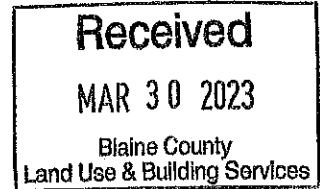


March 30, 2023



Blaine County Commissioners Davis and McCleary
219 1st Ave. S. Suite 208
Hailey, ID 83333

Subject: The request by legal counsel for TVIV Quigley, LLC to initiate mediation pursuant to Idaho Code Section 67-6510 with respect to its two pending applications (rezone and subdivision/simple PUD).

Dear Commissioners Davis and McCleary,

The purpose of the following is to provide comments on the request made by legal counsel for TVIV Quigley, LLC, at the March 1, 2023 public hearing, pursuant to Idaho Code Section 67-6510, that the decision-making process on its two pending land use applications be suspended to allow it to engage in mediation with the Commission with respect to the two applications. It is my understanding that the written request does not provide any grounds for, or any reasoning why mediation at this point would be helpful to the decision-making process, or any possible steps to take in such a mediation process. As explained below, while mediation can be an effective means of resolving certain disputes, including those involving final decisions on land use applications, mediation at the present stage of the decision-making process concerning the two pending applications would not be appropriate. As a result, the request to initiate mediation should be denied.

As a preliminary matter, although Idaho Code Section 67-6510 provides the applicant, the decision-maker(s,) and interested persons the opportunity to request mediation at any stage of a land use application process, there is no mandate in the statute that such a request be granted. In addition, the statute imposes no specific procedures in the event a request to initiate mediation is granted. As applied to the present situation, that means that you, the appropriate decision-makers at this very late stage of the process of considering the two TVIV Quigley applications, have the discretion to deny the request. Or, if you were to grant it, you have the discretion to prescribe the specific steps in the mediation process you deem appropriate. In essence, as the elected Blaine County Commissioners, you have the authority to take whatever actions you believe will best advance informed decision-making, fairness to all participants, and the public interest in all matters, not just the present.

With that in mind, especially given the very late stage of the decision-making process on the two applications, the applicant's mediation request is ill-timed. The Blaine County Planning Commission has held several public hearings on the applications at which the applicant and its representatives have promoted the applications and discussed them in detail, several hundred comments have been submitted by members of the public (almost all opposing the applications), and the Planning Commission has issued two separate decisions, recommending approval of the rezone application and disapproval of the subdivision/simple PUD application. The latter decision, over 35 pages long, provides several specific findings and reasons for its recommended disapproval. As a result, the decision-making process is close to its very end. All that remains at this point is for you, the County Commissioners, to consider the complete record before you and, when you deem it



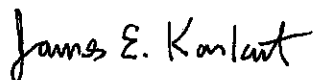
appropriate, issue your decisions on the two applications. There is no good reason to interrupt that process at this very late stage. After the decisions are issued, and before any appeal might be filed, if there are parties that might wish to pursue a mediation course of action pursuant to Section 67-6510 prior to an appeal, it would make sense to consider a request for mediation. But not now.

Another question to ask about the applicant's mediation request is whether it would be helpful to your decision-making process. As the ultimate, objective decision-making entity on each application, you should have the benefit of as much information as possible to be as fully informed as possible. However, since the applicant and its legal counsel and consultants are experienced professionals and they have availed themselves of the several opportunities in the current process to explain and promote the two applications, it is hard to conceive of how there could still be information they have neglected to previously provide that, if now provided in mediation, would make your decision-making process even more fully-informed. If for some reason, there is such information, it would make more sense for them to request that there be another open public hearing held for them to provide that information to you, as well as the concerned public. That would be a much more transparent way of providing that information than a mediation process which, to be clear, is a negotiation process. And, along those lines, it is hard to understand how a negotiation process involving the Commission in some role would promote a more objective, fully-informed, fair decision-making process than what has transpired so far.

Finally, it is important to consider whether suspending the decision-making process on the two applications at this point, and shifting to some form of mediation/negotiation would benefit the citizens of Blaine County. It is plain that providing the applicant another bite at the apple, so-to-speak, through a mediation/negotiation process that did not allow full participation by these citizens would not. With respect to any land use application, the public interest is benefited by an open, transparent, public process in which all citizens may participate in the decision-making process. And, it is only fair so long as that participatory role includes the opportunity to attend properly-noticed public meetings in which the applicant has a full opportunity to explain its application and the citizens have a full opportunity to learn as much as possible about the application, including through questioning the applicant, and also making their opinions known to the decision-maker. That is what has occurred so far with respect to the two TVIV Quigley applications. To suddenly turn away from that process to a new, unnecessary one in which the applicant is provided the opportunity to essentially negotiate things under the auspices of mediation would very definitely not be fair to and would not benefit the citizens of Blaine County.

Thank you for your consideration of this letter.

Sincerely,



James E. Karkut
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Hailey, Idaho
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