

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

APPLICATION OF: Amendment to an approved Special/Conditional Use Permit for a Winter Holding and Cow/Calf Pens for an Elk/Domestic Cervidae Facility (Wildlife Preserve) in an Agriculture/Natural Resource Zoning District

PROPERTY OWNERS: Cedar Creek Grazing Association, Inc. & the Rulon K. Jones Revocable Trust 50% and the Kathleen L. Jones Revocable Trust 50%

APPLICANT: Broadmouth Canyon Ranch, LLC

Requested Action: Findings of Fact and Conclusions of Law of the Planning and Zoning Commission dated July 25, 2007 (hereinafter "CUP" and referenced in the record as Exhibit A-7), to operate a winter holding and cow/calf pens for an Elk/Domestic Cervidae Facility (Wildlife Preserve) with approximately 60 acres of holding pens, on land zoned Agriculture/Natural Resource, located in Township 2 South, Range 39 E, Section 25 & 30, now referred to as the *Jemmett Facility or the Jemmett/Cole Creek Facility*.

The Applicant requested the following modifications:

1. Modify the boundaries of the existing Winter Holding and Cow/Calf Pens, resulting in a total project site acreage of approximately 225.54 acres, and decrease the holding pen size from 60 acres to approx. 4 acres;
2. Remove Condition No. 4 of the original Conditional Use Permit requiring a second fence.

The principal issue considered by the Commission was whether the requirement for a second fence should remain a condition of the Conditional Use Permit.

**Property Ownership &
Location:**

Rulon Jones Revocable Living Trust 50% and the Kathleen Jones Revocable Living Trust 50% (1/2 undivided interest in each), Township 2 South, Range 38 East, Section 25, Parcel Nos. RP0563500, consisting of approx. 460 acres

Cedar Creek Grazing Association, Inc., Township 2 South, Range 39 East, Section 30, Parcel No. RP0580700, consisting of approx. 224.65 acres

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

Public Hearing Date: August 12, 2026

I. PUBLIC HEARING RECORD AND INFORMATION

1. The following was reviewed by the Commission:
 - a. Application and materials provided by Bingham County; and
 - b. Staff Report and supplemental maps, notice, testimony, and other materials.
2. At the beginning of the Public Hearing, Commissioner Jolley declared that at some point before the Broadmouth Canyon Ranch Applications were filed, Mr. Chase Jones, who is part of the Broadmouth Canyon ownership/operation, had called him. Commissioner Jolley explained to Mr. Jones that he was unable to talk about an upcoming Application or land use and referred him to reach out to Director Olsen. Mr. Rogers confirmed with Commissioner Jolley that he did not receive information from Mr. Jones that would affect his ability to remain unbiased. The Commission agreed that this disclosure was not a conflict of interest and allowed Commissioner Jolley to participate in the hearing applications.

II. FINDINGS OF FACT

1. In 2007, the Planning and Zoning Commission approved a Special/Conditional Use Permit authorizing the operation of a Winter Holding and Cow/Calf Pen Operation/Wildlife Preserve for domestic elk, subject to conditions including a requirement for a second fence.
2. The Applicant testified that the primary perimeter fence is inspected by the Idaho State Department of Agriculture annually and is also inspected and maintained by the Applicant's personnel throughout the year. Testimony indicated that the fence is inspected for damage and that additional measures, including the use of drones, may be utilized when animal tracks or other evidence of a potential breach are identified.
3. The Applicant testified that there have been two animal breaches within the boundaries of the Hunting Facility over approximately twenty years of operation at that location and none at the subject location. One breach was attributed to snow conditions that allowed a moose to cross the fence, and the other was attributed to human error.
4. The Commission received substantial testimony concerning CWD, including testimony regarding its transmission, testing, quarantine procedures, and the management of CWD in domestic and wild cervidae populations. The testimony established that there are differing views concerning the risks associated with CWD and whether a second fence would reduce those risks.

5. The Commission received testimony in opposition expressing concern that removal of the second-fence requirement could increase the risk of transmission of CWD between domestic and wild cervidae. Opposing testimony characterized a second fence as a reasonable precaution in light of the uncertainties surrounding CWD.
6. The Commission considered testimony that other domestic elk facilities within Bingham County do not have a County-imposed double-fence requirement. The Commission also considered that there are very few facilities in the U.S. that require a double-fence.

III. REASON FOR DECISION

1. The Commission carefully considered the history of the second-fence condition. The Commission acknowledged that the Applicant was not in compliance with the original condition and that the Applicant should have sought modification of the condition before deciding to not install the second fence. However, the Commission determined that the present Application provides an opportunity to evaluate whether the second-fence requirement remains necessary under current circumstances and regulations rather than simply continuing a condition imposed approximately nineteen years ago.
2. The Commission considered whether the County should continue imposing a fencing requirement that is more stringent than the current State regulatory requirements applicable to domestic cervidae operations. Several Commissioners expressed concern that the County should not unnecessarily duplicate or exceed the State's regulatory role, particularly where the State has the expertise, authority, and inspection responsibilities relating to domestic cervidae and CWD.
3. Commissioner Bingham expressed concern that the County is not equipped to enforce or inspect matters that are already governed and regulated by the State. Commissioner Jolley agreed, stating that the County did not need to take on more regulation than the State and noting that the Idaho Legislature had considered the issue and adopted its current regulatory approach in 2024. Commissioner Carter similarly expressed the view that it was not the County's responsibility to take on the State's regulatory requirements.
4. The Commission also considered the argument that the second fence provides an additional safeguard against contact between domestic and wild cervidae and potentially reduces risks associated with CWD. The Commission recognized that CWD presents legitimate concerns and that the risks associated with the disease are not fully understood. However, the record did not establish to the Commission's satisfaction that requiring a second fence at this particular facility was necessary to address those concerns or that the second fence would provide a demonstrated benefit sufficient to justify continuing the County-specific requirement.
5. The Commission further considered whether it was appropriate to maintain a more stringent requirement for this facility when other domestic elk facilities within the County are not subject to the same double-fencing requirement. The Commission concluded that

the existence of a historic condition, by itself, did not establish that the condition remained necessary or appropriate under current circumstances.

6. The Commission also recognized that the Applicant's failure to erect the second fence was a violation of the prior condition and that this history was a legitimate consideration in evaluating the request. Nevertheless, the Commission determined that the Application should be evaluated based upon the current circumstances and the current need for the condition. The Commission concluded that continuing the second-fence requirement would not be warranted where the State has regulatory authority over the operation, the State conducts inspections, and the Commission did not find sufficient evidence demonstrating that the additional County requirement was necessary to protect the public health, safety, or welfare.
7. The Commission therefore determined that removal of the second-fence requirement is appropriate and that the requested modification is consistent with the provisions of the Comprehensive Plan and will not be detrimental to the general public health, safety, or welfare, consistent with Bingham County Code Section 10-8-12(B).

IV. DECISION

Based upon the Staff Report, written testimony, testimony received during the Public Hearing, the Applicant's rebuttal testimony, the record as a whole, and the Commission's findings and deliberations, the Planning and Zoning Commission hereby **APPROVES** the request of Broadmouth Canyon Ranch, LLC to amend the Findings of Fact and Conclusions of Law dated July 25, 2007, granting a Special/Conditional Use Permit for a Winter Holding and Cow/Calf Pens for an Elk/Domestic Cervidae Facility (Wildlife Preserve), subject to the following modifications:

1. modify the boundaries to the proposed acreage totaling 684.65 acres, consisting of Parcel Nos. RP0563500 and RP0580700;
2. modify Finding No. 2 to decrease the holding pen size from 60 acres to approx. 4 acres; &
3. remove Finding No. 4 requiring a double fence.

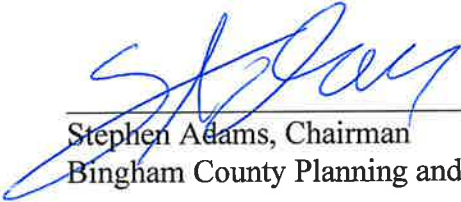
All other conditions of the July 25 2007, Findings of Fact and Conclusions of Law, shall remain in full force and effect unless specifically modified by this decision.

V. MOTION AND VOTE

Commissioner Bingham moved to approve the requested modifications, finding that the requested modification is consistent with the provisions of the Comprehensive Plan and will not be detrimental to the general public health, safety, or welfare based on Bingham County Code Section 10-8-12(B), because there is no credible connection between a second fence and health and safety. Commissioner Jolley seconded the motion.

The motion passed with Commissioners Bingham, Jolley, Bautista, Johns, Thomson, Tominaga, and Winder voting in favor.

Pursuant to Bingham County Code Section 10-10-2 (A): Any Applicant or any other affected person may file an appeal of the Commission's Decision within fourteen (14) days of the Commission's written Decision once approved in writing.



Stephen Adams, Chairman

Bingham County Planning and Zoning Commission

9-4-20

Date