

**BINGHAM COUNTY PLANNING & ZONING COMMISSION
REASON AND DECISION**

APPLICATION OF: Whispering Grove Acres Subdivision, a 4-Lot Residential Subdivision

**PROPERTY OWNERS/
APPLICANTS:** Bracken Jon and Katie Jean Abrams

Requested Action: Property Owners and Applicants, Bracken Jon and Katie Jean Abrams, requested to develop a four-lot residential subdivision, to be known as Whispering Grove Acres, on approximately 4.61 acres of land, zoned "R/A" Residential/Agriculture, in accordance with Bingham County Code, Title 10, Chapter 14, *Subdivision Regulations*. The Bingham County Comprehensive Plan Map designates this parcel as Residential/Agricultural, which is consistent with the proposed Application.

Property Location: Parcel Nos. RP0475811 & RP0470800, South of 701 E 1400 N, Shelley, ID 83274, consisting of approx. 4.615 acres.

Applicable Regulations: Bingham County Comprehensive Plan dated November 20, 2018
Bingham County Zoning Ordinance 2012-08, as amended

Public Hearing Date: December 10, 2025

I. PUBLIC HEARING RECORD AND INFORMATION

1. The following was reviewed by the Commission:
 - a. Application and materials submitted by the Applicant; and
 - b. Staff Report, maps, notice, and other materials.
2. Planning and Development Services Assistant Director/Lead Planner Addie Jo Jackman presented the Staff Report for the Application. She reviewed the requested action and acknowledged that before the Public Hearing, the Commissioners were provided the record of written testimony received, which included:

(T-1) Bingham County Treasurer submitted testimony in a neutral position stating that the taxes will need to be prepaid for the 2025 year before the Treasurer signs the plat.

(T-2) The City of Shelley submitted testimony in a neutral position stating that the City does not have concerns with the Application. It is in the current Impact Area but is outside of the ¼ mile of the city limit boundary.

(T-3) Bingham County Public Works submitted testimony in a neutral position stating that any new approaches must meet Bingham County standards and that River Run Road (695 E) is a local road posted at 25 mph.

(T-4) The Department of Environmental Quality submitted testimony in a neutral position, providing general recommendations for land development projects.

3. With no questions from the Commission, testimony was presented by the Applicant (T-5) Bracken Abrams, of 1254 North 550 East, Shelley, ID, who further explained that the delivery of irrigation water would be from an existing private ditch extending from Mr. Wolfram's property and then extending to the proposed subdivision lots.

Commissioner Carter asked if the proposed ditch fits with the natural water flow, to which Mr. Abrams stated that it moved in the same direction as the irrigation water.

4. There was no testimony offered in a position of support or in neutral.
5. Testimony in opposition was received from (T-6) Dave Hiatt, of 701 East 1400 North, Shelley, ID, who asked for more clarification on irrigation water delivery. He testified that he runs a cow-calf operation and that on occasion, the cows can be aggressive, expressing concerns that if individuals were crossing his property to maintain the irrigation ditch, he would not want anyone to get hurt.

Commissioner Thomson asked if there was a current easement for the ditch on Mr. Hiatt's property, and if so, where that would be located? Mr. Hiatt testified he was not aware of an irrigation easement on his property. Commissioner Watson asked where Mr. Hiatt's property was located in relation to the proposed subdivision, to which he stated was to the north of the proposed development. He circled his property on the map, which was displayed on the Courtroom screen. An image of the depiction was entered into the record as Exhibit T-6A. Commissioner Carter confirmed that Mr. Hiatt did not want anyone crossing his property and asked about the direction of natural water flow. Mr. Hiatt stated that irrigation was in 12-hour runs, that the area is flood irrigated, and the natural water flow is to the south.

Commissioner Tominaga asked if there was a head gate on Mr. Hiatt's property and if that would be the reason someone would need to access his property? He responded with the location of the head gates and testified that he had assumed the new ditch would be on his side of the fence, but was not certain. Director Olsen referred the Commission to the location of the proposed ditch, noting that there is a proposed 15-foot-wide easement submitted on the plat, running along the east side of the proposed subdivision, in a north/south direction, terminating at proposed Lot 4.

(T-7) Luke Bloxham, 704 East 1375 North, Shelley, ID, initially testified in opposition, but after he commenced his testimony, changed his position to neutral. Mr. Bloxham testified he was concerned with ditch maintenance because the proposed irrigation ditch appears to terminate at Lot 4. He was worried that irrigation water would discharge onto

his personal residential lot, located immediately south of the proposed Lot 4, which could cause his ditch to cave in because it is on a shared property line. Mr. Bloxham testified that he would like to see provisions set in place for ditch maintenance by the subdivision owners. Chairman Johns then confirmed that Mr. Bloxham did not receive water from the same ditch as proposed within the subdivision.

Commissioner Watson asked Mr. Bloxham to point to the map and show the location of the ditch that provides water to his property. Mr. Bloxham drew the area on the Courtroom screen, and the image was captured and entered into the record as Exhibit T-5A. Mr. Bloxham added that if the subject's new ditch floods, his property would flood, as the water does not drain anywhere but to his property.

Commissioner Watson asked if the proposed lots were irrigated from the same ditch as his. Mr. Bloxham stated it is from the same canal but a different lateral. Commissioner Carter asked Mr. Bloxham if his ditch historically acted as a drainage ditch, to which he responded that he understood that it did not, but that irrigation flow management has been problematic for some time in this area.

6. With no further questions for Mr. Bloxham, the Applicant, Mr. Abrams, provided a rebuttal statement. He explained that he was the previous owner of the Hiatt's property and was familiar with irrigation and water flow on and near the property. Mr. Abrams testified that the least disruptive way to deliver irrigation water to the new lots would be from the ditch on Mr. Wolfram's property and that the last head gate would be utilized to create a new ditch for the proposed lots, which would not cross over onto Mr. Hiatt's property. Mr. Abrams displayed this on the Courtroom screen and the image that was entered into the record as Exhibit T-5B. Mr. Abrams testified that he has procured an irrigation easement from Mr. Wolfram to reroute the ditch to the proposed subdivision lots.

Commissioner Winder inquired whether a pressurized irrigation system had been explored, to which Mr. Abrams replied no, and that flood irrigation was proposed because it was the most consistent method for watering the land. In discussions with the irrigation district, flood irrigation was deemed an adequate method for providing water.

Chairman Johns referenced concerns about the ditch caving in and inquired if Mr. Abrams had a solution. Mr. Abrams stated that building a berm was a possibility, but did not believe the water flow would be sufficient to require such a measure to prevent flooding.

Commissioner Thomson asked if the irrigation easement would be large enough for proper maintenance of the easterly boundary of the subdivision and if Mr. Wolfram's property was fenced. Mr. Abrams responded that there is an existing fence and that an easement granting access to Mr. Wolfram's property had already been signed. Additionally, the methods of irrigation had been approved in writing by the irrigation company.

Commissioner Carter asked if Mr. Abrams knew where Mr. Wolfram's ditch had historically drained to? Mr. Abrams testified that the ditch drained to the south and drew that location on the Courtroom screen, which was entered into the record as Exhibit T-5C.

He added that irrigation is challenging in this area, so much so that a neighboring property owner created a pond to retain water for irrigation, as there is not an abundance of water.

7. After Mr. Abrams's rebuttal statement, Commission discussion commenced with Commissioner Tominaga questioning whether there was a requirement for Covenants, Conditions, and Restrictions to be established to address ditch easement and maintenance for accountability. Director Olsen stated that the Bingham County Code requires a Water Users Agreement to be recorded with the Final Plat to address water delivery and maintenance, and that this Agreement is the best method to manage irrigation water, schedule, and maintenance responsibility. Commissioner Thomson stated that as long as there is a proper irrigation easement on the plat, he believed that the Application meets all of the requirements for access and maintenance that the Commission can require.

II. REASON

The Planning and Zoning Commission found:

1. the Application met the requirements of Bingham County Code Title 10, Chapter 14, *Subdivision Regulations*; and
2. the Application met the requirements of Bingham County Code Section 10-4-2(B), which states that the purpose of the "R/A" Zone is to permit the establishment of low-density single-family dwellings with lot sizes sufficient for individual sewer and water facilities. The Commission found the area to the north, southeast, and southwest of the proposed subdivision is zoned Residential/Agriculture, consisting of farm ground to the southwest, and residential parcels to the south, southeast, and east; and
3. the Application met the requirements of Bingham County Code Section 10-6-6(B)(4) as the proposed lots meet the 1-acre minimum allowed for in a Residential/Agriculture Zoning District with individual culinary wells, septic systems, and drainfields on each lot; and
4. the lots are located within the Snake River Irrigation District and will be served by a new open ditch to be constructed within an irrigation easement; and
5. the proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan, as the surrounding area is designated as Residential/Agricultural, which supports the Residential/Agriculture Zoning District; and
6. the Public Hearing met the notice requirements of Idaho Code Title 67, Chapter 65, and Bingham County Code Section 10-3-6.

III. DECISION

Based on the record, Commissioner Winder moved to recommend approval of the Whispering Grove Acres Subdivision as proposed by Property Owner and Applicants, Bracken Jon and Katie Jean Abrams, located south of 701 E 1400 N, Shelley, ID. Commissioner Thomson seconded the motion. Commissioners Winder, Thomson, Carter, Tominaga, Watson, and Winder voted in favor. The motion passed.



Jordan Johns, Vice-Chairman/Acting Chairman
Bingham County Planning and Zoning Commission

12-23-25
Date