

## BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the Freedom Estates Subdivision consisting of 6 lots in a Residential/Agriculture Zoning District.

Board of County Commissioners Meeting Date: October 16, 2024

Property Owners & Developers: Jason & Rebecca Young

The Board reviewed the record, which is comprised of:

1. Exhibits to the Staff Report:

- S-1: Planning & Zoning Commission Staff Report
- A-1: Application for Subdivision Plat
- A-2: Survey Narrative
- A-3: Plat
- A-4: Correction Warranty Deed
- A-5: Boundary- HLE
- A-6: Custom Soil Resource- United States Department of Agriculture
- A-7: Guarantee- Stewart Title Guaranty Company
- A-8: IDWR- Well Information Summary
- A-9: HLE- Water share information
- A-10: Accessory Building Permit- Bingham County
- S-2: Aerial Map
- S-3: Zoning & Subdivision Map
- S-4: Utilities Map
- S-5: Irrigation Provider Map
- S-6: Google Map Image
- S-7: Notice of Posting- Addie Jo Harris
- S-8: Site Photos
- S-9: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission
- S-10: Blackfoot/Snake River Government Agency Notice & Notice of Mailing- Addie Jo Harris
- S-11: Property Owner List & Notice of Mailing- Addie Jo Harris

2. Planning & Zoning Commission Meeting Exhibits & Minutes from August 14, 2024 and Planning & Zoning Commission sign in sheet for August 14, 2024.
3. All Information and Testimony presented at the Commissions Public Hearing on August 14, 2024.
4. Planning & Zoning Commission Reason & Decision, signed by Chairman William Aullman on September 17, 2024.

**A. REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the August 14, 2024 Planning & Zoning Commission Public Hearing property owners and developers Jason and

Rebecca “Becky” Young, requested to create a six (6) lot subdivision, pursuant to Bingham County Code Title 10, Chapter 14 Subdivision Regulations, consisting of the Young’s existing residential lot and 5 new lots ranging in size from 1 acre to 1.95 acres, on a parcel consisting of 7.06 acres, zoned “R/A” Residential/Agriculture, located at approximately 755 W 25 S, Blackfoot, Idaho. The Bingham County Comprehensive Plan Map has this parcel designated as Residential Agriculture.

Based on the record presented and received at the Planning & Zoning Commission Public Hearing, the Commission approved the Subdivision Application with the following condition:

- 1) Southeastern Idaho Public Health Department be notified of the previous land use.

### **REASON**

Based on the entire record and Staff Report, the Board finds:

- a. The Board found that the Subdivision Application met the purposes and use of the “R/A” zone as Bingham County Code Section 10-4-2 (C) provides for the establishment of low-density single-family dwellings with lot sized sufficient for individual sewer and water facilities. The Application contains lot sizes compatible with the surrounding area with lots proposing to be between 1.00-1.95 acres for single-family dwellings with individual sewer and water facilities, is compatible with existing residential and agricultural land uses in the immediate area, and has access to utilities. Adequate service by roadways is provided with Lots 1,2 and 6 having direct access to 25 S Grant Avenue with remaining lots 3,4 and 5 proposing access from a new 50-foot wide private road/easement on the west side of the proposed subdivision in conformance with Bingham County Code Section 10-6-8. The Planning and Zoning Commission also found the County Public Works Director did not identify any concerns pertaining to the number of approaches nor the distance between approaches; and
- b. The Board found that the Application still met the requirements of Bingham County Ordinance Section 10-14-4(A) because the Application was completed and included all items listed in 10-14-4(A) 1-23; and
- c. The Board found that the Application met the requirements of Bingham County Code Section 10-14-4 (B)(a) and (f) as the Board took into consideration the previous septage disposal on the property creating potential adverse conditions as well as potential impacts on health, safety or environmental problems and what condition(s) were appropriate to address these concerns; and
- d. In determining the acceptance of the proposed subdivision, the Board considered the objectives of the ordinance and reviewed Section 10-14-4(D)(3).
  1. The Board found the Application is consistent with the Bingham County Comprehensive Plan with proposed lot sizes that are

- consistent with the minimum lot size in a Residential/Agricultural Zoning District with a Comprehensive Plan Map Area of Residential Agriculture as referenced in Section 10-14-4(D)(3)(c); and
2. In reference to Section 10-14-4(D)(3)(d), the Board found the proposed Subdivision is requesting to have individual septic systems on each lot, subject to permitting from the Idaho Department of Public Health; and
  3. There were no concerns addressed relating to the public's financial capability of accommodating services pursuant to Section 10-14-4(D)(3)(e); and
  4. Pursuant to Section 10-14-4(D)(3)(f), health, safety, or environmental concerns were raised by the Department of Environmental Quality who submitted testimony (Exhibit T-5A) regarding septage concerns and provided recommendations to require the Applicant to provide historical loading data, crop uptake data, timelines when septage was applied and the date when application ceased along with past and present soil sampling to show any long-term effects from septage land application. The Applicant's Representative informed the Planning & Zoning Commission that the property owners would conduct soil and well water sampling, regardless if a condition was placed on the approval of the subdivision, based upon the concerns expressed by the Department of Environmental Quality. With that, the Board agreed with the Planning & Zoning Commission and that the testing samples should be provided to the Planning & Development Services Department for review and notification of the historical septage land application shall be given to the Idaho Department of Public Health for their consideration.
- e. The Board found that the Application met the requirements in Bingham County Code Section 10-14-8(B) as irrigation water will be assessed by the Wearyrick Ditch Company and delivered through a new pressurized irrigation system, with a 10-foot wide easement on each lot, utilizing 16 shares. The Commission anticipated that the upgrades to the irrigation system may resolve previous issues with irrigation overflow and understood that construction plans of such system will be required prior to Final Plat; and
  - f. Chairman Manwaring referred to (T-1) testimony from the Idaho Department of Environmental Quality, who provided a letter stated the DEQ was informed that the property at the location of this proposed subdivision was previously used for land applying septage from Randy Young's Septic Pumping Service, wherein DEQ recommended that the County require the Applicant to provide the historical loading data, crop uptake data, timelines when septage was applied and the date when application ceased, along with the past and present soil sampling to show that long-term effects from septage land application activities are not present. Chairman Manwaring stated there was no condition put in place by the Planning & Zoning

Commission and asked Addie Jo Jackman, Assistant Planning & Development Director, when the required information was to be submitted.

Ms. Jackman stated that was the recommendation of DEQ and that a condition placed. It was heard from Chris Street at the Public Hearing that such data historically could not be located. Ms. Jackman stated there was further discussion by the Planning & Zoning Commission regarding whether the request by DEQ was appropriate or could be handled through another measure outside of placing such a specific condition, wherein it was determined by the Planning & Zoning Commission that so long as Southeastern Idaho Public Health Department was notified, that such use was once a use on the property, they would be comfortable with allowing the Application to proceed.

Ms. Jackman stated that it was also heard from the Chris Street that there are mitigation measures as far as complex septic systems and water testing to assure safety.

- g. Chairman Manwaring stated there was an issue presented by a surrounding owner in regards to runoff, wherein Chris Street stated during the Planning & Zoning Commission Hearing, that a pressurized system would be placed and help with that issue.
- h. Commissioner Jackson had no concerns regarding the Application; and

### DECISION

Commissioner Jackson moved to uphold the decision of the Planning & Zoning Commission to approve the Freedom Estates Subdivision consisting of six (6) residential lots located at 755 W. 25 S., Blackfoot, Idaho on approximately 7.06 acres in a Residential/Agriculture zoning designation by Jason and Rebecca Young, subject to the following condition:

- 1. Southeastern Idaho Public Health Department be notified of the previous land use.

Chairman Manwaring seconded. Both voted in favor. The motion carried.

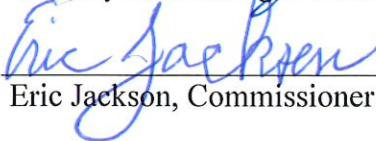
**Request for Reconsideration/Judicial Review:** Upon denial or approval of a Zone Change, with adverse conditions, pursuant to Idaho Code Section 67-6535(2)(b), the Applicant or affected person seeking Judicial Review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

**Regulatory Takings:** Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek Judicial Review as provided by Chapter 52, Title 67, Idaho Code.

Dated this 25 day of October, 2024.

**Board of Bingham County Commissioners  
Bingham County, Idaho**

  
Whitney Manwaring, Chairman

  
Eric Jackson, Commissioner

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Vacant, Commissioner

**CERTIFICATE OF SERVICE**

I certify that on the 25 day of October 2024, I served a true and correct copy of the Reason & Decision for Freedom Estates Subdivision upon the following person(s) in the manner(s) indicated:

- Mail
- Email: [cstreet@hleinc.com](mailto:cstreet@hleinc.com)
- Hand Delivered
- Designated Courthouse Box

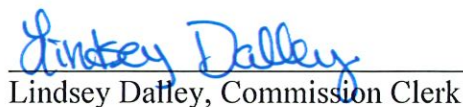
Chris Street, Professional Land Surveyor  
HLE, Inc

- Mail
- Email:
- Hand Delivered
- Designated Courthouse Box

Jason & Rebecca Young  
755 W. 25 S.  
Blackfoot, Idaho 83221

- Mail
- Email: [tolsen@binghamid.gov](mailto:tolsen@binghamid.gov)
- Hand Delivered
- Designated Courthouse Box

Tiffany Olsen  
Planning & Development Director

  
Lindsey Dalley, Commission Clerk