

Ponderay - City Planning

Staff Report

March 11, 2020 – Ponderay Planning and Zoning Commission
SS20-023 - Subdivision Review – The Retreat at Bay Trail
ZC20-018 – Zone Change Request Residential to Commercial – Bay Trail Retreat, LLC and Mark and Angelica Wunsch



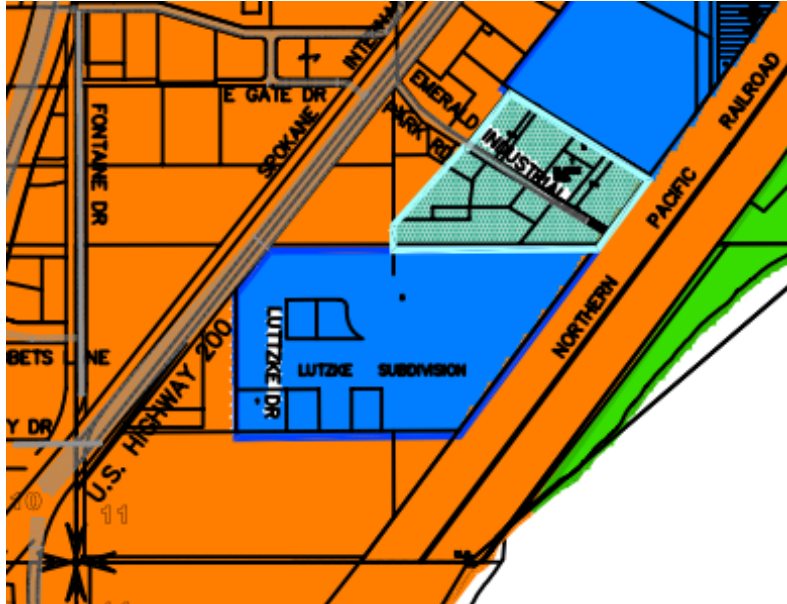
Project Summary

Bay Trail Retreat, LLC and Mark and Angelica Wunsch are requesting subdivision approval to divide two existing parcels, totaling ±18.83 acres into 82 lots, ranging in size from ±3,000 sq. ft to ±11,508.31 sq. ft. Additionally, they're requesting zone change approval to rezone 14 lots (1, 2 and 24-35) from Residential to Commercial. Lots 1, 2, 24 and 25 are proposed for future commercial development. Lots 26-35 are requesting zone change approval in order to allow higher density residential development. The

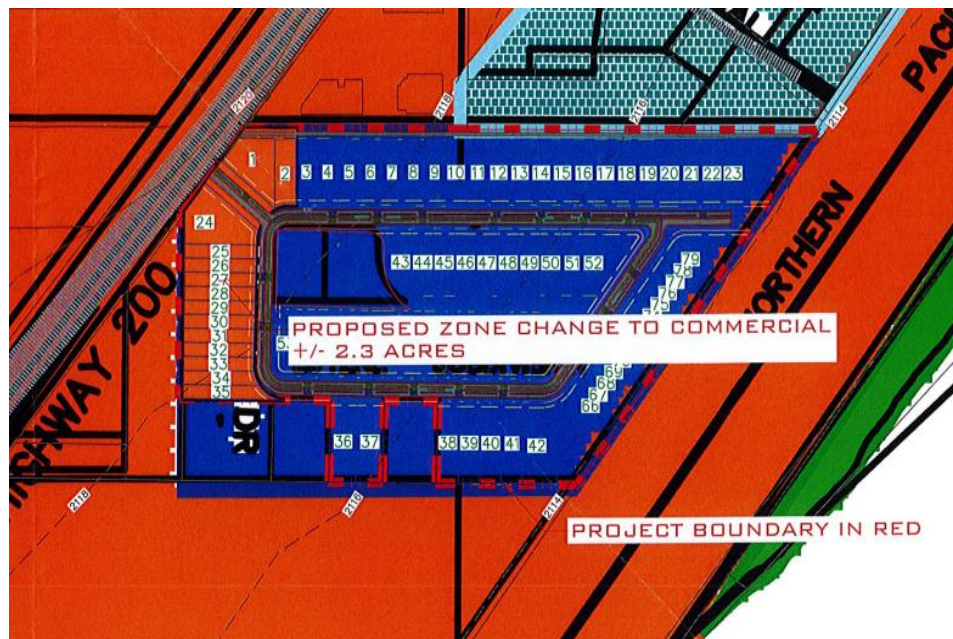
property is located on Lutzke Drive off of Highway 200 in Section 11, Township 57 North Range 2 West, Bonner County Idaho.

Site Information

- A. **Site Data:** The subject property is made up of two parcels (± 17.77 -acres and ± 1.06 -acres) totaling ± 18.83 acres. The existing Wunsch parcel is developed with a single-family dwelling and residential accessory building. The property is currently zoned residential. However, the application proposes a rezone of a portion of the subject parcel to commercial.



Current Zoning map



Proposed Zoning map

Surrounding Zoning

- North - Commercial and Industrial
- East - Commercial and Recreation
- South - Residential and commercial
- West - Commercial

Surrounding Uses

- North – Ponderay medical village and Cygnus
- East – Railroad, Pend d’ Oreille Bay Trail and Lake Pend Oreille
- South - Residential and The Elks Golf Course
- West - Amara Medical building and Felker’s BBQ Restaurant

- B. **Access:** Access is provided to the site by State Highway 200, via the existing approach for Lutzke Drive. Lutzke Drive currently provides the internal street system and is a privately maintained gravel street within an easement. The plat application proposes construction of a 30-foot wide, hard surfaced street with stormwater ditches. The new internal street is to be located within proposed public right-of-way ranging in width from 50-feet to 60-feet. The proposed dedication creates a future connection to Railroad Ave east of the project site, which is shown as a future street on the cities Ponderay Undercrossing Technical Analysis Feasibility Study Report. Additionally, the applicant proposes dedication of a 10-foot strip of land along the north boundary of the site for public right-of-way. Construction of an 8-foot multi-use public path is proposed in this location.
- C. **Environmental Factors:** The site is relatively flat and currently contains a variety of native trees, brush and grasses.

According to the U.S. Fish and Wildlife National Wetland Inventory maps, the site does not contain mapped wetlands.

The site does not contain any mapped water bodies or floodplain according to the Bonner County data viewer GIS mapping.

- D. **Services:** According to the preliminary plat application the site will be served by City of Sandpoint (water), Kootenai-Ponderay Sewer (sewer), Avista (gas and power), Northern Lights (power) and solid waste will be handled by Waste Management and Bonner County Solid Waste.
- E. **Stormwater:** At this time a general stormwater concept has been outlined by project engineer Ryan Fobes, P.E., Foresite Engineering, for the project. The general concept has been reviewed and accepted by Justin Shaw, P.E., HMM Engineering. However, an engineered stormwater management plan shall be submitted for review prior to final plat. (See Condition B-9)

Project Review

Staff finds that the proposal complies with all of the applicable requirements of Ponderay City Code. Items warranting discussion or conditions are discussed below. Staff reserves the right to develop a full record in the event of an appeal.

Ponderay Code Section	Requirement	Provided by the Applicant
<p>PCC 9-6-2 (F)(1) Application Contents, Narrative</p>	<p>Narrative Statement</p> <ul style="list-style-type: none"> a) Does the proposed request constitute a zone change? b) Is the change necessary or desired? c) Does the request conform to the comprehensive plan? d) Is the proposed request designed to be harmonious with the intended character of the general vicinity? e) Effects on the adjacent property? f) Owner of record and purchaser g) Will the site be adequately served by essential public services and utilities? (Streets, water, sewer, solid waste, schools) h) Will the proposed change create excess additional requirements at the public cost for services, or will it be detrimental to the economic welfare of the community? i) Will the proposed amendment lead to uses, activities or processes, materials or equipment and conditions of operation detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke fumes or glare? j) Will the property have approaches that are designed so as not to create interference with traffic flow? 	<p>Narrative Provided - See Narrative attached.</p>

Ponderay Code Section	Requirement	Provided by the Applicant
	<p>k) Will the amendment result in the destruction, loss or damage of a natural, scenic or historic feature of major importance?</p> <p>l) What is the previous use of the property and intended use? (i.e. number of employees, system of delivery of materials, general nature of the business or occupancy)</p>	
<p>PCC 9-6-2 (F)(9) Application Contents, Land Capability Report</p>	<p>The planning and zoning commission may require a land capability report prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. The report will identify the capability of the land to withstand disturbance without the risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation or geological or surface slippage.</p>	<p>The application is requesting zone change approval to rezone 14 lots (1, 2 and 24-35) from Residential to Commercial. Lots 1,2, 24 and 25 are proposed for future commercial development. Lots 26-35 are requesting zone change approval in order to allow higher density residential development.</p> <p>The site does not contain mapped wetlands, floodplain or mapped water bodies according to the U.S. Fish and Wildlife National Wetland Inventory maps and the Bonner County GIS data viewer. Additionally, the site is relatively flat.</p> <p>Similar properties in the vicinity have been successfully developed with commercial enterprises as well as higher density residential (Ponderay Plat).</p> <p>The site will be served by all urban services. Stormwater and erosion control designs will be reviewed prior to final plat recordation and must be</p>

Ponderay Code Section	Requirement	Provided by the Applicant
		<p>approved by the Ponderay City Engineer.</p> <p>Based on the above information, staff does not believe that a land capability report is warranted for the proposed zone change request.</p>
<p>PCC 9-6-2 (F)(10) Application Contents, study of social, economic fiscal and environmental effects</p>	<p>Prior to granting a zone change, the planning and zoning commission may require a professional study of the social, economic, fiscal and environmental effects of the proposed amendment.</p>	<p>The subject parcels are located along State Highway 200 and are adjacent to the primary Ponderay medical village. Commercially zoned parcels are located to the north, south, east and west of the subject properties.</p> <p>While the internal streets are proposed for public dedication and maintenance, the additional property tax revenue the city will receive from this development at build out should exceed any incurred maintenance expenses. (Staff estimate)</p> <p>The site does not contain mapped wetlands, floodplain or mapped water bodies according to the U.S. Fish and Wildlife National Wetland Inventory maps and the Bonner County GIS data viewer. Additionally, the site is relatively flat.</p> <p>Staff does not believe that professional studies are warranted for the proposed zone change.</p>
<p>PCC 9-6-2 (H)</p>	<p>Supplementary Conditions and Safeguards: In recommending approval of any zone change, the planning and zoning commission may also recommend appropriate conditions, bonds and safeguards. Violations of</p>	<p>See Proposed Conditions of Approval</p>

Ponderay Code Section	Requirement	Provided by the Applicant
	<p>such conditions, bonds and safeguards, when made a part of the terms under which the zone change is granted, shall be deemed a violation of this chapter. Conditions may involve, but are not limited to:</p> <ol style="list-style-type: none"> 1. Minimizing adverse impact on adjacent property. 2. Controlling the sequence and timing of development. 3. Controlling the duration of development. 4. Assuring that the development is maintained properly. 5. Designating the exact location and nature of development. 6. Requiring a provision for on site or off-site public facilities or services. 7. Requiring more restrictive standards than those generally required by this title. 	
<p>PCC 8-1-1 Subdivision Defined; Regulations</p>	<p>A subdivision shall be defined as the division of a tract lot or parcel of land into two or more properties for the purpose of transfer of ownership or building development whether immediate or future.</p>	<p>The proposed division would cause two parcels to be divided into 82 lots.</p>
<p>PCC 8-1-2 Subdivision Application procedures</p>	<p>Required application contents</p>	<p>The application was reviewed for compliance with PCC 8-1-2 and was found to be complete.</p>
<p>PCC 8-1-3 Public Hearing</p>	<p>A public hearing must be held before both the Planning and Zoning Commission and the City Council.</p> <p>Notice of said hearing must be provided in writing to all land owners within 500 feet of the proposed subdivision.</p>	<p>The noticing requirements of PCC 8-1-3 have been met as have additional notice requirements provided by Idaho Code.</p> <p>The City of Ponderay Planning Director will issue a written notice of decisions within the required time frame.</p>

Ponderay Code Section	Requirement	Provided by the Applicant
	The City Planning Director shall provide written notice of decision within 28 days of the City Council decision.	
PCC 9-4A-2 (A) Lot Size Minimum Commercial	There is no minimum lot size for commercial lots.	Lots proposed for commercial zoning range in size from ±.11-acres to ±.33-acres.
PCC 9-4B-2 (A) Lot Size Minimum Commercial	The lot size minimum for the Residential zone is 7,100 sq ft with 50 feet of frontage	Proposed residential lots range in size from ±.068-acres to ±.27-acres. Lot frontage ranges from 30-50 feet. See PCC 9-5C-15 below for explanation
PCC 9-5C-15 Conservation and Urban Reserve Density Allocation	<p>The minimum lot sizes may be converted to the gross density units per acres and averaged for a given subdivision plan for the purposed of conserving natural resources or working land, creating parkland, additional public ways or other public benefit.</p> <p>Such development shall be administered by conducting a sketch plan review prior to submission.</p> <p>Allowance for this section is intended only for exceptional projects with positive long-term benefits to the city which shall be discretionally determined by the planning director. Said director shall issue a written opinion to accompany the preliminary plat application.</p> <p>This section shall not be construed as to guarantee the subsequent preliminary plat approval which shall follow the</p>	<p>The applicant provided a sketch plan for review by the planning director.</p> <p>The planning director has issued a written opinion.</p> <p>The project proposes the following:</p> <p>The total site could accommodate ±99, 7,100 sq ft lots</p> <p>10.4% of the total site dedicated to the Park and Greenbelt.</p> <p>4.18 acres of right-of-way</p> <p>.68-acres of HOA maintained open space.</p> <p>1.91 acres of land to be privately maintained greenbelt (a portion of Lots to be maintained by the homeowners as greenbelt)</p>

Ponderay Code Section	Requirement	Provided by the Applicant
	<p>standard preliminary plat review procedures.</p>	<p>Construction of a multiuse path along the north property boundary.</p> <p>Dedication of public right-of-way allowing for emergency vehicle access and a future street connection to Railroad Avenue.</p> <p>Per the applicant, Lots 26-35 will utilize shared encroachments for driveway approaches in order to reduce the number of encroachments by half. Lots 69-82 will be constructed without street side vehicular access and without front facing garages. Access to the rear of each lot will be achieved by a narrow privately maintained gravel lane to the southeast of the lots. (see plat note) Additionally, the homes constructed on these lots shall have covered front porches or similar architectural entryway. These construction requirements will be stipulated in the CCR's. (email dated 1/30/20)</p> <p>(See Condition B-13)</p>
<p>PCC 8-1-6 Road specifications</p>	<p>60-ft minimum r-o-w</p>	<p>The project proposes dedication of public right-of-way ranging in width from 50 ft to 60 ft.</p> <p>The northern east-west street proposes a 50-foot right-of-way dedication where 60-feet is required. The additional 10-feet of right-of-way is proposed for dedication along the north parcel boundary for construction of a 10-foot multiuse path.</p>

Agency Comment

The application was sent to the following agencies for comment on January 30, 2020:

☒	Kootenai-Ponderay Sewer District	☒	Northside Fire District
☒	Ponderay Police Department	☒	Pat Park, Building Official
☒	City of Sandpoint	☒	Avista
☒	Independent Highway District	☒	Lake Pend Oreille School District
☒	Frontier Communications	☒	Northland Cable
☒	Ponderay City Engineer, HMH Engineering	☒	Idaho Transportation Department

At the time this report was prepared, the following comments had been received:

Avista Utilities, Don Peterson, email dated January 31, 2020: Mr. Peterson stated that Avista Utilities approves of the plan as drawn.

Pat Park, Ponderay Building Official, James A. Sewell & Associates, email dated February 3, 2020: Mr. Park stated that he has reviewed the application package for the subdivision, and he recommends approval.

Ponderay Police, Chief Cornelius, email dated February 3, 2020: Chief Cornelius commented that he does not see any glaring issues. However, this increase in residential units will be a stress upon emergency services, who sometimes struggle as is to provide the level of service that is expected.

Justin Shaw, P.E., HMH Engineering (city engineer), memo dated February 3, 2020: Mr. Shaw stated that the preliminary design appears appropriate and he see's no issue at this point. He asked that the applicant follow city code during the design phase.

****Staff Note:** Due to the zone change and conservation density allocation requests that are a part of this project review which could affect the overall design, the applicant was not asked to provide a fully engineered stormwater management plat for preliminary review. Instead a proposed condition of approval will require that a full stormwater management plan be submitted and approved by the Ponderay City Engineer prior to commencement of construction activities. (See Condition B- 9)

Kootenai-Ponderay Sewer District, letter dated February 13, 2020: Ms. Johnson stated that the subject property is within the Kootenai-Ponderay Sewer District boundaries. New User Facility Fees would need to be purchased to serve the proposed number of residential and commercial buildings. There is currently only sufficient capacity to serve one residence. A sewer main extension agreement must be executed and approved with the district. The developer has communicated with KPSD and are aware of the requirements. After all requirements have been met the district will provide service. (See Condition B-5)

Idaho Transportation Department, William Roberson, letter dated February 14, 2020: Mr. Roberson commented that the department is not opposed to the request. However, he requested the following:

1. Submit an encroachment permit for the change in use (See Condition A-1 and B-8)
2. Provide trip generation or traffic impact study to determine the requirement of a Right and left turn lanes. (See Condition A-1 and B-8)

Independent Highway District (IHD), Commissioner Bailey, email dated February 18, 2020: Commissioner Bailey commented regarding the following:

1. Project should have curb and gutter with sidewalks. Stormwater swales will require more maintenance than a curb and gutter system.
2. On street parking could damage ditches and reduce functionality, hinder access for snow storage
3. The proposed stormwater and utility easement located along the dedicated r-o-w should also include snow storage. (See Condition B-14)
4. All other open space should also be designated for snow storage and design accordingly. Additional property/lots could also be designated for snow storage. (See Condition B-13)
5. All rights-of-way should be 60-feet in width. Any reduction in r-o-w will hinder IHD's ability to provide an efficient level of service.
6. Lot 23 should be eliminated since the road is not proposed to be paved to this lot. Instead there should be a turn around and additional snow storage. (See Condition B-15)
7. Applicant should show a diagram outlining off street parking and turn movements to show how the rear loaded garages will work for lots 69-82.
8. On street parking needs to be limited or eliminated during the winter months so they don't hamper snow removal.
9. The overall width of the r-o-w of the 8-ft public paved trail is not defined on the plat. If it is to remain open year-round, snow storage areas need to be designated. (See Condition B-13)
10. Any proposed barricades or fences proposed between properties and the dedicated area need to be approved by the city to ensure they don't inhibit snow removal or trail access.
11. What impact will this have on neighboring stormwater facilities?

Northside Fire District, Zachary Pohl, email dated February 27, 2020: Mr. Pohl commented noting the areas of concern with the project are as follows:

1. Fire hydrant layout
2. Emergency access to both the street side and rear of each lot.
 - The path to the north of lots 1-23 provides great emergency access to these lots. While this is proposed for non-motorized access, it would be ideal if the ends were gated with a Knox key or if removable bollards were used that could be removed in case of emergency.
 - He also wondered if the lots 13-23 could be shifted to the east and a pathway constructed from street to path to allow for better emergency access? This would double as a way for residents to more easily access the trail. (See Condition B-4)
 - What sort of load limits may be placed on the private lane supplying rear access to lots 69-82?
3. Northside fire requests the northerly, east-west street be constructed with at least a gravel road base all the way to the property line where it connects with Railroad Ave at this time. This would be a good spot to control with a gate with Knox lock. This would allow for emergency access to and from Railroad Avenue if needed in the event of an incident. (See Condition B-15 and C-4)

Sandpoint Water, Dan Tadic, P.E., Water Connection Permit with notes, dated March 5, 2020: Mr. Tadic noted the property is within the water district boundaries. Water mains parallel the north, south and east property boundaries. Upon submission and approval of the proposed water main, payment of fee's and completion of infrastructure the water mains will be accepted. Individual lots will be served once individual building permits, agreements, fee's have been received and infrastructure is in place. (See Condition B-6)

Public Comment

Marty and Diane Maurer comment, 155 Emerald Industrial Park Road: The Maurer's stated that this is too much traffic for Highway 200. It's dangerous turning in and out of Emerald Industrial Park Road now. They inquired as to whether Kootenai-Ponderay Sewer can hand providing service. (See Conditions A-1, B-5, B-8 and Kootenai-Ponderay Sewer comments above)

Brad Johnson comment, 185 Emerald Industrial Park Road: Mr. Johnson returned the public notice. The Do not support box was checked. No additional detail was supplied.

Kris Sabo, RN, Pend Oreille Surgery Center, email dated February 28, 2020: Ms. Sabo noted that she is the administrator of the surgery center next door and represents the physician owners. She stated that group is neutral regarding the request but noted that she personally believes commercial is the most appropriate zone along the corridor and is consistent with the growing number of businesses and industry in the surrounding area.

She noted a number of questions and concerns as a business neighbor to the parcels:

1. Plans for stormwater management (See Condition B-9)
2. Plans for logging the subject parcel
 - *Staff Note: Planner KayLeigh Miller spoke with Ms. Sabo regarding her comment to obtain additional information regarding the raised concerns on February 28, 2020. Based on that discussion staff noted that this concern relates to the privacy of the patients visiting the medical facilities.*
3. Noise, traffic and dust abatement plans during development and construction.
 - *Staff Note: A dust abatement plan will be submitted as a part of the stormwater management plan. (See Conditions B-9)*
4. Plans for privacy buffer/fencing between residences and the healthcare businesses.
 - *A municipal path and greenbelt are proposed along the medical facility property boundary. Additionally, the plat proposes a 40-foot designated greenbelt along the north boundary of proposed lots 1-23.*
5. Plans to apply with ITD for a merge or turn land on Highway 200 due to the increase in traffic. (See Conditions A-1 and B-8)

Jessie Demers comment: It looks like a great project. Go for it.

Staff Analysis & Recommendation

Subject to the recommended conditions of approval, staff finds that project Files SS20-023 and ZC20-018 are consistent with Ponderay City Code as outlined in the staff report. Therefore, staff recommends approval of the proposed subdivision and requested zone change to commercial. Staff recommends the following motion and conditions of approval.

Motion

MOTION TO APPROVE: I move to recommend approval of these application, FILES #SS20-023 and ZC20-018, requesting subdivision approval to divide ±18.83-acres into 82 lots and requesting zone change approval from residential to commercial for lots 1,2 and 24-35, finding that they are in accord with the applicable sections of Ponderay City Code as outlined in the staff report, and based upon the evidence

submitted up to the time the staff report was prepared and testimony received at this hearing. I further move to adopt the conditions of approval (noting any amendments) in the staff report.

MOTION TO DENY: I move to recommend denial of these application FILES #SS20-023 and ZC20-018, requesting subdivision approval to divide ±18.83-acres into 82 lots and requesting zone change approval from residential to commercial for lots 1,2 and 24-35, finding that they are not in accord with the applicable sections of Ponderay City Code.

MOTION TO REMAND: I move to remand these application FILES #SS20-023 and ZC20-018, requesting subdivision approval to divide ±18.83-acres into 82 lots and requesting zone change approval from residential to commercial for lots 1,2 and 24-35, back to the applicant to address (insert the specific areas of concern)

Conditions of Approval

Prior to Zone Change Ordinance Recordation

A-1. Prior to zone change publication the landowner shall submit a change of use encroachment permit and trip generation or traffic impact study to the satisfaction of the Idaho Transportation Department. The applicant shall receive approval for said change of use encroachment permit and shall construct traffic facilities as determined necessary by the Idaho Transportation Department.

Final Plat Conditions

- B-1.** A zone change ordinance shall be recorded.
- B-2.** A final plat shall be recorded.
- B-3.** The final plat shall be recorded within two (2) years of preliminary plat approval. The city may grant a one-year administrative extension with the approval of the city engineer.
- B-4.** The plat shall be amended to show dedication of a public right-of-way connection between the proposed multi-use path and the northerly east west street. An 8-foot multiuse path shall be constructed by the landowner in said right-of-way.
- B-5.** Prior to final plat recording, the applicant shall provide proof of compliance with the requirements of the Kootenai-Ponderay Sewer District and shall construct the necessary infrastructure or shall receive approval to bond for the installation thereof.
- B-6.** Prior to final plat recording, the applicant shall provide evidence that the site will be served by City of Sandpoint Water and any necessary infrastructure shall be installed or the application shall receive approval to bond for the installation thereof.
- B-7.** Prior to final plat recording the landowner shall provide proof that the proposed lots will receive power service from Avista Utilities and any necessary infrastructure shall be installed or the application shall receive approval to bond for the installation thereof.

- B-8.** Prior to final plat recording the landowner shall submit a change of use encroachment permit and trip generation or traffic impact study to the satisfaction of the Idaho Transportation Department. The applicant shall receive approval for said change of use encroachment permit and shall construct traffic facilities as determined necessary by the Idaho Transportation Department.
- B-9.** Prior to final plat recording the applicant shall submit a stormwater management plan in accord with Ponderay City Code 8-1-5 and Title 8, chapter 4. Said plan shall be to the satisfaction of the Ponderay City Engineer. Any necessary infrastructure shall be installed, or the application shall receive approval to bond for the installation thereof.
- B-10.** Prior to final plat recording the applicant shall supply engineered road and pathway designs to the satisfaction of the Ponderay City Engineer. Any necessary infrastructure shall be installed, or the application shall receive approval to bond for the installation thereof.
- B-11.** Should the applicant choose to pursue a bond for any portion of the site development, a developer agreement between the City of Ponderay and the Landowner shall be executed.
- B-12.** The final plat and proposed infrastructure shall comply with applicable portions of the 2015 International fire code.
- B-13.** CCR's, Home Owners Association and a maintenance agreement shall be recorded simultaneously with the plat. Said documents shall include at a minimum, the design restrictions relating to lots 69-82, maintenance and development of the HOA open space, maintenance for the privately maintained access lane east of lots 69-82, restrictions for the plat-imposed greenbelt, shared approaches for lots 26-35, snow storage areas, emergency vehicle access.
- B-14.** Modify the proposed roadside stormwater and utility easement to include snow storage.
- B-15.** Prior to final plat recordation the landowner shall construct the public road to minimal fire code standard to its intersection with Railroad Avenue.
- B-16.** Final Plat shall note that lots 26-35 will be for residential use

Operational Conditions (Must be met on an ongoing basis)

- C-1.** All external lighting shall be downwardly directed.
- C-2.** The commercial uses shall operate in compliance with the performance standards of PCC 9-5-4.
- C-3.** Stormwater and erosion control features shall be installed and maintained in accord with the approved plan.
- C-4.** A gate containing a Knox lock shall be installed and maintained for emergency access at the property line until such time as legal access to the site from the east is established.
- C-5.** Gate or bollards installed to restrict vehicular access to the multiuse path shall be removable in order to allow for emergency vehicle access.