

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the 1st Amended Replat of Teeples-Bergeson Riverview Acres to be known as Brent View Subdivision, a 2-Lot Subdivision in a "R" Residential Zoning District.

Board of County Commissioners Meeting Date: July 5, 2023

Property Owners: Fredrick D. Beasley
Representative: Terry Fowler

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: Subdivision Narrative
- A-3: Preliminary Plat
- A-4: Legal Description
- A-5: Custom Soil Resource Report- United States Department of Agriculture
- A-6: Guarantee- Old Republic National Title Insurance Company
- A-7: IDWR- Well Information Summary
- A-8: Approach Verification & Warranty Deed
- A-9: Parcel Map
- A-10: Memo from Perry Butt- President of Wearyrick Ditch
- A-11: Construction Cost Estimate- HLE
- S-2: Parcel Map
- S-3: Zoning Map
- S-4: Comprehensive Plan Map
- S-5: Flood Plain Map
- S-6: Aerial Map
- S-7: Subdivision Map
- S-8: Area of Impact Map
- S-9: School District Map
- S-10: Utilities Map
- S-11: Nitrate Priority Area Map
- S-12: Irrigation Provider Map
- S-13: Approximate Proposed Subdivision Map
- S-14: Notice of Posting- Addie Jo Harris
- S-15: Photographs
- S-16: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission
- S-17: Blackfoot/Snake River Government Agency Notice & Notice of Mailing- Addie Jo Harris

S-18: Property Owners List & Notice of Mailing- Addie Jo Harris

2. Planning & Zoning Commission Meeting Exhibits & Minutes from March 8, 2023 and Planning & Zoning Commission sign in sheet for March 8, 2023.
3. All Information and Testimony presented at the Commissions Public Hearing on March 8, 2023.
4. Planning & Zoning Commission Reason & Decision, signed by Chairman Darren Leavitt on March 27, 202.

- A. **REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the March 8, 2023 Planning & Zoning Commission Public Hearing, the Commission considered Fredrick Beasley's request, represented by Terry Fowler, to develop the 1st Amended Replat of Teeples Bergeson Riverview Acres to be known as the "Brent View Subdivision," consisting of 2-Lots, on approx. 1.5 acres, in a "R" Residential Zoning District.

Lot 1 is proposed to be 0.68 acres in size, has direct access to Highway 39 via an existing unrestrictive approach approved by the Idaho Department of Transportation (ITD) and is proposed to share a connection for culinary water and with Lot 2. If a shared connection is approved, the Applicant has been advised an Easement providing access will be required as well as a Shared Well Agreement. The Applicant desired to have an individual septic system on this lot (the same sewer treatment as on Lot 2) but with the proximity to Groveland Water and Sewer District's pressure sewer line in Highway 39 and adjacent to this lot, it is Southeastern Idaho Public Health's position that a septic system permit will not be issued when sanitary sewer connection is available. Still desiring to have an individual septic system, the Applicant procured an Engineers Estimate the cost to connect one residence to the pressure sewer line would be \$20,141 if in the District boundaries or \$21,641 if the Applicant chose not to annex into the District boundaries. The Applicant requested the Commission consider the financial burden for connection and allow a septic system for sewer treatment.

Lot 2 is proposed to be 0.81 acres in size, features an existing residence, individual culinary well and individual septic system. Lot 2 is proposing direct access to Highway 39 via an existing residential approach approved by ITD, however, this approach was later developed into a circular driveway which was not approved by ITD. Therefore, the portion of the circular driveway to the East must be removed and returned to its original approved state as directed by ITD. Lot 2 also has an existing farm approach to the East of the existing home which was approved by ITD but for farm access only and not for residential purposes.

Both lots would have surface irrigation water rights from Wearyrick Ditch Co., with delivery through an existing ditch along the East and South property boundary which would be buried.

The Comprehensive Plan Map supports the Application as this parcel is identified as a Multi-Use area.

REASON

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

- a. The Application met the requirements in Bingham County Code Section 10-4-2 (D) as the parcel is zoned Residential, is contiguous to other properties of similar size, and land to the East, South and West are also in a Residential Zoning District. The Board found there are two permitted approaches to Highway 39 which will provide adequate road access and lot frontage, meeting Bingham County Code. Additionally, the Applicant learned one of the approaches to Highway 39 is not a permitted approach, wherein the Applicant's Representative agreed it will be removed; and
- b. The proposed subdivision met the Area Regulations of Bingham County Code Section 10-6-6 as the two lots exceed 0.5 acres with a proposed shared culinary well system between Lots 1 and 2, and that a Shared Well Agreement would be entered and recorded for the operation and maintenance of the community system; and
- c. The Applicant's proposal included a new sanitary sewer septic system on Lot 1 to match the sanitary sewer septic system currently contained on Lot 2 (with an existing residence and culinary well); and
- d. That both lots would have surface irrigation water rights from Wearyrick Ditch Co., with delivery through an existing ditch along the East and South property boundary which would be buried, at the Applicant/Developers cost; and
- e. The Application met the requirements of Bingham County Code Section 10-14-4(A) because the Application was completed and included all items in Sections 10-14-4(A) 1-23; and
- f. The proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan as the area is designated as Multi-Use which allows for any type of zoning; and
- g. Chairman Manwaring stated that the Comprehensive Plan designates the subject area as Multi-Use and allows for different zones.
- h. Chairman Manwaring stated he would be in agreeance of the conditions put in place by the Planning & Zoning Commission and that the Applicant would need to work with Idaho Transportation Department in regards to the unauthorized approach to be sure that it has been removed prior to Final Plat being recorded and an easement and Shared Well Agreement for a shared culinary well system will be recorded.
- i. Commissioner Bair added that the Application met all requirements of Chapter 14- Subdivision Regulations and noted in the plat.

The Board reviewed the requirements within Bingham County Code Section 10-4-2 (D): Purposes of Zones- Residential (R): The purpose of the R Zone is to preserve desirable residential neighborhood characteristics and to prevent overcrowding of the land while encouraging the

development of areas which are best suited for residential purposes that have the following and deliberation was held as follows:

1. Close proximity to existing townsites or which are contiguous to another R or R/A Zone: The Board had no concerns.
2. Lot size compatible with existing lot sizes in immediate vicinity: The Board had no concerns.
3. Accessibility of municipal services or the possibility of extension of services in the foreseeable future: The Board had no concerns.
4. Compatibility with existing uses in the immediate vicinity: The Board had no concerns.
5. Protection from incompatible uses: The Board had no concerns.
6. Adequate service by roadways: The Board had no concerns.

DECISION

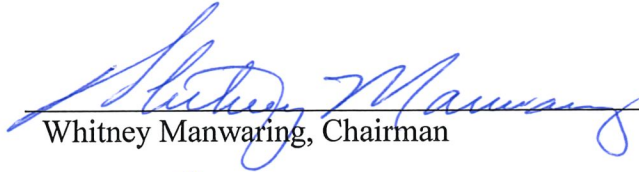
Commissioner Bair moved to uphold the decision of the Planning & Zoning Commission to approve the 1st Amended Replat of Teeples-Bergeson Riverview Acres to be known as Brent View Subdivision, a 2-Lot Subdivision in a "R" Residential Zoning District, along with conditions 1 and 2 put in place by the Planning & Zoning Commission, which were: 1) Developer be required to record an Easement and Shared Well Agreement for the shared culinary well system between lots 1 and 2 and 2) If an individual septic permit for Lot 2 is denied by Southeastern Idaho Public Health, the Applicant will be required to connect to the Groveland Water & Sewer Districts pressurized sewer line located in Highway 39 Right-of-Way. Plus, one additional condition to acquire verification from the Idaho Transportation Department that the unauthorized approach has been removed prior to Final Plat being recorded. Commissioner Jackson seconded. All 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 _____ day of July 2023.

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


Whitney Manwaring, Chairman


Mark Bair, Commissioner

Eric Jackson, Commissioner