

## BANNOCK COUNTY PLANNING AND DEVELOPMENT COUNCIL

**APPROVED** MEETING MINUTES | April 17, 2024

**BANNOCK COUNTY STAFF PRESENT:** Hal Jensen, Planning Director; Tristan Bourquin, Assistant Director; James Bagley, Zoning Planner, Alisse Foster, Subdivision Planner; Marj Williams, Management Assistant; Kiel Burmester, Road and Bridge.

Stewart Ward calls the meeting to order at 5:15 pm.

### **A. ROLL CALL AND DISCLOSURE OF CONFLICTS OF INTEREST:**

Present Council Members: Stewart Ward, Edward Ulrich, Barbara Hill (via Zoom), Chuck Heisler.

Excused/Absent Council Members: Tam Maynard.

### **B. PRELIMINARY BUSINESS:**

This is Chuck Heisler's last meeting on the Council. It is also James Bagley's last meeting as Zoning Planner.

AGENDA CLARIFICATION AND APPROVAL – None.

Ulrich makes a motion to accept the Agenda as outlined. Heisler seconds. Motion passes unanimously by acclamation.

### **C. APPROVAL OF MINUTES:**

Ward asks for a motion to approve minutes from March 5, 2024. Hill moves to approve the minutes as written. Ulrich seconds.

Motion passes unanimously by acclamation with Hill and Heisler abstaining due to being absent from that meeting.

Ulrich makes a motion to open the public hearing. Heisler seconds. Motion passes unanimously by acclamation.

#### **D. PUBLIC HEARING ITEMS:**

4. CONDITIONAL USE PERMIT: CAMPGROUND – Megan Reno, 12839 S Racoon Dr., Lava Hot Springs, ID, petitions for a conditional use permit to create a 1-spot campground, on approximately 20.00 acres. The campground will be located in the recreational zoning district. The applicant has proposed hours of operation for 24 hours, seven days a week with private water and septic. Applicant rents house nightly and wants guests to be able to set up tents if wanted.

Ward asks if the campground spot will be rented separately from the house. Reno says it's intended to be bundled with the house rental. Ulrich asks if it's hillside. Reno confirms but that it's leveled out. Heisler asks if there are any outlets in the area for an RV. Applicant says there is electric there already but is not planning to build it as an RV site.

Jim Bagley, Zoning Planner, presents the Staff Report. He notes that the #9 recommended condition is solidifying what's already in the ordinance. Bagley asks Reno whether they stay onsite while the home is being rented. Reno says they live somewhere else in Lava.

Heisler asks Bagley how Airbnbs are addressed in the County. Bagley says they can only be restricted for the purposes of health and safety. Private citizens can rent their homes but having multiple units or campsites falls under a campground. Heisler has a hard time seeing the campsite as more than an extended use of the existing property and would be more concerned if they were trying to rent the house and the campsite separately. Bagley notes that this is important for future planning should they decide to sell the property. Heisler says a condition should be added to the CUP that the campsite cannot be rented separately. Ward asks if the reason a CUP is needed is because the site is being rented for money instead of personal use or if it's the zoning. Bagley says it's because they are renting it and the campsite is considered a separate entity from the structure. Ward sees the one camp spot as an amenity to an existing rental. Jensen says both scenarios were discussed with the Applicant and they decided to move forward with the CUP in case of complaints. Hill says having the CUP will provide clarity to the customer on Airbnb.

Hill asks if Racoon Road is a private road. Bagley confirms. Hill asks if they can require the condition for the road to be widened if the Applicant doesn't own the road. Jensen says the roads are built to a country-road standard where you drive down the middle of the road. He recommends a condition for the Applicant to show the existing road is currently built to 20'. Heisler asks why they have to improve the road beyond their campground. Jensen says it's just along their frontage.

Ward invites public testimony.

Public testimony in favor: Lisa Toly, 3892 Blazer Hwy, Lava Hot Springs, ID. She supports the application because she believes it's the first step toward somewhat regulating Airbnbs. She

says Lava Hot Springs has been a tourist destination for many years and this will help give renters some guidelines.

Kirby Padnato (sp?), 12839 S. Racoon Dr., Lava Hot Springs, ID. She lived at the Reno's residence from 2020-2022. She says in the winter most residents park and take snowmobiles to their homes. She says the Applicant is one of the few people who plowed the road, which was nice since she didn't have a snowmobile.

Nephi Reno, 12839 S. Racoon Drive. He is in favor of the application. He says they've been in the hospitality business for years and are always very respectful to neighbors. They've put in a lot of time and money to maintain the road and visit the site often.

Public testimony neutral: None.

Public testimony opposed: Bryce Passey, 13755 Racoon. He lives on the Lava Ranch end of Racoon Road and says there is a lot of traffic and people who literally race up and down the road. He says this will only get worse as more people are allowed to recreate in the area. He says parts of the road are narrow. He will sometimes leave his home for the weekend because of the noise and dust caused by tourists. He says tourists will also shoot off fireworks and start fires when there are restrictions in place. He believes homeowners are more respectful of the area than visitors.

Dennis Argyle, 13630 S. Racoon. He is concerned that there is only one way in and out of Spring Creek in the event of a forest fire. Supposedly there's an emergency exit through Jeff Dalton's property but he says this isn't accurate because nobody actually has keys to the gates. He says in 2022 people tried to do a campground on top of Spring Creek but it was stopped because there wasn't anyone there to man the campground.

Heisler believes the single entrance/exit is a valid concern but not necessarily in relation to this application and should be brought up with the County.

Ward invites the Applicant up for rebuttal.

Reno goes through the conditions and says she's fine with quiet hours, although the property is 20 acres in the trees so neighbors aren't close by. In regard to lighting, she says there was a light pole on the property when she bought it, but doesn't plan to put other lighting up. She has Christmas lights on the house but you can't see the house from the road due to trees. She believes the fifth condition requiring onsite management to be unreasonable and overstepping for the guests. She notes they do have exterior cameras on the property that allow for supervision. She is not planning to make any changes to the property. They remove garbage after every guest. She's not trying to make a KOA and not renting the campsite separately from the house. She notes that there was a cabin just built on the road so she imagines it's up to

standards. She says the Road Owners Association will allow campgrounds with an additional \$100 fee.

Ward proceeds on to discussion and review of the findings.

- A. The proposed use would not adversely affect surrounding properties to a materially greater extent than would a permitted use in the district. Permitted uses allowed are bed and breakfast, golf course, attached housing, outdoor entertainment, school and religious assembly, etc, found in current ordinance. This use is no greater than a single family residence that is use for recreational use in the recreational zone. It is an extension of the current use of this residence.
- 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. The requested use is for a single-family residence with tent camping onsite. There will be no extraordinary increase in traffic since the use is currently for a single-family residence.
- 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. The use is for a single-family residence, which is the current allowed use.
- D. The proposed use would be consistent with the goals and policies of the Comprehensive Plan of the County. This conditional use would be consistent with the goals and policies per Objective 4.4 and Objective 2.2.
- 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. The addition of tents onsite are of less impact than a larger permanent structure and complies with building height, etc.

Ulrich makes a motion, based on the record and discussion this evening, to approve the request by Megan Reno for a Conditional Use Permit to establish a campground, as described in the application materials, as supplemented with additional information attached in the staff report, according to testimony received, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair with the following conditions:

1. Established quiet hours from 10pm to 7am.
2. Fire pits or rings must meet fire code safety and pass inspection by the local fire district (documentation to be provided before utilization of campground).
3. Posted evacuation plan on site.
4. Any alteration of existing or new outdoor lighting will be directed downward and shielded. Pole mounted lights shall not exceed 15' in height.
5. Campground shall not be rented separately from cabin.
6. Racoon Drive shall be built to 20' wide at all points along parcel frontage.
7. Posted directions to nearest approved sanitary dump site for recreational vehicles.

8. Campground development and improvements will follow Idaho Department of Fish and Game suggestions in the publication "Living with Wildlife".
9. If trees are removed, they shall be replaced by 2 species of native trees of a minimum of 3" in caliper, one foot off the ground.
10. Garbage shall be removed from site weekly, and located within an enclosed container.
11. 50' buffer to adjacent parcels with residential uses.

Hill seconds the motion.

Roll call. Hill – yes. Heisler – yes. Ward – yes. Ulrich – yes. Motion to approve passes 4-0.

5. VARIANCE FROM 337 TABLE OF BUILDING BULK AND PLACEMENT STANDARDS – In accordance with §540 of the Bannock County Zoning Ordinance, Rich Phillips, 331 N. 13<sup>th</sup>, on behalf of Richard Brey and Brey Enterprises, requests a variance from the 50' right-of-way setback requirement (the applicant proposes a 30' setback) for a residential accessory structure (single-story 30x40 shop for cold storage). Mr. Brey would like a place to store his farming equipment and cattle feed. This is a rocky piece of unusable ground that has an established access road and stands next to an outbuilding. The 30' buffer from the right-of-way is a heavily treed area that would serve as a visual buffer of the shop. Another area was considered but would require constant monitoring of the gate to make sure no livestock gets out. Due to grade the shop would also sit much lower and wouldn't work in tandem with the outbuilding, and any access road would be steep. It would also reduce the amount of usable pasture by 20%.

Heisler asks how the two buildings are meant to work in tandem. Phillips says the shop would be connected or a few feet away from the outbuilding so moving between the two would be easy. The other area would require walking up and around to access.

Ward asks how far it is from the northeasterly structure to the right-of-way of Buckskin. It is 74' based off the parcel viewer. Ward asks if they know where the property line is. Phillips says no, they measured 80' from the center of the road because it was easy to find. Ward and Ulrich have concerns that they are asking for a significant variance without knowing where the property is. He also has a hard time using local road standards on a collector road without this information. He can't make an informed decision without a topography map.

Heisler asks Burmester, Road and Bridge, if he knows what the right-of-way is for Buckskin. Burmester says it looks like it's at 60 right now. Ward asks what the right-of-way would be according to the manual. Burmester thinks it would have to have an 80' right-of-way since it's classified as a major collector.

Jim Bagley, Zoning Planner, presents the Staff Report and notes that the sloping is anywhere from 8 to 12%, which falls below the greater than 15% “sleep slope” standards. He says the driveway comes down significantly but then levels out quickly.

Ward notes to Staff that the site plan doesn’t have much information and it would be helpful in the future if they were more detailed.

Ward invites public testimony.

Public testimony in favor: None.

Public testimony neutral: None.

Public testimony opposed: None.

Ward proceeds on to discussion and review of the findings.

- A. The applicant has not shown that there is no reasonable alternative. The applicant did not show sufficient evidence that the proposal meets setbacks from a verified property line. Therefore, there may be another reasonable alternative to meet actual required setbacks with proper evidence of dimension.
- B. The variance is not in conflict with the well-being of the general public.
- C. The variance will not adversely affect adjacent property. Due to the applicant’s testimony, this structure will enclose equipment that is stored outside, therefore visually cleaning up the view of the property. And no adjacent property owners testified against.
- D. If the variance is not granted, the applicant will not suffer undue hardship caused by the physical characteristics of the site. The existing topography shows there are other suitable and buildable areas located on the site.

Hill makes a motion, based on the record and the discussion this evening, to deny the request by Rich Phillips, for a variance from the right-of-way setback in the Residential Suburban Zone, to reduce the right-of-way setbacks from 50’ to 30’ for one accessory structure. 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.

Ulrich seconds the motion.

Roll call. Heisler – no. Ward – yes. Ulrich – yes. Hill – yes. Motion to deny carries 3-1.

Ulrich moves to close the public hearing. Heisler seconds.

Motion passes unanimously by acclamation.

**E. BUSINESS ITEMS:**

6. PRELIMINARY PLAT APPROVAL: MARLEY ACRES DIVISION 1 – Don Marley requests preliminary plat approval for tax parcel RPR4265012107, in accordance with procedures and standards established in the Subdivision and Zoning Ordinances.

Ward asks if Marley Drive is used as open space but not Jenkins. Matt Baker, 366 Washington, confirms there is not going to be open space on Jenkins Road. Foster, Subdivision Planner, says there is an additional 0.92 open space, so they may want to consider adding Jenkins Road. She also notes ordinance says all power to be underground, but Council can condition distribution lines to be above ground. Applicant is planning to put power lines all the way down Marley Drive.

Ward proceeds on to discussion and review of the findings.

1. The Preliminary Plat is in conformance with the Bannock County Planning and Development Council's approved Concept Plan, all applicable provisions of this Ordinance, other County Codes and Ordinances, and Idaho Code. Based on the preliminary plat and the staff findings and report, such as minimum lot size has been met. The size of open space will be modified if required once surveyor and staff review, base flood elevations have been added to the plat, etc.
2. The street plan for the proposed subdivision will permit its development in accordance with the Bannock County Subdivision Ordinance. It meets County Road and Bridge design manual and connects to existing County road, etc.
3. The street plan for the proposed subdivision will permit the development of adjoining land by providing access to that land by right of way dedicated to the County, or a developed street to the property boundary. All other parcels are accessed from public right-of-way due to contiguous ownership.
4. Lot lines and roads relate to land shapes and existing development. As documented on the plat, lot lines are drawn in conformance with land, topography, drainage, and existing right-of-ways.

Heisler makes a motion, based on the record and the discussion this evening, to approve the request for the preliminary plat of Marley Acres Division 1 Subdivision, as described in the application of materials, as supplemented with the additional information attached in the staff report, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair with the following conditions:

1. Maintenance and Operation Plan to address who is responsible for the maintenance of the right-of-way of Marley Drive, until accepted by the county for maintenance.

2. Maintenance and Operation Plan for community mail boxes to address who is responsible for the maintenance and upkeep.
3. The Maintenance and Operation Plan shall be recorded be noted by instrument number on the final plat.
4. A note shall be place on final plat stating: "Open Space is deed-restricted against further development but it can be farmed or timbered, etc. "
5. If Jenkins Road is open space, Jenkins Road open space will need to be hatched to match the legend for open space.
6. Open space to be increased to no less than 50 % of the total acreage.
7. Plat shall state the "R" is restricted to preserve Natural Drainage/Wetlands/Floodplain.
8. Fire suppression tank easement must be removed from the open space.
9. Applicant may install distribution power lines above ground, in the public utility easements provided on Preliminary Plat.

Hill seconds.

Roll call. Heisler – yes. Ward – yes. Ulrich – yes. Hill – yes. Motion carries 4-0.

7. PRELIMINARY PLAT APPROVAL: ELLIS ESTATES – Josh Ellis, 13578 N. Hawthorne Rd, requests preliminary plat approval for tax parcels RPR3803035516 and RPR3803035512, in accordance with procedures and standards established in the Subdivision and Zoning Ordinances.

Ulrich asks if Staff has reviewed the conditions. Foster, Subdivision Planner, says requirements have been met, but some have to be met at final plat so haven't been addressed but will be reviewed at that stage. She recommends condition #7 be changed from using the label of lot since it does not meet that definition. And Council may want to ask Applicant what utilities they intend to install for condition #5.

Ward asks why they're dealing with construction plans when improvements are already done. Foster says the Applicant chose to move forward and needs to submit as-built plans.

Ellis says power, gas, and CenturyLink are in for all lots. The only thing that isn't done that he would like to do after is the secondary irrigation. Ulrich asks if that is taken care of with the irrigation district. Foster says typically plans are submitted and is something that could be bonded to get the plat signed. Ward says the pump is going to be dealt with by Fort Hall but pressurized irrigation needs to be added to the plans.

Foster asks if the utility easement connects with Hawthorne Road and it's just not depicted in the plat. Ellis says there's a 15' utility easement along that but because they have to be

continuous, they've assigned the difference to Lot 1. Foster says condition #3 is not needed if there's more clarity showing that the 30' section is part of Hawthorne Road on the final plat.

Ward proceeds on to discussion and review of the findings.

1. The Preliminary Plat is in conformance with the Bannock County Planning and Development Council's approved Concept Plan, all applicable provisions of Bannock County Subdivision Ordinance, other County Codes and Ordinances, and Idaho Code. Council has reviewed and all 16 conditions have been met.
2. The street plan for the proposed subdivision will permit its development in accordance with the Bannock County Subdivision Ordinance. There was a 50' design deviation and an increase in length to the cul de sac was approved by the Council. All parcels are accessed from public rights-of-way due to contiguous ownership.
3. The street plan for the proposed subdivision will permit the development of adjoining land by providing access to that land by right of way dedicated to the County, or a developed street to the property boundary. All parcels are accessed from public rights-of-way due to contiguous ownership.
4. Lot lines and roads relate to land shapes and existing development because there is no other connecting development.

Ulrich makes a motion, based on the record and the discussion this evening, to approve the request for the preliminary plat of Ellis Estates Subdivision, as described in the application of materials, as supplemented with the additional information attached in the staff report, and to adopt the proposed findings and order for signature by the Chair or Vice-Chair with the following conditions:

1. Amend instrument number 22402536 condition 7 to state "Provide total acreage of roads on subsequent plats."
2. If any section of Hawthorne Road right-of-way is currently located within the parcel, include said section within platted subdivision. Include measurements of right-of-way located within the platted subdivision.
3. Construction plans shall include power, gas, and pressurized irrigation valve to the corner of each lot.
4. Maintenance and Operation Plan addressing community mailboxes maintenance and right-of-way maintenance, until road is dedicated to the county for maintenance. This may be addressed within the CC&R's.

Heisler seconds.

Roll call. Heisler – yes. Ward – yes. Ulrich – yes. Hill – yes. Motion carries 4-0.

**F: ITEMS OF INTEREST:**

- a) Update on recommendations to Commissioners –
  - i. Commission needs to do due diligence and interview two new members in the May meeting.
- b) Discussion of upcoming hearing items
  - i. There are four variances on May 15<sup>th</sup>. There are two concept plans and one preliminary plat on June 5<sup>th</sup>.
- c) Announcements – None.

**G. CITIZEN COMMENTS:**

None.

**H: WORK SESSION:**

None.

Meeting is adjourned.

The public meeting was held in the Planning and Development Conference Room, 5500 S 5<sup>th</sup> Ave, Pocatello, ID 83204. Due to limited seating in the conference room, the meeting was also available via web-conference and telephone.

Respectfully Submitted,

*Marjorie Williams*

Marjorie Williams  
Management Assistant