safety and welfare and to ensure compliance with the standards listed in Section 530.6.

#### 530.8 EFFECTIVE DATE:

The decision of the Planning and Development Council shall be effective ten days after the date on which decision is announced unless an appeal has been filed pursuant to Section 550.

#### 530.91 LAPSE OF A CONDITIONAL USE PERMIT:

- A. Unless a longer time shall be specifically established as a condition of approval, a conditional use permit shall lapse and shall become void six months following the date on which such permit became effective, unless prior to expiration, a building permit and zoning permit are issued and construction is commenced and diligently pursued toward completion, or a certificate of occupancy is issued for the use.
- B. A conditional use permit subject to lapse may be renewed by the Planning and Development Council for an additional period of six months provided that prior to the expiration date, a written request for renewal is filed with the Planning Director.

**530.92 MODIFICATION OF CONDITIONAL USE PERMIT:**

Sections 530 through 530.8 shall apply to an application for modification, expansion, or other changes in a conditional use permit, provided that minor revisions or modifications may be approved by the Director if he/she determines that the circumstances or conditions applicable at the time of original approval remain valid, and that changes would not affect the findings prescribed in Section 530.6.

**530.93 SUSPENSION AND REVOCATION:**

- A. Upon violation of any applicable provision of this Ordinance, or, if granted subject to conditions, upon failure to comply with conditions, a conditional use permit shall be suspended upon notification to the owner of a use or property subject to a conditional use permit.
- B. The Planning and Development Council shall hold a public hearing within 40 days of such notification, in accordance with Section 560. and if not satisfied that the regulation, general provision, or condition is being complied with, may revoke the conditional use permit or take such action as may be necessary to ensure compliance with the regulation, general provision, or condition.
- C. The decision of the Planning and Development Council to revoke a conditional use permit shall be effective immediately.

**530.94 NEW APPLICATIONS:**

Following the denial or revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same use on the same or substantially the same site shall be filed within one year from the date of denial or revocation.

**530.95 APPROVAL TO RUN WITH THE LAND:**

A Conditional Use Permit granted pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure.

**530.96 PRE-EXISTING CONDITIONAL USE PERMITS:**

- A. Alteration or expansion of a pre-existing conditional use shall be permitted only upon the granting of an amended conditional use permit, provided that alterations not exceeding \$2,500 in value as determined by the Building Official shall be permitted without the granting of an amended conditional use permit. The procedure for obtaining an amended conditional use permit shall be the same as for obtaining a conditional use permit.

- B. A conditional use permit shall be required for the reconstruction of a structure housing a pre-existing conditional use if the structure is destroyed by fire or other calamity, to a greater extent than 50 percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Inspector and shall be based on the minimum cost of construction in compliance with the Building Code.

#### 540 VARIANCES:

540.1 PURPOSE: A variance shall not be considered a right but may be granted to an applicant upon a showing of undue hardship related to physical characteristics of the site, and then only if the proposal is not in conflict with the public interest.

- A. Application for a variance shall be filed by the owner of the subject property with the Planning Director at least 30 days prior to the public hearing. The application shall include the information necessary to enable the Planning and Zoning Department to make a complete analysis of the variance request.
- B. The Planning Director may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exist.
- C. The application shall be accompanied by a fee established by the Board of County Commissioners. A single application may include requests for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.
- D. The applicant shall also provide the Planning Director with the names and addresses of the owners of property that abuts the applicant's parcel.

#### 540.2 PUBLIC HEARING NOTICE:

Notice of the variance request shall be given to adjoining property owners at least seven days before the date of the public hearing.

#### 540.3 ACTION BY THE PLANNING AND DEVELOPMENT COUNCIL:

- A. The Planning and Development Council shall act upon the application within forty-five days following the close of the public hearing on a variance. The Planning and Development Council may grant a variance as the variance was applied for or in modified form, or subject to conditions, or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Planning and Development Council may prescribe.

# FINDINGS

# BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL FINDINGS AND ORDER

## CONDITIONAL USE PERMIT- Cody Redford PUBLIC HEARING: APRIL 19, 2023

**FILE #:** CUP-23-3  
**LOCATION:** RPR4015027906, addressed as 2080 W Portneuf Rd.

|                     |                     |
|---------------------|---------------------|
| <b>APPLICANT:</b>   | <b>OWNER:</b>       |
| Cody Redford        | Cody Redford        |
| 2080 W Portneuf Rd. | 2080 W Portneuf Rd. |
| Inkom, ID 83245     | Inkom, ID 83245     |

**REQUEST & BACKGROUND:** The applicant, Cody Redford, petitions for a conditional use permit to establish an Event Center. The development will have private water or sewer disposal. The affected property is known as parcel RPR4015027906 and is currently addressed 2080 W. Portneuf Rd. The parcel is located approximately .25 miles from the City of Inkom boundary. The applicant has proposed the hours of operation to be 7 days a week, appointment only. The land is located in the Residential Rural zoning district.

### FINDINGS:

#### JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

##### SITE CHARACTERISTICS AND ZONING:

ZONING: Residential Rural

PROPERTY SIZE: ~ 7.44 is visible from Portneuf Rd.

EXISTING STRUCTURES: a single family dwelling and a barn, and 8 agricultural structures

##### NOTICE AND TESTIMONY REQUIREMENTS:

Notice of the public hearing was completed according to statutory requirements. Public comment was taken according to statutory requirements.

REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT, §530

- A. The proposed use **[would]** **[would not]** adversely affect surrounding properties to a materially greater extent than would a permitted use in the district.

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- B. The proposed use **[would]** **[would not]** cause an undue disruption of travel or an extraordinary increase in the volume of traffic in the vicinity of the proposed use.

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- C. The proposed use **[would]** **[would not]** damage the public health, safety, or general welfare within its vicinity, or be materially injurious to properties or improvements in the vicinity.

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- D. The proposed use **[would]** **[would not]** be consistent with the goals and policies of the Comprehensive Plan of the county.

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- E. The proposed use **[would]** **[would not]** be designed to be as compatible in terms of building height, bulk, scale, setbacks, open spaces, and landscaping with adjacent uses as is practical.

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**(If adding approval conditions)** with the following conditions of approval,

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**ORDER: CONCLUSION AND DECISION**

The Planning and Development Council, pursuant to the aforementioned, finds that the request for Cody Redford, for a Conditional Use Permit, as described in the application, shall be **[approved]** **[denied]** **[tabled]**.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to adopt the foregoing Findings and Order.

ROLL CALL:

|                       |  |
|-----------------------|--|
| Councilperson Erchul  | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Heisler | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Hill    | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Maynard | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Ward    | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |

Motion carried by a \_\_\_\_\_ to \_\_\_\_\_ vote.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Signed by (Chairperson) (Vice Chair)

**ACKNOWLEDGEMENT CERTIFICATE**

State of Idaho)  
S.S.  
County of Bannock)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 2023, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that (she) (he) executed the same.

|   |                                       |
|---|---------------------------------------|
| S | _____                                 |
| E | Notary Public                         |
| A | My Commission Expires on _____ 20____ |
| L |                                       |

# EXAMPLE MOTION

## EXAMPLE MOTION

Based on the record and the discussion this evening, I move to **[approve]** **[deny]** **[table]** the request by Cody Redford for a Conditional Use Permit described in the application materials as supplemented with additional information attached in the staff report and according to testimony received, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair.

(IF ADDING APPROVAL CONDITIONS) with the following conditions of approval,

1. ....
2. ....

AGENDA ITEM NO. 5  
CONDITIONAL USE PERMIT  
OUTDOOR EVENT SPACE

POSTPONED

AGENDA ITEM NO. 6  
VARIANCE EXTENSION REQUEST  
R-O-W SETBACKS



# PLANNING AND DEVELOPMENT SERVICES

5500 S 5<sup>th</sup> Ave | Pocatello, Idaho 83204 | 208.236.7230 | [www.bannockcounty.us](http://www.bannockcounty.us)

## VARIANCE EXTENSION BUSINESS HEARING: APRIL 19, 2023 STAFF REPORT

**FILE #:** VAR-22-8  
**LOCATION:** RPRRMCM000900  
**REQUEST:** Variance extension from §327 – Table of Building Bulk and Placement Standards.

### APPLICANT/OWNER:

Jameson Root  
9167 W Cinnamon Ridge Road  
Pocatello, ID 83204

**REQUEST & BACKGROUND:** The applicant, Jameson Root, seeks a variance extension according to §540.7 of the Bannock County Zoning Ordinance. The original variance was approved September 21, 2022. The applicant was approved a variance from §327 to reduce the minimum required right-of-way setback from 30' to 10'.

### SITE CHARACTERISTICS AND ZONING:

**ZONING:** Residential Rural  
**PROPERTY SIZE:** ~ 1.13 acres  
**VIEWS:** Property is visible from W Cinnamon Ridge Road

### SURROUNDING LAND USES AND ZONING

**NORTH:** The site consists of bare ground in the jurisdiction of the Bureau of Land Management.  
**EAST:** The site consists of residential uses and is within the Residential Rural zone.  
**SOUTH:** The site consists of residential uses and is within the Residential Rural zone.  
**WEST:** The site consists of residential uses in the Residential Rural zone.

### APPLICABLE LAWS AND PLANS:

1. Idaho Code §67-6516, Variance – Definition – Application – Notice – Hearing.
2. 2021 Bannock County Comprehensive Plan
3. Bannock County Zoning Ordinance, 1998-1, specifically:
  - a. §540.7 LAPSE OF VARIANCE

STAFF REPORT  
VARIANCE EXTENSION - Root  
Page 1 of 4



SITE MAP



**ZONING MAP**

**STANDARDS FOR GRANTING AN EXTENSION (ZONING ORDINANCE §540.7)**

- A. Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse six months following the date on which the variance is issued, unless prior to the expiration of the six months, a building permit and a zoning permit are issued.

STAFF REPORT  
 VARIANCE EXTENSION - Root  
 Page 3 of 4

- B. A variance subject to lapse may be renewed by the Planning and Development Council for an additional period of six months, provided that prior to the expiration date, a written request for renewal is filed with the Planning and Development Council.
- C. The Planning and Development Council may grant or deny an application for renewal upon a showing by the applicant that circumstances beyond his control caused the delay (Zoning Ordinance §540.7).

**STAFF COMMENTS:**

Jameson Root applied for a variance that was approved September 21, 2022; however, Section 540.7.A states that unless a longer time period is specifically established as a condition of approval, a variance shall lapse six months following the date on which the variance is issued unless a building permit and a zoning permit are issued prior to the six-month expiration.

Since the Findings and Order were recorded September 21, 2022, the variance will lapse on April 1, 2023.

Jameson Root submitted written request of extension on March 17, 2023. Section 540.7.B states a variance subject to lapse may be renewed by the Planning and Development Council provided that prior to the expiration date, a written request for approval is filed with the Planning and Development Council. As the ex officio clerk of the Council, Hal Jensen received written request for extension prior to expiration of the variance. A building permit was applied for on March 15, 2023 and is pending approval of this extension and other required documents for a building permit.

**REPORT BY:**

Tristan Bourquin, Assistant Director  
[tristanb@bannockcounty.gov](mailto:tristanb@bannockcounty.gov)  
208-236-7230

**REPORTED DATE:** April 10, 2023

*\*Staff comments in this report are based solely upon evidence available at the time of the report. Additional information may be brought to light at or before the hearing.*

**EXHIBITS:**

1. Original Variance Application
2. Facts & Findings – Planning and Development Council Meeting September 21, 2022
3. Letter from Applicant requesting extension
4. Zoning Ordinance Section 540.7 – Lapse of Variance

# EXHIBIT 1

## APPLICATION AND SITE PLAN



Bannock County, ID

08/29/2022

## VAR-22-8

### Variance Application

**Status:** Active**Date Created:** Aug 11, 2022

---

#### Applicant

Jameson Root  
jamesonroot16@gmail.com  
9167 W Cinnamon Ridge  
Pocatello, Idaho 83204  
5093300389

#### Primary Location

9167 W CINNAMON RIDGE  
Rural Subs , ID 832040000

#### Owner:

SUZANNE K BIELINSKI  
9167 W CINNAMON RIDGE POCATELLO, ID  
832040000

---

#### Parcel & Variance Information

##### Parcel Number

RPRRMCM000900

##### I am seeking a variance from:

Other

##### Please describe what you are seeking a variance from.

We are hoping to build a 2-car carport adjacent to our driveway--the only viable building location on the property--and would need a variance granted to reduce the required distance from the road (Cinnamon Rdg).

The setback requirement from any stream or riparian area is 100 feet.

##### I would like to reduce the required setback down to (feet):

Approx. 10 feet from the edge of the road.

##### I would like to reduce the required setback down to (feet):

10 feet

---

#### Application for Variance

##### Narrative addressing how your application meets criterion 1

Our land is very steep and has an unusual, narrow shape. The terrain prevents building any structure on almost the entire lot absent significant engineering work, expense, etc. In fact the residential home had to have a variance to be able to be built in the first place. There is a small level patch of gravel adjacent to the driveway that can fit two passenger vehicles. The area is limited in size by both the road and a steep slope nearby. It is arguably the only plausible building location on the property. However, it is far too close to the road to build without a variance.

**Narrative addressing how your application meets criterion 2**

We imagine proximity to the road is a concern to the county regarding traffic flow, snow clearing, roadside vegetation maintenance, etc. We have generated a rough design for the carport that gives the most possible clearance to the road while still allowing two vehicles to be parked. I reduced the number of covered sides of the structure to 2 instead of 3 to allow access to one parked car from outside the structure and eliminate the additional width to allow opening car doors, etc. We are limited in further setting it back from the road by the steep hillside on the other side of the gravel parking area/proposed carport.

We are the last of only 5 houses on Cinnamon Rdg and our hope is that given the very light traffic the road experiences, including that the land opposite our property is BLM, that the above concerns are not prohibitive. Especially considering our constraints.

**Narrative addressing how your application meets criterion 3**

On Cinnamon Rdg, we have one neighbor on the opposite side of the house. The remainder of the road is bordered by our property and the entire opposite side of the road is BLM land. We do not believe this structure would impact our neighbor.

**Narrative addressing how your application meets criterion 4**

We are hoping to turn our attached 2 car garage into a workshop. Given the winter weather and harsh summer sun, we ideally would like to have our cars parked in a covered structure. Additionally, one of our vehicles is a plug-in electric, so a solid structure with power is necessary for our goals. With the very steep terrain on our property, we believe this is the only available building location for this type of structure. If this variance is not granted, we will be unable to do any of the above.

---

**Certification****Electronic Signature [Typed name of applicant]**

Jameson M Root

**I agree that my electronic signature above is equivalent to a handwritten signature and is binding for all purposes related to this transaction**

**Date**

08/11/2022

P&Z Council Public Hearing Information

---

# OVERHEAD VIEW



PROPOSED CARPORT/STRUCTURE

Carport and existing home rendered and placed on terrain from Google Maps image made as close to scale as possible.

# EXHIBIT 2

## ORIGINAL VARIANCE FINDINGS

## **BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL**

### **FINDINGS AND ORDER**

#### **INTRODUCTION**

##### **REQUEST:**

Applicant, Jameson Root, seeks a variance, from §327 – Table of Building Bulk and Placement Standards, in the Residential Rural zone of the Bannock County Zoning Ordinance. Applicant requests to reduce the minimum required Right-of-Way Setbacks from 30' to 10'.

##### **APPLICANT / OWNER:**

Jameson Root  
9167 W Cinnamon Ridge Road  
Pocatello, Idaho 83204

**PARCEL NUMBER AND LOCATION:** The Bannock County tax parcel number is RPRRMCM000900 and is addressed as 9167 W Cinnamon Ridge Road.

#### **FINDINGS:**

#### **JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON**

##### **SITE CHARACTERISTICS AND ZONING:**

ZONING: Residential Rural  
PROPERTY SIZE: ~ 1.13 acres

VIEWS: Property is visible from Heather Glenn and Cinnamon Ridge Roads  
EXISTING STRUCTURES: Single Family Dwelling  
OTHER: NA

##### **NOTICE AND TESTIMONY REQUIREMENTS:**

Notice of the public hearing was completed according to statutory requirements. Public comment was taken according to statutory requirement

BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL  
FINDINGS AND ORDER: PERMIT VAR-22-8

Page 1

**REQUIRED FINDINGS FOR VARIANCE:**

1. The applicant has shown there [is] (is not) a reasonable alternative.

This is based on:

\* Due to the topography of the property there is not  
a REASONABLE ALTERNATIVE.

2. The variance [is] (is not) in conflict with the public interest.

This is based on:

No people can testify AGAINST the REQUESTED VARIANCE.

3. The variance [will] (will not) adversely affect adjacent property.

This is based on:

THIS IS PROPERTY DOES HAVE ADJACENT PROPERTY THAT WILL  
BE EFFECTED BY THIS VARIANCE.

4. If the variance is not granted, the applicant (will) [will not] suffer undue hardship caused by the physical characteristics of the site.

This is based on:

THIS IS THE ONLY BUILDABLE LOCATION DUE TO THE TOPOGRAPHY  
OF THE LOT.

Conditions:

## ORDER: CONCLUSION AND DECISION

The Planning and Development Council, pursuant to the aforementioned, finds that the request of Jameson Root, for a variance to reduce the minimum required Right-of-Way setbacks from 30' to 10', in the Residential Rural zoning district, as described in the application, shall be approved [denied] [tabled].

Motion by ULRICH, seconded by ERCHUL to adopt the foregoing Findings and Order.

### ROLL CALL:

|                       |       |              |      |                  |
|-----------------------|-------|--------------|------|------------------|
| Councilperson Egan    | Voted | <u>(Yes)</u> | [No] | [Absent/Recused] |
| Councilperson Erchul  | Voted | <u>(Yes)</u> | [No] | [Absent/Recused] |
| Councilperson Heisler | Voted | <u>(Yes)</u> | [No] | [Absent/Recused] |
| Councilperson Hill    | Voted | <u>(Yes)</u> | [No] | [Absent/Recused] |
| Councilperson Ulrich  | Voted | <u>(Yes)</u> | [No] | [Absent/Recused] |

Motion carried by a 5 to 0 vote.

Dated this 21<sup>st</sup> day of September, 2022.

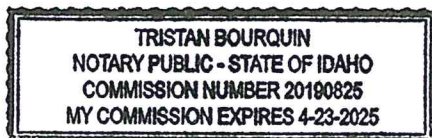
Wade Egan  
Signed by (Chairperson) (Vice chair)

## ACKNOWLEDGEMENT CERTIFICATE

State of Idaho)  
S.S.  
County of Bannock )

On this 21<sup>st</sup> day of September, in the year of 2022, before me Tristan Bourquin, a notary public, personally appeared Wade Egan, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that (she) (he) executed the same.

S  
E  
A  
L



Tristan Bourquin  
Notary Public  
My Commission Expires on 4/23 2025

BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL  
FINDINGS AND ORDER: PERMIT VAR-22-8

Page 3

# EXHIBIT 3

## ORDINANCE EXCERPTS

B. A conditional use permit shall be required for the reconstruction of a structure housing a pre-existing conditional use if the structure is destroyed by fire or other calamity, to a greater extent than 50 percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Inspector and shall be based on the minimum cost of construction in compliance with the Building Code.

#### 540 VARIANCES:

540.1 PURPOSE: A variance shall not be considered a right but may be granted to an applicant upon a showing of undue hardship related to physical characteristics of the site, and then only if the proposal is not in conflict with the public interest.

- A. Application for a variance shall be filed by the owner of the subject property with the Planning Director at least 30 days prior to the public hearing. The application shall include the information necessary to enable the Planning and Zoning Department to make a complete analysis of the variance request.
- B. The Planning Director may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exist.
- C. The application shall be accompanied by a fee established by the Board of County Commissioners. A single application may include requests for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.
- D. The applicant shall also provide the Planning Director with the names and addresses of the owners of property that abuts the applicant's parcel.

#### 540.2 PUBLIC HEARING NOTICE:

Notice of the variance request shall be given to adjoining property owners at least seven days before the date of the public hearing.

#### 540.3 ACTION BY THE PLANNING AND DEVELOPMENT COUNCIL:

- A. The Planning and Development Council shall act upon the application within forty-five days following the close of the public hearing on a variance. The Planning and Development Council may grant a variance as the variance was applied for or in modified form, or subject to conditions, or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Planning and Development Council may prescribe.

**540.4 STANDARDS:**

The Planning and Development Council may grant a variance if it makes affirmative findings of fact on each of the following standards:

1. The applicant has shown that there is no reasonable alternative.
2. The variance is not in conflict with the public interest.
3. The variance will not adversely affect adjacent property.
4. If the variance is not granted, the applicant will suffer undue hardship caused by the physical characteristics of the site.

**540.5 EFFECTIVE DATE OF VARIANCE:**

A decision of the Planning and Development Council on a variance shall be effective ten (10) days after the date on which action is announced unless an appeal has been filed pursuant to Section 540.6.

**540.6 APPEAL TO BOARD OF COUNTY COMMISSIONERS:**

The appeal procedure is the same as the procedure in Section 550

**540.7 LAPSE OF VARIANCE:**

- A. Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse six months following the date on which the variance is issued, unless prior to the expiration of the six months, a building permit and a zoning permit are issued.
- B. A variance subject to lapse may be renewed by the Planning and Development Council for an additional period of six months, provided that prior to the expiration date, a written request for renewal is filed with the Planning and Development Council.
- C. The Planning and Development Council may grant or deny an application for renewal upon a showing by the applicant that circumstances beyond his control caused the delay.

**540.8 SUSPENSION AND REVOCATION:**

- A. Upon violation of any applicable provision of this Ordinance or, if granted subject to conditions, upon failure to comply with conditions, a variance shall be suspended upon notification to the owner of the use or property subject to the variance.

- B. The Planning and Development Council shall hold a public hearing within 40 days of such notification, in accord with Section 560, and if not satisfied that the regulation, general provision, or condition is being complied with, may revoke the variance or take such action as may be necessary to ensure compliance with the regulation, general provision, or condition.

#### 540.9 MINOR VARIANCES AND PROCEDURES:

A minor variance may be approved by the Planning Director subject to the following limitations:

- A. A minor variance may not reduce a requirement by more than ten percent of its original standard, except in situations where proposed building additions would conform to established setbacks.
- B. The applicant shall furnish the Planning Director with written consent from abutting property owners before the Director approves a minor variance.
- C. If a minor variance request is denied, the applicant may appeal by proceeding through the regular variance process.

#### 550 APPEALS OF PLANNING AND DEVELOPMENT COUNCIL'S DECISIONS:

- A. The Board of County Commissioners shall serve as the decision-making body for appeals of decisions of the Planning and Development Council. The Planning and Development Council's decision may be appealed to the Board of County Commissioners by the applicant or any other aggrieved person within ten days after the date on which the decision is made. Notice of the appeal shall be filed with the Planning Director.
- B. A transcript of the Planning and Development Council's consideration of the request shall be provided by the County at the expense of the appellant. The Board of County Commissioners shall determine the fee per page to be charged for transcripts. The appellant shall pay the estimated cost of the transcript to the County in advance, and be refunded money or owe additional money when the transcript has been prepared, and the actual cost determined.
- C. Not more than 30 days following the preparation of transcripts, the Board of County Commissioners shall meet to consider the appeal. The hearing shall not be a public hearing, but shall be open to the public. The hearing shall be an "on the record review." During the hearing, County staff shall be available to present the application and answer questions; however, comments will not be received from the audience. The Board of County Commissioners shall consider such findings, reports, minutes, comments, and recommendations as are forwarded to them by the Planning and Development Council in rendering their decision. Any applicant or other affected person may request a reconsideration of the Board of County Commissioners'

# FINDINGS

**BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL  
FINDINGS AND ORDER**

**VARAINCE EXTENSION: JAMESON ROOT  
MEETING DATE: APRIL 19, 2023**

**FILE #:** VAR-22-8  
**LOCATION:** RPRRMCM000900

**APPLICANT/OWNER:**

Jameson Root  
9167 W Cinnamon Ridge Rd  
Pocatello, ID 83204

**REQUEST & BACKGROUND:** The applicant, Jameson Root, requests an extension of a variance. The original approval date was September 21, 2022 and the six-month approval expires April 1, 2023.

**FINDINGS:**

**JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON**

**SITE CHARACTERISTICS AND ZONING:**

DESIGNATION: Residential Rural  
PROPERTY SIZE: ~1.13 acres  
VIEWS: The property is visible from Cinnamon Ridge Rd  
FLOOD ZONE: X, minimal  
TERRAIN: Sloped  
EXISTING STRUCTURES: Single family dwelling

**REQUIRED FINDINGS FOR REZONE:**

1. The proposal for extension **[was]** **[was not]** filed with the Planning and Development Council prior to the expiration date of the original variance.

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2. The applicant has shown there **[were]** **[were not]** circumstances beyond his control that caused the delay.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**Revisions, if applicable:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**ORDER: CONCLUSION AND DECISION**

The Planning and Development Council, pursuant to the aforementioned, finds that the request by Jameson Root, for a variance extension to reduce the right-of-way setback from 30’ to 10’, in the Residential Rural zoning district, as described in the application, shall be **[approved]** **[denied]** **[tabled]**.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to adopt the foregoing Findings and Order.

**ROLL CALL:**

|                       |  |
|-----------------------|--|
| Councilperson Heisler | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Hill    | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Maynard | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Ulrich  | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Ward    | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |

Motion carried by a \_\_\_\_\_ to \_\_\_\_\_ vote.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Signed by (Chairperson) (Vice Chair)

**ACKNOWLEDGEMENT CERTIFICATE**

State of Idaho)  
S.S.  
County of Bannock)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 2023, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that (she) (he) executed the same.

S  
E  
A  
L

\_\_\_\_\_  
Notary Public  
My Commission Expires on \_\_\_\_\_ 20\_\_\_\_

# EXAMPLE MOTION

## **EXAMPLE MOTION**

Based on the record and the discussion this evening, I move to **[approve]** **[deny]** **[table]** the request for Variance Extension for Jameson Root, as described in the application materials as supplemented with additional information attached in the staff report and to adopt the proposed findings and order for signature by the Chair or Vice-Chair.

(IF ADDING APPROVAL CONDITIONS) with the following conditions of approval,

1. ....
2. ....

AGENDA ITEM NO. 7  
VARIANCE EXTENSION REQUEST  
COTTAGE DWELLING DISTANCE



# PLANNING AND DEVELOPMENT SERVICES

5500 S 5<sup>th</sup> Ave | Pocatello, Idaho 83204 | 208.236.7230 | [www.bannockcounty.us](http://www.bannockcounty.us)

## VARIANCE EXTENSION BUSINESS HEARING: APRIL 19, 2023 STAFF REPORT

**FILE #:** VAR-22-9

**LOCATION:** RPRRHAL000500

**REQUEST:** Variance extension from §401.H to increase the increase the maximum separation distance between primary and cottage residential structures from 100' to 150'.

**APPLICANT:**

Jeremy Rowberry  
13348 N. Smith Road  
Pocatello, ID 83202

**OWNER:**

Donald Rowberry  
13348 N. Smith Road  
Pocatello, ID 83202

**REQUEST & BACKGROUND:** The applicant, Jeremy Rowberry on behalf of Donald Rowberry, seeks a variance extension according to §540.7 of the Bannock County Zoning Ordinance. The original variance approved was from §401.H - Accessory Cottage Dwelling of the Bannock County Zoning Ordinance. Applicant requested to increase the maximum separation distance between primary and cottage residential structures from 100' to 150'.

**SITE CHARACTERISTICS AND ZONING:**

ZONING: Residential Suburban

PROPERTY SIZE: ~ 1.07 acres

VIEWS: Property is visible from N. Smith Road

AREA OF IMPACT: Chubbuck

**SURROUNDING LAND USES AND ZONING**

NORTH: The site consists of residential uses in the Residential Suburban Zone.

EAST: The site consists of residential uses in the Residential Suburban Zone.

SOUTH: The site consists of residential uses in the Residential Suburban Zone.

WEST: The site consists of residential uses in the Residential Suburban Zone.

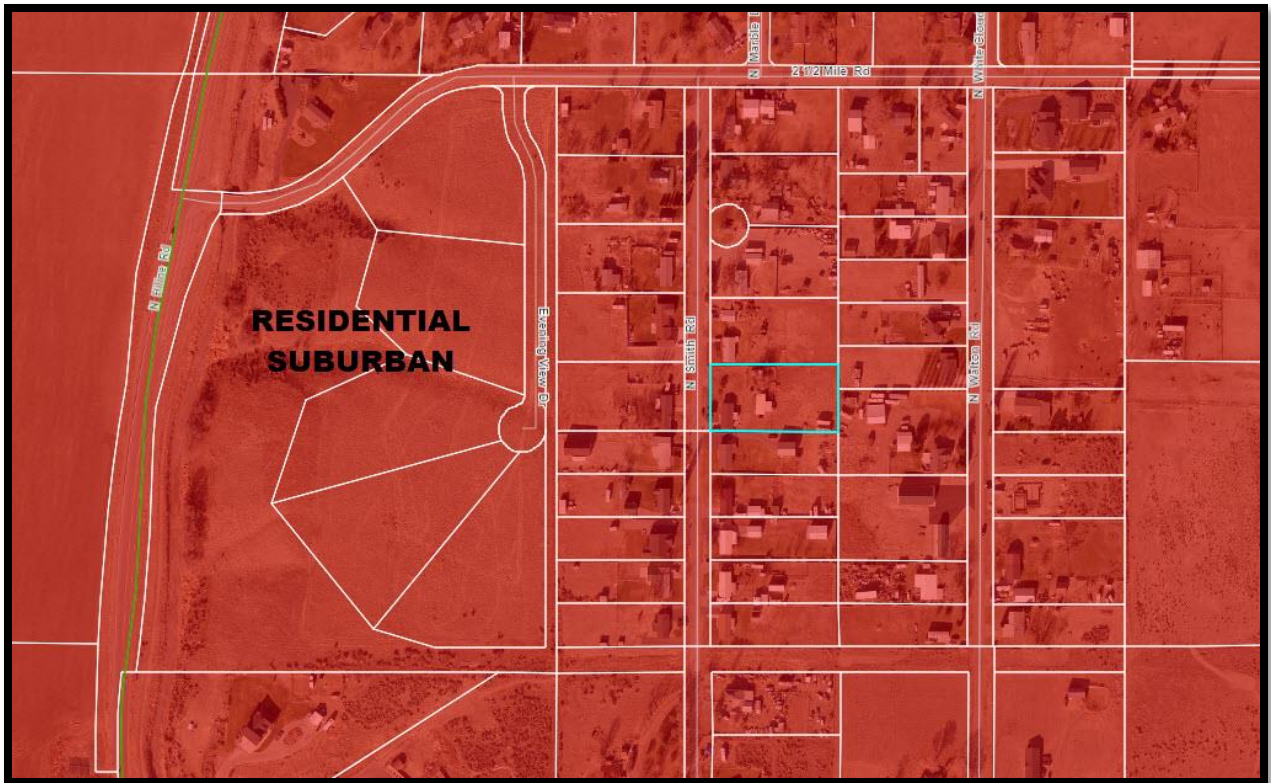
**APPLICABLE LAWS AND PLANS:**

1. Idaho Code §67-6516, Variance – Definition – Application – Notice – Hearing.
2. 2021 Bannock County Comprehensive Plan
3. Bannock County Zoning Ordinance, 1998-1, specifically:
  - a. §540.7 LAPSE OF VARIANCE

STAFF REPORT  
VARIANCE EXTENSION - Rowberry  
Page 1 of 4



**SITE MAP**



**ZONING MAP**

## **STANDARDS FOR GRANTING AN EXTENSION (ZONING ORDINANCE §540.7)**

- A.** Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse six months following the date on which the variance is issued, unless prior to the expiration of the six months, a building permit and a zoning permit are issued.
- B.** A variance subject to lapse may be renewed by the Planning and Development Council for an additional period of six months, provided that prior to the expiration date, a written request for renewal is filed with the Planning and Development Council.
- C.** The Planning and Development Council may grant or deny an application for renewal upon a showing by the applicant that circumstances beyond his control caused the delay (Zoning Ordinance §540.7).

### **STAFF COMMENTS:**

Jeremy Rowberry applied for a variance that was approved September 21, 2022; however, Section 540.7.A states that unless a longer time period is specifically established as a condition of approval, a variance shall lapse six months following the date on which the variance is issued unless a building permit and a zoning permit are issued prior to the six month expiration.

Since the Findings and Order were recorded September 21, 2022 the variance will lapse on April 1, 2023.

Jeremy Rowberry reached out to the Planning and Development on March 23, 2023 requesting an extension for the variance. Section 540.7.B states a variance subject to lapse may be renewed by the Planning and Development Council provided that prior to the expiration date, a written request for approval is filed with the Planning and Development Council. As the ex officio clerk of the Council, Hal Jensen received written request for extension prior to expiration of the variance. A building permit was applied for on February 3, 2023 and will be ready for issuance pending approval of this extension and other required documents for a building permit.

### **REPORT BY:**

Alisse Foster, Assistant Planner  
[alissef@bannockcounty.us](mailto:alissef@bannockcounty.us)  
208-236-7230

### **REPORTED DATE:** April 11, 2023

*\*Staff comments in this report are based solely upon evidence available at the time of the report. Additional information may be brought to light at or before the hearing.*

STAFF REPORT  
VARIANCE EXTENSION - Rowberry  
Page 3 of 4

**EXHIBITS:**

1. Original Variance Application
2. Facts & Findings – Planning and Development Council Meeting September 21, 2022
3. Letter from Applicant requesting extension
4. Zoning Ordinance Section 540.7 – Lapse of Variance

STAFF REPORT  
VARIANCE EXTENSION - Rowberry  
Page 4 of 4

# EXHIBIT 1

## APPLICATION AND SITE PLAN



Bannock County, ID

08/29/2022

## VAR-22-9

### Variance Application

**Status:** Active**Date Created:** Aug 15, 2022

---

#### Applicant

Jeremy Rowberry  
jrowberry7@gmail.com  
13348 n smith road  
Pocatello , Idaho 83202  
2087607562

#### Primary Location

13348 N SMITH RD  
Rural Subs , ID 832010000

#### Owner:

A & G BROWN ENTERPRISES LLC  
550 ARABIAN AVE POCATELLO, ID 832010000

---

#### Parcel & Variance Information

##### Parcel Number

RPRRHAL000500

##### I am seeking a variance from:

Other

##### Please describe what you are seeking a variance from.

Variance from the 100' requirement for a cottage dwelling

The setback requirement from any stream or riparian area is 100 feet.

##### I would like to reduce the required setback down to (feet):

150

##### I would like to reduce the required setback down to (feet):

150

---

#### Application for Variance

##### Narrative addressing how your application meets criterion 1

There is a shop in the way making it impossible to have the cottage structure within 100' without removing the shop.

We are trying to clean up the property and make the area look nicer for the neighborhood.

It would be placed in the pasture area, out of the way. All other setbacks would be met.

There is a shop in the way making it impossible to have the cottage structure within 100' without removing the shop. Without granting this variance, placement of a cottage structure would not be possible.

Jeremy Rowberry

☒

08/15/2022

## P&Z Council Public Hearing Information

N ↑



approx. location

N Smith Rd

N Smith Rd

N Smith Rd



**Jeremy Rowberry**

[Remove Comment](#) • Mar 23, 2023 at 2:12 pm

Dear Marj., I'm writing to you to ask for an extension on my variance application that expires on April first, my building permit will probably not be approved by then. Please let me know if I need to do anything else. Thank you

# EXHIBIT 2

## ORIGINAL VARIANCE FINDINGS

## **BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL**

### **FINDINGS AND ORDER**

#### **INTRODUCTION**

##### **REQUEST:**

Applicant, Jeremy Rowberry, seeks a variance, from §401.H – Accessory Cottage Dwelling of the Bannock County Zoning Ordinance. Applicant requests to increase the maximum separation distance between primary and cottage residential structures from 100' to 150'.

##### **OWNER / APPLICANT:**

Jeremy Rowberry  
13348 N. Smith Road  
Pocatello, Idaho 832202

**PARCEL NUMBER AND LOCATION:** The Bannock County tax parcel number is RPRRHAL000500 and is addressed as 13348 N. Smith Road.

#### **FINDINGS:**

#### **JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON**

##### **SITE CHARACTERISTICS AND ZONING:**

ZONING: Residential Suburban  
PROPERTY SIZE: ~ 1.07 acres

VIEWS: N. Smith Road  
EXISTING STRUCTURES: Primary and  
Accessory Residential Structures  
OTHER: NA

##### **NOTICE AND TESTIMONY REQUIREMENTS:**

Notice of the public hearing was completed according to statutory requirements. Public comment was taken according to statutory requirement

BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL  
FINDINGS AND ORDER: PERMIT VAR-22-9

Page 1

## REQUIRED FINDINGS FOR VARIANCE:

1. The applicant has shown there **is not** a reasonable alternative.

This is based on:

Due to other structures on the site, the variance is the only option to add the cottage dwelling.

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

This is based on:

The additional 50' variance is not in conflict of the public interest. The items that may be in conflict are outside the jurisdiction of the Council.

3. The variance **will not** adversely affect adjacent property.

This is based on:

The additional 50' variance is not in conflict with the adjacent property. This proposed structure will meet setback requirements.

4. If the variance is not granted, the applicant **will** suffer undue hardship caused by the physical characteristics of the site.

This is based on:

The site already has a number of structures. Not allowing the additional 50' distance could result in safety issues regarding structure distances.

Conditions:

Must show proof of access to water before a building permit will be issued.

## ORDER: CONCLUSION AND DECISION

The Planning and Development Council, pursuant to the aforementioned, finds that the request of Jeremy Rowberry, for a variance to increase the maximum separation distance between primary and cottage residential structures from 100' to 150', as described in the application, shall be **approved**.

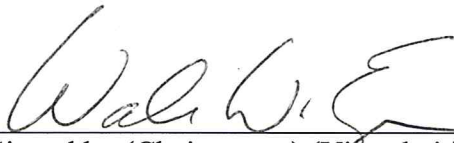
Motion by Heisler, seconded by Erchul to adopt the foregoing Findings and Order.

### ROLL CALL:

|                       |                  |
|-----------------------|------------------|
| Councilperson Egan    | Voted <b>Yes</b> |
| Councilperson Erchul  | Voted <b>Yes</b> |
| Councilperson Heisler | Voted <b>Yes</b> |
| Councilperson Hill    | Voted <b>Yes</b> |
| Councilperson Ulrich  | Voted <b>Yes</b> |

Motion carried by a 5 to 0 vote.

Dated this 21<sup>st</sup> day of September, 2022.

  
Signed by (Chairperson) (Vice chair)


## ACKNOWLEDGEMENT CERTIFICATE

State of Idaho)  
S.S.  
County of Bannock )

On this 21<sup>st</sup> day of September, in the year of 2022, before me Tristan Bourquin, a notary public, personally appeared Wade Egan, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that (she) (he) executed the same.

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Notary Public  
My Commission Expires on 4/23 2025

# EXHIBIT 3

## ORDINANCE EXCERPTS

- B. A conditional use permit shall be required for the reconstruction of a structure housing a pre-existing conditional use if the structure is destroyed by fire or other calamity, to a greater extent than 50 percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction to the estimated cost of duplicating the entire structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the Building Inspector and shall be based on the minimum cost of construction in compliance with the Building Code.

540 VARIANCES:

540.1 PURPOSE: A variance shall not be considered a right but may be granted to an applicant upon a showing of undue hardship related to physical characteristics of the site, and then only if the proposal is not in conflict with the public interest.

- A. Application for a variance shall be filed by the owner of the subject property with the Planning Director at least 30 days prior to the public hearing. The application shall include the information necessary to enable the Planning and Zoning Department to make a complete analysis of the variance request.
- B. The Planning Director may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exist.
- C. The application shall be accompanied by a fee established by the Board of County Commissioners. A single application may include requests for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.
- D. The applicant shall also provide the Planning Director with the names and addresses of the owners of property that abuts the applicant's parcel.

540.2 PUBLIC HEARING NOTICE:

Notice of the variance request shall be given to adjoining property owners at least seven days before the date of the public hearing.

540.3 ACTION BY THE PLANNING AND DEVELOPMENT COUNCIL:

- A. The Planning and Development Council shall act upon the application within forty-five days following the close of the public hearing on a variance. The Planning and Development Council may grant a variance as the variance was applied for or in modified form, or subject to conditions, or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Planning and Development Council may prescribe.

**540.4 STANDARDS:**

The Planning and Development Council may grant a variance if it makes affirmative findings of fact on each of the following standards:

1. The applicant has shown that there is no reasonable alternative.
2. The variance is not in conflict with the public interest.
3. The variance will not adversely affect adjacent property.
4. If the variance is not granted, the applicant will suffer undue hardship caused by the physical characteristics of the site.

**540.5 EFFECTIVE DATE OF VARIANCE:**

A decision of the Planning and Development Council on a variance shall be effective ten (10) days after the date on which action is announced unless an appeal has been filed pursuant to Section 540.6.

**540.6 APPEAL TO BOARD OF COUNTY COMMISSIONERS:**

The appeal procedure is the same as the procedure in Section 550

**540.7 LAPSE OF VARIANCE:**

- A. Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse six months following the date on which the variance is issued, unless prior to the expiration of the six months, a building permit and a zoning permit are issued.
- B. A variance subject to lapse may be renewed by the Planning and Development Council for an additional period of six months, provided that prior to the expiration date, a written request for renewal is filed with the Planning and Development Council.
- C. The Planning and Development Council may grant or deny an application for renewal upon a showing by the applicant that circumstances beyond his control caused the delay.

**540.8 SUSPENSION AND REVOCATION:**

- A. Upon violation of any applicable provision of this Ordinance or, if granted subject to conditions, upon failure to comply with conditions, a variance shall be suspended upon notification to the owner of the use or property subject to the variance.

- B. The Planning and Development Council shall hold a public hearing within 40 days of such notification, in accord with Section 560, and if not satisfied that the regulation, general provision, or condition is being complied with, may revoke the variance or take such action as may be necessary to ensure compliance with the regulation, general provision, or condition.

#### 540.9 MINOR VARIANCES AND PROCEDURES:

A minor variance may be approved by the Planning Director subject to the following limitations:

- A. A minor variance may not reduce a requirement by more than ten percent of its original standard, except in situations where proposed building additions would conform to established setbacks.
- B. The applicant shall furnish the Planning Director with written consent from abutting property owners before the Director approves a minor variance.
- C. If a minor variance request is denied, the applicant may appeal by proceeding through the regular variance process.

#### 550 APPEALS OF PLANNING AND DEVELOPMENT COUNCIL'S DECISIONS:

- A. The Board of County Commissioners shall serve as the decision-making body for appeals of decisions of the Planning and Development Council. The Planning and Development Council's decision may be appealed to the Board of County Commissioners by the applicant or any other aggrieved person within ten days after the date on which the decision is made. Notice of the appeal shall be filed with the Planning Director.
- B. A transcript of the Planning and Development Council's consideration of the request shall be provided by the County at the expense of the appellant. The Board of County Commissioners shall determine the fee per page to be charged for transcripts. The appellant shall pay the estimated cost of the transcript to the County in advance, and be refunded money or owe additional money when the transcript has been prepared, and the actual cost determined.
- C. Not more than 30 days following the preparation of transcripts, the Board of County Commissioners shall meet to consider the appeal. The hearing shall not be a public hearing, but shall be open to the public. The hearing shall be an "on the record review." During the hearing, County staff shall be available to present the application and answer questions; however, comments will not be received from the audience. The Board of County Commissioners shall consider such findings, reports, minutes, comments, and recommendations as are forwarded to them by the Planning and Development Council in rendering their decision. Any applicant or other affected person may request a reconsideration of the Board of County Commissioners'

# FINDINGS

**BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL  
FINDINGS AND ORDER**

**VARAINCE EXTENSION: JEREMY ROWBERRY**

**MEETING DATE: APRIL 19, 2023**

**FILE #:** VAR-22-9  
**LOCATION:** RPRRHAL000500

**APPLICANT:**  
Jeremy Rowberry  
13348 N. Smith Road  
Pocatello, ID 83202

**OWNER:**  
Donald Rowberry  
13348 N. Smith Road  
Pocatello, ID 83202

**REQUEST & BACKGROUND:** The applicant, Jeremy Rowberry on behalf of Donald Rowberry, seeks a variance extension according to §540.7 of the Bannock County Zoning Ordinance. The original variance approved was from §401.H - Accessory Cottage Dwelling of the Bannock County Zoning Ordinance. Applicant requested to increase the maximum separation distance between primary and cottage residential structures from 100' to 150'.

**FINDINGS:**

**JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON**

**SITE CHARACTERISTICS AND ZONING:**

DESIGNATION: Residential Suburban

PROPERTY SIZE: ~1.07 acres

VIEWS: Property is visible from N. Smith Road

AREA OF IMPACT: Chubbuck

REQUIRED FINDINGS FOR REZONE:

1. The proposal for extension **[was]** **[was not]** filed with the Planning and Development Council prior to the expiration date of the original variance.

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2. The applicant has shown there **[were]** **[were not]** circumstances beyond his control that caused the delay.

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Revisions, if applicable:

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**ORDER: CONCLUSION AND DECISION**

The Planning and Development Council, pursuant to the aforementioned, finds that the request by Jeremy Rowberry on behalf of Donald Rowberry, for a variance extension to increase the maximum separation distance between primary and cottage residential structures from 100' to 150', as described in the application, shall be **[approved]** **[denied]** **[tabled]**.

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to adopt the foregoing Findings and Order.

ROLL CALL:

|                       |  |
|-----------------------|--|
| Councilperson Heisler | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Hill    | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Maynard | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Ulrich  | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |
| Councilperson Ward    | Voted <b>[Yes]</b> <b>[No]</b> <b>[Absent/Recused]</b> |

Motion carried by a \_\_\_\_\_ to \_\_\_\_\_ vote.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Signed by (Chairperson) (Vice Chair)

BANNOCK COUNTY PLANNING & DEVELOPMENT COUNCIL  
FINDINGS AND ORDER: PERMIT VAR-22-9

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ACKNOWLEDGEMENT CERTIFICATE

State of Idaho)  
S.S.  
County of Bannock)

On this \_\_\_\_ day of \_\_\_\_\_, in the year of 2023, before me \_\_\_\_\_, a  
notary public, personally appeared \_\_\_\_\_, personally known to me to be the  
person whose name is subscribed to the within instrument, and acknowledged to me that (she) (he)  
executed the same.

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\_\_\_\_\_  
Notary Public  
My Commission Expires on \_\_\_\_\_ 20\_\_\_\_

# EXAMPLE MOTION

## **EXAMPLE MOTION**

Based on the record and the discussion this evening, I move to **[approve]** **[deny]** **[table]** the request for Variance Extension for Jeremy Rowberry on behalf of Donald Rowberry, as described in the application materials as supplemented with additional information attached in the staff report and to adopt the proposed findings and order for signature by the Chair or Vice-Chair.

(IF ADDING APPROVAL CONDITIONS) with the following conditions of approval,

1. ....
2. ....

# AGENDA ITEM NO. 8

## ITEMS OF INTEREST

## UPDATE ON RECOMMENDATIONS TO COMMISSIONERS

1. None

## DISCUSSION OF UPCOMING AGENDA ITEMS

1. Public hearing items
  - a. CUP-23-4: Neil Mathews – Agricultural Events and Camping
2. Business items
  - a. None

## ANNOUNCEMENTS

1. Public outreach meetings are on-going. Remaining meetings are as follows:

April 25<sup>th</sup>      Inkom Community Bible Church  
251 Grant Ave, Inkom, ID 83245  
2pm – 6pm

April 27<sup>th</sup>      City of Pocatello  
911 N 7<sup>th</sup> Ave, Pocatello, ID 83201  
2pm – 6pm