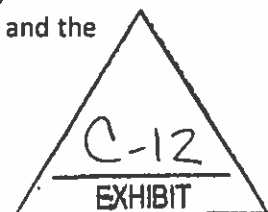


1. **The Use of TDRs:** If the applicant does not obtain the additional 5 TDR's necessary, then the final plat with the second phase lots cannot be recorded. Only a plat with 19 lots could be recorded (the first phase). Phased subdivisions are allowed in Blaine County, pursuant to 10-4-5.B.2. A Phasing Agreement must be executed and recorded. See the P&Z Commission's recommended condition #9 (Exhibit C-11) and the draft phasing agreement (Exhibit A-10).
2. **Conditions for TDR use:** There is no "average minimum lot size" of 2.5 acres. The overall allowable density is one unit per 2.5 acres, and the minimum lot size is 1 acre. All lots could be 1 acre in size, with the remaining land being in open space, if a developer chose to design the subdivision that way. Mr. Willard included the correct definition of "Open Space, Private." The applicant is specifically excluding areas in which structures are or could be located from their open space calculations. For example, the areas of the amenity building and parking and storage area on Parcel R-1 are excluded; and on individual lots, the driveway area and areas at the lake's edge where docks could be built are excluded. See A-28, open space exhibit.
3. **Questionable open space calculation:** The applicant has now delineated building envelopes, to be included on the subdivision plat. See also the P&Z Commission's recommended condition #20. Staff does not see evidence of double counting. The open space calculations as presented by Galena Engineering and reflected in Exhibit A-28 and the Applicant's presentation on August 17, 2021 are fairly straightforward and show 38.4 acres of open space, meeting the 50% open space requirement for the 76.5 acre property. (26.09 acres of open space are found within Parcels R1-R6 and D1-D4; and 12.31 acres of open space are denoted within Lots 6-24). As noted, open space within setback areas of individual lots on prior TDR subdivisions has been approved. The code states, E. Minimum Open Space Within A TDR Receiving Area Cluster: At least fifty percent (50%) of the receiving parcel shall be set aside as public or private open space. It does not state that the open space has to be in separate parcels.

Prior approvals were not intended to "kick start" the TDR program but rather to be consistent with the code. If the Board does not believe that the allowance of required open space within private lots is "right," discussion of changing the code for future TDR developments would need to occur. With regard to Mr. Willard's last question about whether the remaining (5) lots would be managed as open space and how that would be managed is a valid question. The initial draft phasing agreement from March 2021 (see Exhibit A-10) has been updated with language that appears sufficient to cover future scenarios in which the lots are not platted. The new language added to §2.b. reads as follows: Lots 17 – 21 will be managed as "Open Space, Private" as defined in Blaine County Code (Title 9, Chapter 2) (which is "land or water area devoid of buildings, streets, parking or other physical structures except fences and irrigation structures") until Applicant begins making improvements there for the final plat .

4. **Project lacks compatibility:** The density of the project is greater than the immediately surrounding properties; however, 1 acre lots exist less than one mile away Griffin Ranch PUD. The proposal is less dense than allowed by code in the TDR Receiving Area. The surrounding area is one of transition between large-scale agricultural uses and residential uses. See Exhibit C-2 - an aerial view of the vicinity. As the Planning and Zoning Commission noted in their approval of the project: "This compatibility standard was reviewed in light of the current zoning regulations, which include the TDR Receiving Area (Zoning code section 9-5-9) in which the subject property is located. In demarcating the Receiving Area in 2006, the P&Z Commission recommended and the



Board determined by ordinance that additional density is appropriate in this area. Conditions are recommended to alleviate compatibility concerns with surrounding agricultural operations, e.g.: agricultural disclosure plat notes, and ensuring no disruption of surface water delivery via the canal.” (See PZ signed findings in Exhibit C-11, page 12. The cumulative impact of future TDR development will be the realization of the intent and purpose of the program: to transfer development rights away from large active agricultural areas and sensitive spring fed creek areas of the southern Triangle to areas closer to the services of the incorporated cities of Bellevue and Hailey.

Mr. Willard asks whether surrounding property owners have a reasonable expectation of the area’s development to remain A-20. The fact is that the subject property is adjacent to R-5 (5-acre zoning) to the north and north-east, and that nearly all of the nearby properties in the A-20 district east of the Highway are less than 20 acres, including multiple lots in the Dean Ranch Subdivision. This was likely a factor in the designation of this land as TDR Receiving Area.

5. **Negative impact on senior water right users and the aquifer.** The Planning and Zoning Commission added conditions of approval to its recommendation to the Blaine County Board of Commissioners (BCC) to address surface and groundwater effects of the project. These include: a condition that delivery of surface irrigation water to agricultural users via the canal not be impeded; a requirement that the applicant use its existing surface water rights for irrigation of all common area and large lot pasture areas; and, among other landscaping limitations, that all domestic wells be metered, monitored during summer months, and that turf grasses on individual lots irrigated by a well be limited to not greater than ¼-acre of irrigation. Other stipulations apply. (See Exhibit C-11 and pending final determination of the BCC). In making its findings, the Commission heard testimony from Dr. Brockway (see Exhibits A-25 and A-27) that, in part, demonstrated that the applicant’s use of the domestic exemption water right for irrigation by individual wells on each of the lots would have negligible groundwater depletion impacts on nearby wells and the aquifer. No credible evidence that the applicant has questionable water rights was demonstrated. Rather, Exhibit D-4 from the Idaho Department of Water Resources clearly shows notes “two water rights from the Big Wood River, 37-510A and 37-685D, are appurtenant to the property.” The letter continues with details on the flow rate, acres of irrigation, recreation storage volumes and other details of these rights. Historical curtailment details of the applicant’s surface rights were testified to by Dr. Brockway as referenced in Exhibit A-27.

Mr. Willard asks regarding studies of the aquifer. No known regional study was completed specifically for the TDR program. It is up to each applicant prove that the standards of evaluation within the subdivision code are met. Provision of water is one of these standards of evaluations. The onus is on the landowner to provide information by IDWR that the water rights associated with the property are adequate. USGS water data is available for the Bellevue Triangle. If the Commissioners require more information than the exhibits and testimony presented, they may request this information from the applicant. Likewise, the Board may also request a more regional study on the impact of the TDR program at buildout if desired for future applications. With regard to this question asked at the August 17 hearing, Dr. Brockway noted that overall water usage changes upon Receiving Area buildout would depend on a number of variables, including whether agricultural fields are taken out of production. Agriculture consumes a far greater amount of water than any other use.

6. **Traffic safety:** This was a significant issue discussed by the P&Z Commission, resulting in their conditions of approval #16 and 25, recommending that the Board be proactive by initiating and prioritizing improvements to the SH 75 approach, that the applicant provide an easement for necessary infrastructure needs, and that the applicant pay a proportionate share of the cost of improvements. The design of improvements is underway cooperatively by the applicant's engineering team and the County Engineer. Exhibits for potential approach improvements are to be presented to the Board on September 14.

Traffic counts from June 2021 have been provided. An acceptable Level of Service (LOS) continues to be anticipated at 2025 conditions with new counts. See Exhibit A-*

7. **Environmental impact:** Mr. Willard asks a number of questions related to water quality, water flow in and out of the project, downstream water users, and the aquifer. Regarding questions related to the aquifer, please see responses to item 4 above. Regarding water flows to/from the project and downstream users, no changes to the applicant's lawful use of the two appurtenant water rights are proposed. Further, this is the jurisdiction of the state and its agents. To address water quality issues, Exhibits A-22 and A-24 (Lake Water Quality Memo and Lab Report) were reviewed. Also analyzed were the lake usage and private CCRs documents set forth by the applicant related to the private use of the lake. (See Exhibit A-35). Mr. Willard also expressed concerns about noise resulting from anticipated increases in lake usage. To address possible negative externalities from increased lake usage the Commission reviewed two noise exhibits (see Exhibit A-16) as well as the testimony of the nearest Bellevue Farms neighbor. To address possible noise concerns, the commission added condition 18, which among other items prohibits jet skis and sets a maximum decibel level of 69 dB for boats. The Commission also looked at a number of environmental issues not mentioned in Mr. Willard's analysis, including project impact on wildlife, invasive species, drainage, and energy conservation measures. Stipulations related to each of these are found in Exhibit C-11, starting on page 22. To help assure the project does not have negative impacts on wildlife, the recommendations of F&G were implemented, including plat notes 29-36.
8. **Past planning decisions:** Gregory Ranch Subdivision went through the entitlement process in 2003 and the plat was recorded in 2004. The plat notes and Board's Findings of Fact, Conclusions of Law & Decision have been reviewed and are available as Exhibits C-4 and C-5. No condition or plat note restricted future subdivision of the property. The TDR program was adopted in 2006, placing the property in the TDR Receiving Area.
9. **Past precedent is not law:** The Blaine County 2025 process occurred in 2005 and resulted in multiple ordinances adopted in 2006, including the TDR program. It also resulted in downzoning large areas of the County, additional natural resource protections, and so on. The purpose of the TDR program is to transfer development rights away from large active agricultural areas and spring fed creek areas of the southern Triangle to areas closer to the incorporated cities of Bellevue and Hailey. As noted above, the cumulative impact of more landowners in the area taking advantage of the program will be the realization of the intent of the program when it was established. The potential buildout of more of the Receiving Areas will take time. From 2006 to the end of 2020, a total of 25 TDR's had been certified, and 21 had been sold. Several of the parcels within the Receiving Areas are not large enough (10 acres) to qualify for a TDR Development. Other parcels may never develop under the program because the owner chooses to not to take advantage of it. The TDR program is supported by the County's Comprehensive Plan.