

**REASONING AND DECISION OF LAW**  
**A THREE (3) LOT SHORT PLAT SUBDIVISION KNOWN AS RIVER BEND ESTATES 2**  
**SUBMITTED BY STEVE NIELSON.**

The matter of a three (3) Lot Short Plat subdivision to be known as River Bend Estates 2 was heard by the Bingham County Planning and Zoning Commission ("Commission") on September 9, 2020. Following testimony and discussion, the Commission voted unanimously for approval of River Bend Estates 2, a three (3) Lot Short Plat Subdivision, to the Board of County Commissioners.

This Board of County Commissioners ("Board") met to discuss the matter in open meeting on October 9, 2020, with all three (3) Commissioners present. Commissioner Bair recused himself from the decision and took no part in the discussion with the reason for his recusal being that he currently sits on the Eastern Idaho Regional Waste Water Authority ("EIRWWA") Board and has been actively involved in efforts to purchase the property from the Applicant, Steve Nielsen. The meeting was held pursuant to Idaho Open Meeting Laws, the Idaho Local Land Use Planning Act, and relevant Bingham County Ordinances, specifically Section 14 of Bingham County Ordinance 2012-08. This Board reviewed the discussion of the "Commission". The information found in the record, deliberated on those issues in light of the applicable governing law. A decision was then issued that day that is memorialized by these Reasoning and Decision of Law.

**Reasoning and Decision of Law**

The Board hereby finds the following Reasoning and Decisions of Law to be of particular importance in arriving at its decision in regards to the approval of the three (3) Lot Short Plat Subdivision to be known as River Bend Estates 2.

1. The Board finds that the Application met the requirements in Bingham County Code Chapter 10-4-2(D) as the purpose of "R" zone is to preserve desirable residential neighborhood characteristics and to prevent overcrowding of the land while encouraging the development of areas, which are best suited for residential purpose; and
2. The Board finds that the Application met all requirements in Bingham County Code Chapter 10-4-2 (D)1-6 as the existing area is close proximity to existing town sites or which are contiguous to another "R" or "R/A" zone, the lot sizes are compatible with existing lot sizes in immediate vicinity, accessibility of Municipal services or the possibility of extension of services in foreseeable future, compatibility with existing uses in the immediate vicinity, protection from incompatible uses and adequate service by roadways; and
3. The Board finds that the Application met all requirements in Bingham County Ordinance Chapter 10-6-6(B)(1) because proposed lots meet the one (1) acre minimum with individual wells and septic. The Applicants' Representative testified the closest connection to the EIRWWA line is greater than a half-mile

southeast from the proposed subdivision and would not be feasible to connect. Further, the Applicant would need to create a sewer district to make a connection to the EIRWWA line and that process is not only costly but takes a significant amount of time to accomplish. An untimely Public Comment letter dated September 28, 2020 and received on October 1, 2020, from Scott R. Hall, Representative for EIRWWA, which was received by the Board ten (10) days after the Public Hearing date and public comment period had closed. The letter contained EIRWWA's concerns about the setbacks to the plant and groundwater quality in the area because of the close proximity to the EIRWWA lagoons. After discussion with Staff who contacted the Idaho Department of Environmental Quality and Southeastern Idaho Public Health District, and learned that the setback of 200 feet EIRWWA was concerned about was in fact a setback restriction on the EIRWWA plant themselves and not on neighboring properties. Furthermore, there was Board discussion that testing each of the well prior to use that would mitigate the concerns about the groundwater quality. The Board decided to not consider the letter from EIRWWA as it was untimely and that the concerns expressed in the letter were incorrect and would be mitigated by the Southeastern Idaho Public Health Department in the future; and

4. The Board finds that the Application met all requirements of Bingham County Code 10-14-7 because the Application was completed and included all items listed in the Combination of Preliminary and Final Plats for a Subdivision of 4 lots or less via the Short Plat process; and
5. The Board finds that the Application met the requirements of Bingham County Code Chapter 10-14-4(B) as the proposed lots will have individual septic systems and drain fields and individual wells. Lots will have irrigation water rights assessed by the Snake River Valley Irrigation District; and
6. The Board finds that the Application met the requirements of Idaho Code §67-6509 because the Public Hearing was held for all property owners adjoining the parcel under consideration; and
7. The Board of County Commissioners found that the proposed subdivision will be consistent with the Bingham County Comprehensive Plan.

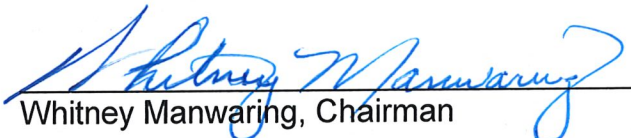
## Conclusion

In conclusion, based upon the individual Reasoning and Decision of Law noted above, and in the Commissions Reasons and Decision, this Board unanimously agrees to uphold the recommendation of the Planning & Zoning Commission and approve the request by Steve Nielson for a 3-Lot Subdivision (Short Plat) to be known as "River Bend Estates 2" located at the end of 590 E. Brookeshire Drive in the River Bend Estates Subdivision. Commissioner Lewis moved to uphold the Planning & Zoning Commission recommendation to approve the 3-lot Short Plat Subdivision to be known as River Bend Estates 2 located at the end of 590 E. Brookeshire Drive based upon the Reasons and Decision of Law presented today. Further, there was a letter provided after the hearing deadline. This letter was not considered in making a decision because it was not received timely and the public comment period had closed. Chairman Manwaring seconded. All voted in favor. The motion carried.

The parties have 14 days to ask for a reconsideration of the decision pursuant to Idaho Code 67-6535(2)(b); The parties have 28 days from the date of signing of this document to appeal this decision for Judicial Review pursuant to Idaho Code §67-52, and/or to request a takings analysis pursuant to Idaho Code §67-8003, Protection of Private Property.

DATED this 23 day of November 2020.

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

  
Whitney Manwaring, Chairman

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Mark Bair, Commissioner

*Recused*

  
Jessica Lewis, Commissioner