

BOARD OF BINGHAM COUNTY COMMISSIONERS

REASON & DECISION

In regards to: The Planning & Zoning Commission's recommendation to approve to (1) amend the Comprehensive Plan Map Area designation from Industrial/Commercial to Residential/Residential Agriculture for a portion of Lots 5-8 of Block 15 in the Riverside Townsite; and (2) the School View Estates Subdivision to create a 5-lot Residential subdivision, located at approximately 19 S. 700 W. and 23 S. 700 W., in Blackfoot, Idaho on a total of approximately 2.92 acres, by property owners Rivin LLC subject to the proposed plat being updated to show the location of the adjacent property owners wells, septic systems, and drain fields prior to being presented to the Board of County Commissioners to verify the lots have sufficient distance to accommodate the infrastructure.

The Applicant complied with the condition to update the Plat which now depicts the location of the Popejoy well. A copy of the Plat was provided as Exhibit CC-2. The Popejoy septic system and drain field as well as the other three (3) adjacent parcels septic systems, drain fields, and culinary wells are outside of the Plat scale and are reflected in distances from the proposed Subdivision boundary; as attached Exhibit CC-3.

Property Owners: Rivin, LLC

Board of County Commissioners Public Hearing Date: April 15, 2025

The record provided to the Board is comprised of the following:

1. Exhibits to the Board Public Hearing Staff Report:
 - CC-1: Staff Report- Board of County Commissioners
 - CC-2: Updated Preliminary Plat
 - CC-3: Description of location for Popejoy septic system and drain field as well as the other three (3) adjacent parcels septic systems, drain fields, and culinary wells, which are outside of the plat scale.
 - CC-4: Letter from Wearyrick Ditch Manager
 - CC-5: Proof of Publication- Idaho State Journal and Post Register-Board of County Commissioners
 - CC-6: Blackfoot/Snake River Government Agency Notice- Lindsey Dalley, Commission Clerk
 - CC-7: Property Owners Notice List & Notice- Lindsey Dalley, Commission Clerk
 - CC-8: Notice of Posting- Ashley Taylor, Planner
 - CC-9: Oath of Affirmation- Chris Street
 - CC-10: Oath of Affirmation- Joe Despain
 - CC-11: Oath of Affirmation- Lisa Taylor
 - CC-12: Oath of Affirmation- Jamie Popejoy
 - CC-13: Oath of Affirmation- Russell Daniel
 - CC-14: Oath of Affirmation- Tim Adams

- CC-15: Oath of Affirmation- Raela Scott
2. Exhibits to the Planning & Zoning Commission Staff Report:
- S-1: Staff Report- Planning & Zoning Commission
 - A-1: Application for Subdivision Plat
 - A-2: School View Estates Subdivision Narrative
 - A-3: School View Estates Plat
 - A-3A: School View Estates Preliminary Plat
 - A-4: Correction Warranty Deed
 - A-5: Guarantee- Flying S Title and Escrow of Idaho, Inc
 - A-5A: Second Guarantee- Flying S Title and Escrow of Idaho, Inc
 - A-6: Custom Soil Resource Report- United States Department of Agriculture
 - A-7: Well Construction Search- Idaho Department of Water Resources
 - A-8: Postal Box Approval Letter
 - S-2: Aerial Map
 - S-3: Zoning & Subdivision Map
 - S-4: Comprehensive Plan Map
 - S-5: Utilities Map
 - S-6: Irrigation Provider Map
 - S-7: GIS Map
 - S-8: Notice of Posting- Addie Jo Jackman, Assistant Director/Lead Planner
 - S-9: Site Photographs
 - S-10: Proof of Publication- Idaho State Journal and Post Register- Planning & Zoning Commission Public Hearing Notice
 - S-11: Blackfoot/Snake River Government Agency Notice List & Notice of Mailing- Addie Jo Jackman, Assistant Director/Lead Planner
 - S-12: Property Owners List and Notice of Mailing- Addie Jo Jackman, Assistant Director/Lead Planner

As to procedural items, the Board of County Commissioners finds the following:

1. In accordance with Bingham County Code 10-3-6, Notice of the Boards Public Hearing was provided as follows:
 - a. Sent to Government Agencies on March 11, 2025 (CC-6 Government Agencies List and Notice)
 - b. Published in the Idaho State Journal and Post Register on March 15, 2025 (CC-5- Affidavit of Publication)
 - c. Sent to property owners within 300' of this property on March 11, 2025. (CC-7 Property Owners Mailing List and Notice)
 - d. Site was posted on-site in three (3) locations, one on each parcel, on March 26, 2025 and photographs of the site were taken on January 3, 2025 (CC-8 Notice of Posting Affidavit and S-9 pictures)

There was no testimony received prior to the Boards Public Hearing.

At the Public Hearing, the Staff Report was presented by Tiffany Olsen, Planning & Development Director.

Commissioner Jackson stated if a new home is being constructed, what is the required distance that a well and septic system should be from existing drain field, to which Ms. Olsen stated the requirement is 100 feet.

Commissioner Jackson stated directly East of the North end of the subject property, there used to be a big dip and asked if that was a gravel pit, to which Ms. Olsen stated she was not certain but that she had visited with a member of the public regarding that specific portion of ground being indicated and according to the elevation chart, it could have been but potentially the Applicant's Representative would have the answer.

Commissioner Jensen asked Ms. Olsen in looking at the size of the proposed lots and the requirements, there is to be a plan in case the drain field fails and asked if there is enough room on the property to have a backup plan. Ms. Olsen stated that each lot will have a replacement area and as far as she understands, if there was to be a joint or shared replacement area, that would be something that would be known or seen on the Plat but potentially Mr. Street could answer.

Chairman Manwaring stated that ½ acre lots are acceptable because of hooking up to the septic or water and if they are not, if they are together they would have to be on a 1-acre lot. Chairman Manwaring stated that is an issue and that Department of Public Health does require and look at property so if something fails there is sufficient room to add to it. There would not be room for replacement area if on ½ acre lots and everyone had their own septic. Ms. Olsen stated it is challenging on a ½ acre lot, to have an individual well and a drain field and still be able to meet distance requirements. Ms. Olsen stated on larger lots such as the .77-acre lot, it is visible as it is proposed that there is an appropriate distance between the well and the existing drain field as that well is set to be abandoned but that is something that is detailed in the Applicant's Subdivision Application to the Department of Public Health, to indicate where the anticipated locations will be. Ms. Olsen stated typically that is a state that typically occurs in between the Application and Final Plat being recorded to be sure that standards are met. In the event that it does not meet standards, the Department of Public Health indicated that those lots were not of a sufficient size to accommodate that infrastructure then this would come back before the Board.

Chairman Manwaring asked Ms. Olsen to explain a Comprehensive Plan Amendment versus a Zone Change. Ms. Olsen stated in order for the subdivision to proceed in a Residential zone, it should be compatible with the Comprehensive Plan Map areas and it is contiguous to what it needs to be in order to support the proposed development. Chairman Manwaring asked why a Zone Change isn't being done rather than a Comprehensive Plan Amendment, wherein Ms. Olsen explained that the current zoning of the subject property is Residential and it fits with the lot size development that it being proposed. Ms. Olsen stated that she is unable to explain why the subject property is designated as Industrial/Commercial but would anticipate that as the county looks at the Comprehensive Plan Map areas and amendments are made in the future, the section being

discussed would become Residential to be in conformance with the current lot sizes and the use within the area, which is Residential.

Ms. Olsen explained in 2018 the Board of County Commissioners created a new area that is called a Multi-Use zone, which supports all zoning districts. Ms. Olsen stated when she read the Residential/Residential Agriculture Comprehensive Plan area, she mentioned that it supports the Residential Zone and the Residential/Agriculture Zone but the Multi-Use area supports all zoning districts. The purpose behind that was to create a path for development, so if there were a Commercial business that was applying for a Building Permit, the county would know that it is appropriate because it supports any and all zones. Ms. Olsen stated there are different sections of the Multi-Use corridor, along Highway 39, Highway 91 and various sections of Highway 26.

With no further questions from the Board, testimony was presented by Chris Street, Applicants Representative (CC-9), stated the proposed use matches the zoning but he knows the biggest concern is sewer. Mr. Street stated there was also a concern brought up in regards to the estimate put together because they used numbers that were from a couple of years prior but in order to get a true cost HLE would need to design the system and send it out to bid. As many know, HLE is the Engineer for Groveland Water and Sewer system, Mud Lake Sewer Department and Declo Sewer Department, therefore, they have a pretty good feeling for what these types of systems would cost. The estimated system would be a private lift station and that station would need to be maintained by the 5 homeowners and in order to do that the Department of Environmental Quality put requirements on the homeowners. They will need to be able to prove that they are capable of maintaining the system and have to have the financial capabilities that if something goes wrong, to cure any issue. Mr. Street stated that is sometimes in the realm of having money in escrow or in an account for this specific use if needed. Therefore, there are complications when it comes to private lift stations versus public lift stations. Mr. Street feels as though the estimate provided is a good representation of what it would actually cost and in fact may be a lower cost estimate. Mr. Street stated between the Planning & Zoning Commission Public Hearing and this one, there has been the opportunity to bid out pumps for other lift stations, one for Groveland Water and Sewer and their pump is a little bigger but just for the pump and control panels were \$83,000.00 and that is with an existing wet well and no other infrastructure included. Mr. Street stated they also quoted for Mud Lake, which is comparable to the size of pumps that would be required for this Application, which came to approximately \$55,000.00, only for the pump and panels. Mr. Street reiterated that he believes the estimate provided is a good estimate.

Commissioner Jackson asked Mr. Street how many horsepower does there need to be for one pump, wherein Mr. Street stated he is not an expert but the system estimated for Mud Lake was an 11-horsepower pump.

Mr. Street stated usually HLE does not involve the health department until a later date but they in fact have already met with the Health Department, who have dug test holes, have tested the soil and they have been shown where the proposed septic systems would be and the replacement areas are. Mr. Street stated they had no issues or concerns and have approved that there is enough spacing for new septic systems in the proposed locations and also replacement areas.

Mr. Street stated that HLE was able to meet on-site with the Popejoys in order to locate where their well and verify dimensions in order to meet requirements. Mr. Street stated on the original Preliminary Plat, on Lot 4 they did not realize there was an abandoned drain field but it is shown on the updated Preliminary Plat but even with the abandoned well, it is not proposed to be used and will be abandoned, there is still room for septic systems and replacement areas.

Chairman Manwaring asked Mr. Street if there would be a replacement drain field on lot 5, wherein Mr. Street explained on Lot 5 there is an existing system, which will be abandoned and in order to do a replacement it would be too close to the well. Mr. Street stated that Lot 5 and Lot 3 have existing drain fields and Lot 4 has the abandoned one, which is the closest drain field to the Popejoys and is similar to the drain field that is on Lot 5.

Mr. Street referred to the question in regards to the possible gravel pit question, he does not know the history but potentially there is a surrounding property owner in attendance that may know more.

Lastly, Mr. Street stated that they have done their due diligence, he knows that it is not usual to see ½ acre lots with individual septic systems but there is sufficient room and the Health Department has approved with no concerns.

Chairman Manwaring asked as far as the septic, if there would be 1 or 2, wherein Mr. Street stated there would be 1 for each lot. Mr. Street stated that the Health Department is provided a map that has radiuses of all wells, proposed location, and replacement area locations, which is approved by them.

Chairman Manwaring asked where the well would be located, wherein Mr. Street stated there are two wells, Lot 3 has a well in front of the house and Lot 4 has a well in the northwest corner. Mr. Street stated the plan is to pipe those wells to an existing cinder wall pump house and then from that house with the pressure tanks. Chairman Manwaring clarified that both wells will go to the pump house and there will be enough water supply. Mr. Street stated that the Idaho Department of Water Resources allows to have up to 4 homes on a shared well without going to a public water system.

Mr. Street stated there are 3 wells total on the property. The well on Lot 4 is not currently in use and the plan is to install a new pump and use that to service the lots.

Chairman Manwaring referred to Planning & Zoning Commission Reason & Decision, page 6 of 7, number 4, which states that “the lots may not have irrigation water rights but with the lot sizes and shared culinary wells, there may be an option for the lot owners to irrigate with their domestic water rights”, but in reading through the documentation he does not believe that the word “may” should be there. Mr. Street stated that it was verified with the irrigation district that there were no water rights being on the property.

With no further questions for Mr. Street, the Chairman called for testimony from the public.

Testimony in support was received as follows:

Joe Despain (CC-10) Applicant, 548 W. 75 S., Blackfoot, stated there has been a lot of concern about the septic and drain fields but stated that he is a builder in the area and was the one who dug the test holes for the Health Department on each lot. Chairman Manwaring confirmed that the test holes had already been dug, to which Mr. Despain confirmed. Mr. Despain stated that he met with the Health Department and there is sufficient room for a full septic system and a replacement area, which is without having to reduce size of the footprint. Mr. Despain stated that he understands that it is difficult to see growth and that he has been on both sides of an application such as this.

An attendee asked Mr. Despain how many bedroom homes would be placed on the septic systems, to which Mr. Despain stated the sized homes were 5-bedroom homes and that a 5-bedroom home requires a footprint of approximately 30 by 85 feet for a drain field. Chairman Manwaring stated the county can approve a subdivision and growth but as far as the septic system, the Department of Environmental Quality and the Health Department, is who regulates and makes that decision.

Mr. Despain stated on Lot 4 there is a previous septic system that he was not aware of years ago, there are some documents but the Health Department stated that it has been abandoned long enough that if there was a need, they would be able to write a permit for a septic system over that old system.

Commissioner Jensen asked Mr. Despain when the test holes were dug, how deep was the gravel or how much top soil was there, wherein Mr. Despain stated that it was a minimal top soil of 18 inches, which is common.

There was no testimony in neutral.

Testimony in opposition was received as follows:

Lisa Taylor (CC-11) 52 S. 700 W., Blackfoot, stated she knows that she understands the need for housing but the main reservation she has is with the septic. Ms. Taylor stated she is concerned that this may be setting up future homeowners and that allowing potentially 25 bedrooms on under 3 acres and 2 shares wells trying to support 25 bedrooms seems like a heavy load and could be inadvertently putting the future homeowners under a financial burden. Ms. Taylor stated that she thinks it needs to be taken into consideration that more households are not single generation homes. Therefore, what is the load that is actually going to be on the wells and septic systems.

Commissioner Jackson stated that the county does not set the criteria for what septic tank or well is installed, that is the Department of Environmental Quality. They test the ground and decide if it can handle the proposed development.

Jamie Popejoy (CC-12) 22 S. 690 W., Blackfoot, stated that she is concerned about the concentration of the wells and septic systems on the small area being proposed. Ms. Popejoy stated there are abandoned wells and septic systems on the property. Ms. Popejoy stated that the well for her home is abutted to the drain field on the existing home, which they had no idea that drain field

was there when their well was drilled. Ms. Popejoy stated that one of the best solutions would be to have new homes tied into Groveland Sewer, not only does that solve this problem but will provide that service to new homes that are being built in the area.

Chairman Manwaring asked Ms. Popejoy how far from the property line is their well, wherein Ms. Olsen referred to Exhibit CC-3, which indicates the distance for the Popejoy residence and that the drain field is 145 feet east of the proposed subdivision and the well is 38 feet to the east of the proposed subdivision.

Commissioner Jensen asked what the depth and water table of the well for the Popejoy residence is, wherein Ms. Popejoy stated the well is 100 feet but is not sure of the water table.

Ms. Popejoy referred to the question pertaining to an old gravel pit and stated at one point it was a gravel pit but eventually closed and became a junk yard. Therefore, there are old vehicles and many other items buried. Commissioner Jackson asked if that gravel pit has been filled in, to which Ms. Popejoy stated it has not.

Russell Daniel (CC-13) 29 S. 700 W., Blackfoot, stated that in placing the proposed size of homes, it would put the wells at a dangerous depth and in 15 years a large amount of money would need to be paid in order to fix or replace a well, which will be a financial burden. Mr. Daniel briefly discussed the potential contamination and having to then connect to a community system, which would also be a financial burden.

Tim Adams (CC-14) 36 S. 700 W., Blackfoot, stated that he is concerned with the drain field being placed and with so many lots crowded onto one system, especially with the school close by as well and it could potentially affect their well also. Mr. Adams stated where the gravel pit was years ago, that hole gets bigger slowly over time, especially the more it rains.

Raela Scott (CC-15) 16 S. 690 W., Blackfoot, stated there are a lot of items and vehicles buried in where the old gravel pit was located and is located close to her home. Ms. Scott stated that she has lived in the area for 40 plus years and the gravel pit has items buried that should not have ever been buried.

Chairman Manwaring asked Mr. Despain when the test holes were dug and the Department of Public Health was involved, how close were those test holes to the old gravel pit, wherein Mr. Despain stated that the test holes were dug approximately 30-40 feet from the pit/property line, which were dug 10 feet deep and there were no concerns from Public Health.

Commissioner Jensen asked what would happen if the foundation was dug and items are found, wherein Mr. Despain stated he is not sure what would occur but he reiterated that 4 test holes have been dug and there were no issues from Public Health.

With no further testimony from the public, Mr. Street gave a rebuttal statement stating that the old septic system mentioned has been abandoned. Mr. Street stated that he would like to reiterate that there is a rigorous process and protocol that is followed when it comes to installing a septic system. Mr. Street stated that it has been proven that there is sufficient room for the system and the Health Department has approved. Mr. Street reiterated that the Health Department approves and signs the Final Plat prior to it being brought before the Board of County Commissioners for approval.

Chairman Manwaring asked if the nearby school has its own septic system, to which Mr. Street stated his understanding is that they have a septic system that at one time failed and had to be replaced.

REASON

Public testimony was closed and the Board moved into discussion and deliberation which was held and the Board hereby finds:

- a. The Board found that the Subdivision Application met the purpose of the Residential “R” Zoning District pursuant to Bingham County Code Section 10-4-2(D) as the parcels are located in Riverside Townsite, are compatible with existing uses in the immediate vicinity, with adequate service by roadways as access to proposed Lot 1 will be from 10 S. Woodruff Ave. and Lots 2-5 will have direct access from 700 W. Riverside Road; and
- b. The Board found that the Subdivision contains lot sizes of 0.52 acres to 0.77 acres, with an average lot size of 0.58 acres, which is consistent with surrounding single-family subdivision development in the area; and
- c. The Board found that in order to meet the Area Regulations of Bingham County Code Section 10-6-6(B)(2), lots in a Residential Zoning District may be one-half acre or greater with a well or septic coupled with an appropriate shared community water or septic system. From the Application, proposed Lots 1-3 will share a single well and Lots 4 and 5 will share a single well, subject to further permitting by Department of Water Resources, which will meet the Code requirements. The existing well located on Lot 5 will be abandoned to accommodate the development; and
- d. The Board found that the lots may not have irrigation water rights but with the lot sizes and shared culinary wells, there may be an option for the lot owners to irrigate with their domestic water rights; and
- e. That the Groveland Water and Sewer District (GWSD) has a high-pressure sewer line located approximately .12 miles north of the proposed subdivision with capacity to serve the development. HLE, Inc., provided a proposed estimate for connection

in the amount of \$202,000.00. Mr. Pange (representing GWSD) found the estimate was prepared for a different subdivision containing 12-lots from two years ago but testified that some of the components within the estimate were predominantly accurate; and

- f. Nearby wells, septic systems and drain fields for adjacent properties outside of the subdivision were not included on the proposed plat which caused concern for an adjacent property owner to the east based on the proximity between her culinary well and Lot 5; and
- g. The Comprehensive Plan Map designation is Industrial/Commercial, which is inconsistent with the Residential land use of the parcels comprising the subdivision, the "R" Residential Zone, and the surrounding area. The Board found the Residential/Residential Agriculture map area is most compatible with current and future land uses; and
- h. The Public Hearing met the notice requirements of Idaho Code Title 67, Chapter 65 and Bingham County Code Section 10-3-6.

Chairman Manwaring stated on the subject property, there are already wells located in the area, which will be tied into a pump house to supply water for 3 houses, wherein the Department of Environmental Quality does promote for community wells but the issue is the moratorium on community wells but with the two wells on this application, it is similar to a community well to supply water.

Commissioner Jensen stated he would agree with Chairman Manwaring and asked where it would be a community well, if there would be a Homeowners Association in place. Ms. Olsen stated that a Water Users Agreement would be required, which will be recorded prior to the recording of the Final Plat.

Commissioner Jensen stated that personally he would not purchase Lot 1 due to the uncertainty of what is there but if the developers would like to take that chance that is their choice. Commissioner Jensen stated that he agreed with the statement of when enough is enough but does not feel that it is the property owner's responsibility to build the ground water districts line, especially if it is a private line instead of a community line but they would not want to do that as they have their own systems.

Chairman Manwaring stated the cost of a lift station on a large subdivision could bare the cost but on a small subdivision, it is not feasible.

Chairman Manwaring referred to the testimony by Mr. Daniels in regards to water and stated the static water being at approximately 60 feet in the subject area but with the recharge in the canals, that has helped the water table increase over the last few years. Commissioner Jensen added that is why there is a great need for recharge sites.

Commissioner Jackson stated that he lives 2 miles west of the proposed development and he has lived there for 35 years but a neighbor of his has a feedlot and has large piles of manure on one side of the property and brought in 50 head of cattle. Commissioner Jackson stated originally that was concerning and he has his well-tested but he has been impressed with how well the sediment can be filtered out and there have been no issues with contamination.

Chairman Manwaring added that he appreciates Ms. Popejoys concern but the county does not regulate septic systems or their placement. Chairman Manwaring reiterated that Mr. Despain has already dug test holes and has been approved for septic and a replacement area.

DECISION

Commissioner Jensen moved to uphold the decision of the Planning & Zoning Commission recommendation, to approve the amendment to the Comprehensive Plan Map Area from Industrial/Commercial to Residential/Residential Agriculture. Commissioner Jackson seconded.

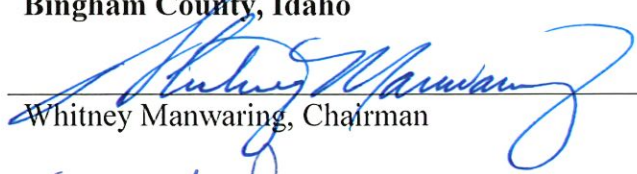
Commissioner Jensen amended the motion to add that this decision is based upon the review of Bingham County Code Section 10-4-2 and the requirements for the amendment to Residential/Residential Agriculture being met and recognize that the Application is applicable in Residential/Residential Agriculture to have ½ acre lots with septic systems, recognize that there is no irrigation from canal water on the lots, Groveland Water and Sewer was contacted and cannot demand that the subdivision be hooked up to the system and it was price prohibitive to do so, the nearby wells and septic systems were addressed and that the Department of Environmental Quality had no concerns and requirements have been met. 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.

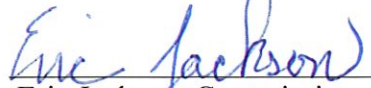
Regulatory Takings: Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been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

Dates this 5th day of May, 2025.

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



Whitney Manwaring, Chairman



Eric Jackson, Commissioner



Drew Jensen, Commissioner

CERTIFICATE OF SERVICE

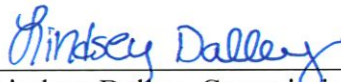
I certify that on the 5th day of May, 2025, I served a true and correct copy of the Reason & Decision for the request for School View Estates Subdivision, upon the following person(s) in the manner(s) indicated:

- ☐ Mail
- ☒ Email: cstreet@hleinc.com
- ☐ Hand Delivered
- ☐ Designated Courthouse Box

Chris Street
HLE

- ☐ Mail
- ☒ Email: tolson@binghamid.gov
- ☐ Hand Delivered
- ☐ Designated Courthouse Box

Tiffany Olsen
Planning & Development Director



Lindsey Dalley, Commission Clerk