

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

APPLICATION OF: Amendment to an approved Special/Conditional Use Permit for a Wildlife Preserve in an Agriculture/Natural Resource Zoning District

PROPERTY OWNERS: Cedar Creek Grazing Association, Inc. and Ruka LLC

LESSORS: Maralyn Seven LLC and Ice Tongs Land and Cattle LLC

APPLICANT: Broadmouth Canyon Ranch, LLC

Requested Action: Applicant, Broadmouth Canyon Ranch LLC, received Findings of Fact, Applicable Law, and Conclusions of the Board of County Commissioners dated April 13, 2007 (hereinafter "CUP" and referenced in the record as Exhibit A-8), to operate a Wildlife Preserve of domestic elk on approximately 2,000 acres of land, zoned Agriculture/Natural Resource, located approximately 5 miles northeast of 2394 E Cedar Creek, Firth, ID, now referred to as the *Hunting Facility*.

The Applicant requested the following modifications:

1. Modify the boundaries of the existing Wildlife Preserve to no longer include land owned by the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, resulting in a total project site acreage of approximately 2,210 acres;
2. Remove Condition No. 1 of the original Conditional Use Permit requiring a second fence; and
3. Remove language requiring a second fence from Condition No. 3 of the original Conditional Use Permit.

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:**

Approx. Location: Approximately 5 miles northeast of 2394 E Cedar Creek, Firth, ID

<u>PARCEL NO.</u>	<u>TRS</u>	<u>PROPERTY OWNER</u>	<u>APPROX. ACREAGE</u>
RP0578601	T2S, R39E, Sec. 14	Ice Tong Land & Cattle Co. LLC	53.33 acres

RP0578607	T2S, R39E, Sec. 14	Ice Tong Land & Cattle Co. LLC	42.39 acres
RP0578602	T2S, R39E, Sec. 14	Maralyn Seven LLC	4.00 acres
RP0578603	T2S, R39E, Sec. 14	Maralyn Seven LLC	26.70 acres
RP0578606	T2S, R39E, Sec. 14	Ruka LLC	445.17 acres
RP0578800	T2S, R39E, Sec. 15	Cedar Creek Grazing Association, Inc.	640.00 acres
RP0579500	T2S, R39E, Sec. 21	Cedar Creek Grazing Association, Inc.	280.00 acres
RP0579600	T2S, R39E, Sec. 22	Cedar Creek Grazing Association, Inc.	400.00 acres
RP0579700	T2S, R39E, Sec. 23	Cedar Creek Grazing Association, Inc.	320.00 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 Board of County Commissioners approved a Special/Conditional Use Permit authorizing the operation of a Wildlife Preserve for domestic elk, subject to conditions including a requirement for a second fence. The Planning and Zoning Commission imposed the original second-fence condition, and the Board of County Commissioners subsequently upheld it.

2. The second fence was installed following approval of the 2007 Conditional Use Permit. The Applicant subsequently ceased maintaining the second fence. Testimony established that the second fence posts remain in place, but most of the wire has been removed or is no longer present.
3. The Commission recognized that the second fence was not maintained as required by the intent of the original condition. The Applicant acknowledged that maintenance of the second fence became burdensome and that, because the State focused its inspections on the primary perimeter fence, maintaining the second fence became a lower priority.
4. 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.
5. The Applicant testified that there have been two animal breaches over approximately twenty years of operation. One breach was attributed to snow conditions that allowed a moose to cross the fence, and the other was attributed to human error. The Applicant testified that the animal involved in the second incident tested negative for CWD.
6. 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.
7. 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.
8. 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 and the testimony concerning the Applicant's failure to maintain the second fence. 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 discontinuing maintenance of 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 maintaining 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 maintain 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, Applicable Law, and Conclusions of the Board of County Commissioners dated April 13, 2007, subject to the following modifications:

1. Wildlife Preserve Boundaries. Modify the boundaries of the existing Wildlife Preserve to no longer include land owned by the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, resulting in a total project site acreage of approximately 2,210 acres.
2. Removal of Condition No. 1. Remove Condition No. 1 of the original Conditional Use Permit requiring installation and maintenance of a second fence.
3. Modification of Condition No. 3. Remove language within Condition No. 3 requiring a second fence.

All other conditions of the April 13, 2007, Findings of Fact, Applicable Law, and Conclusions shall remain in full force and effect unless specifically modified by this decision.

V. MOTION AND VOTE

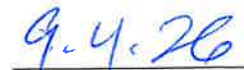
Commissioner Johns moved to approve the requested modifications, finding that the requested modifications are consistent with the provisions of the Comprehensive Plan and will not be detrimental to the general public health, safety, or welfare pursuant to Bingham County Code Section 10-8-12(B). Commissioner Bingham seconded the motion.

The motion passed with Commissioners Johns, Bingham, Bautista, Jolley, 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



Date