

BLAINE COUNTY BOARD OF COMMISSIONERS

DECISION on October 10 @ 2:00pm

<p>REGARDING AN APPLICATION OF: Griffin Ranch PUD Phase 3 Lot 14A & 15AA Block 2 and Lot 17A for a minor plat amendment to enlarge existing Lot 14 for access to HOA and public land.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION</p>
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REQUESTED ACTION: Public hearing and consideration of a plat amendment application by Josh & Nancy Glick, Robert & Judith Pittman & Schatz a’ Tequilla, LLC (aka Nancy Glick, Josh Glick, & Janet Bostwick) for a lot line shift to allow access to public land for Lot 14. The application proposes 107 Gus Ln. (11.07 acres) would be reduced to 10.76 acres, 101 Gus Lane (3.22 acres) would be increased to 3.55 acres and 105 Gus Lane (3.3 acres) be reduced to 3.29 acres. The subject properties are zoned Residential/Agricultural District (R-5) and contains areas of Avalanche (A) and Mountain (MOD) Overlay Districts.

APPLICABLE REGULATIONS:

Title 10 (Subdivision Regulations): Chapters 1-5
Title 9 (Zoning Regulations): Chapters 7, 21, & 22.
Title 8 (Comprehensive Plan)

Summary

The landowners of Lot 15A(Glick’s) and Lot 17 (Scahtz a’ Tequilla LLC) are undergoing a plat amendment to ensure access to public lands for Lot 14(Pitman’s). Behind Lot 17 is shared HOA common open space that abuts BLM land. The Glick’s (Lot 15A) purchased Lot 17 from the Pitman’s (Lot 14) who also owned Lot 17 until a few weeks ago. This recent real estate transaction went forward with the previous Lot 17 owners (Robert & Judy Pitman) with the caveat that they have access to public lands through this plat amendment application.

This application meets the definition of a “minor amendment” pursuant to Blaine County Code 10-4-7 (D.1)(b) because it involves a modification of boundary lines between exiting platted lots in which buildable areas (these lots have building envelopes below MOD & Avalanche) are not located within or farther within a natural resource overlay district or hazard area, or the removal of platted lot lines. In addition, it does not reduce the lot area, width, or building setback lines below the minimum R-5 zoning requirements.

The process for a “minor amendment” is set forth below:

Following expiration of the comment period and upon a finding by the administrator that:

- a. The application is in compliance with the provisions of this code, the administrator shall recommend approval or approval with conditions to the board for final action on a consent calendar;*
- b. The application is not in compliance with this chapter, the administrator shall recommend denial and state the reasons in writing to the board for final action on a consent calendar;*
or
- c. Further review is warranted, the administrator shall notify the applicant and schedule a public hearing before the board on the next available agenda.*

Upon approval of an application and satisfaction by the applicant of any attached conditions, the applicant may then record the amended plat.

The administrator finds that the application is in compliance with the applicable provisions of the Blaine County Code, Title 10, Subdivision Regulations, with the plat notes and conditions listed at the end of these findings.

I. GENERAL BACKGROUND

1. **Notice** of this application was mailed to all property owners within the subdivision and within three hundred feet (300') of the exterior boundary of the lots proposed for plat amendment on Lot 14, 15A, Block 2 & Lot 17 Griffin Ranch PUD Phase 3. The notice letter informed owners they may comment on the application no later than October 10, 2023 a period of not less than fifteen (15) days after mailing of the notice and prior to final action on the application, pursuant to Blaine County Code 10-4-7 (D.1). In addition, a legal was published in the Idaho Mountain Express on September 20, 2023; Political Subdivision letter sent September 18, 2023; & an Onsite Posting placed on the property September 21, 2023.
2. Incorporated by reference are the following exhibits:

Exhibit A—Application Materials

All application materials were received on August 7, 2023, unless indicated otherwise.

- A-1.** Completed application form
- A-2.** HOA comment letter
- A-3.** Preliminary Plat
- A-4.** Vicinity Map
- A-5.** 2004 Griffin Ranch PUD Phase 3 Subdivision Plat
- A-6.** Ownership updated 9-19-2023

Exhibit D—Public Comments

D-1: No comments received.

II. PLAT AMENDMENT CRITERIA

Subdivision Regulations §10.4.7(D) Plat Amendment and Correction

1. *Administrative Review: A minor correction of a mistake on a final plat or a minor amendment that does not create a new lot, subplot, condominium unit or dwelling unit, and which does not reduce the lot area, width, or building setback lines below the minimum zoning requirements may be made by application to the administrator who shall determine compliance with the provisions of this chapter. In the case of existing nonconforming lots, an amendment that does not increase the degree of nonconformity may be approved. A "minor amendment" includes only:*

a. The modification of boundary lines between existing platted lots, or a combination of platted lots and other parcels of land, in which buildable areas are not located within or farther within a natural resource overlay district or hazard area, or

b. The removal of platted lot lines.

Findings of Fact and Conclusion of Law: This application meets the definition of a “minor amendment” because it involves a modification of boundary lines between Lot 14, 15A and Lot 17. The existing building envelopes remain unchanged and outside of the overlay districts. The underlying zoning is Residential/Agricultural District (R-5) however is part of a PUD which allows for smaller lots. The acreage change is nominal and does not change the percentage of shared open space within the PUD design. (See Exhibit A-3: Lot 14 3.22 acres to Lot 14A 3.55 acres; Lot 15A 3.31 acres to Lot 15AA 3.29 acres; Lot 17 110.07 acres to Lot 17A 10.76 acres)

III. DESIGN AND IMPROVEMENT STANDARDS

Subdivision Regulations §10-5-1, §10-5-2, §10-5-3

10-5-1: ADMINISTRATIVE STANDARDS: No preliminary plat application shall be considered by the board or commission until the administrator makes a positive finding with regard to each of the following standards:

A. *Other regulations: To the extent applicable, subdivision proposals shall comply with:*

1. The following sections of this code:

a. Any chapter of title 3 with the recommendation or approval of the health district;

- b. Any section of the County's Right-of-Way Management Plan with the recommendation or approval of the county engineer and recreation district if appropriate;
- c. Any chapter of title 7 with the recommendation or approval of the building official and fire official in an established district;
- d. Chapter 2 of title 8; and
- e. Any chapter of title 9.

Subdivision standards are not proposed to change and are already in place.

2. Adopted Idaho transportation department standards, if the applicant seeks a new or expanded access onto a state highway. **N/A no expanded access proposed.**

B. Resource Protection Requirements:

- 1. Floodway Areas: **N/A- no floodway area effected**
- 2. Avalanche Areas: No new habitable buildings shall be located within a high (red) avalanche hazard area, as determined by a professional study. **No platted building envelope is located within the avalanche areas**
- 3. Riparian Areas: ...**N/A-no riparian areas located on lots.**
- 4. Wetlands Areas: ..**N/A- no wetlands located in this location**

C. Drainage: Drainage systems shall not discharge into any sanitary sewer facility. N/A no change in drainage

D. Lot requirements:

- 1. Lot sizes, uses and the location of uses shall satisfy any zoning regulations and other applicable sections of this code. **Lot sizes & sizes are consistent with existing PUD.**
- 2. No single lot shall be divided by a street, existing right of way or other lot. **not divided**
- 3. No single lot shall be divided by a municipal or county boundary line. **not divided**
- 4. Lots shall have a minimum mean width of seventy five feet (75'). **All lots over 200'+ in width**
- 5. No residential building or structure for human habitation shall be located within one hundred fifty feet (150') of the centerline of a power transmission line. **Lots are not 150' or less from a transmission line.**
- 6. All buildings on lots located adjacent to public lands shall have a minimum thirty foot (30') setback from public lands. **Building envelopes remain in excess of 30' from public lands. All lot requirements are still met with this application.**

E. Utilities: ... Subdivision standards are not proposed to change and are already in place.

F. Water Supply:

- 1 a-d... **Subdivision standards are not proposed to change and are already in place.**
- 2. Central Water Systems:
N/a-Central water system existing. No change.
- 3. Irrigation And Domestic System Requirements: a-c... **Subdivision standards are not proposed to change and are already in place.**

G. Sewage Disposal:

1.-4. Subdivision standards are existing and are not proposed to change.

H. Street Improvements: 1-2... **Subdivision standards are existing and are not proposed to change**

I. Intersection Location and Specifications:... **Subdivision standards are existing and are not proposed to change**

J. Street Specifications: 1-2... **Subdivision standards are existing and are not proposed to change**

K. Lighting Standards: All outdoor lighting in the proposed subdivision shall comply with title 9, chapter 29A of this code. All exterior lighting is reviewed at time of building and land use permit application for compliance with the Outdoor Lighting chapter of the county's Zoning regulations, which now includes existing lighting as well as proposed new lighting. Lot 15A complies. Lot 14 & 17 are undeveloped.

Findings of Fact and Conclusion of Law: 10-5-1 Administrative Standards are met.

10-5-2: THRESHOLD STANDARDS: No preliminary plat application shall be approved unless the board determines that the application complies with each of the following standards:

*A. Administrative Standards: The administrator's recommendations on the standards set out in section 10-5-1 of this chapter are acceptable or need modification. **Complies***

*B. Comprehensive Plan: The proposed subdivision of land conforms to and is in accordance with the comprehensive plan text and map. **Complies. No change in existing subdivision standards.***

*C. Impact On Public Facilities And Services: ...**Complies. No change in existing subdivision standards.***

*D. Land Under Floodplain...**N/a No floodplain***

*E. Agricultural And Rural Land (A-20, A-40, R-10 And RR-40): ... **Complies. No change in existing subdivision standards.***

*F. Avalanche Areas: Land subject to avalanche hazards, as determined by a professional study, shall not be used for private roads unless the hazards are mitigated or overcome by approved design and construction plans. **No private roads proposed.***

*G. Unsuitable Land: ... **Complies. No change in existing subdivision standards.***

*H. Applicant Or Landowner: If the applicant or landowner with respect to an application for a subdivision under this chapter is the state of Idaho, **-N/A Applicant is not the State of Idaho.***

*I. Water Quantity And Quality: **Complies. No change in existing subdivision standards.***

Findings of Fact and Conclusion of Law: The Threshold Standard are not applicable to this proposal to shift the lot lines on Lot 14, 15A, and 17.

10-5-3 DESIGN STANDARDS: No preliminary plat application shall be approved unless the board makes a positive finding that the application complies with each of the following standards. No waiver of any of these standards may be granted except pursuant to section 10-8-5 of this title.

A. Preservation Of Natural Features: Where found practicable and appropriate, the following specific areas regardless of location shall be left undeveloped and undisturbed:

- 1. Unique or fragile areas such as geologic features and natural topography of the land with the goal of preserving the character, natural features and configuration of land terrain;*
- 2. Areas of natural vegetation, including unique landscapes, large individual trees, and stands of trees, excluding irrigation rights of way under Idaho Code 42-1101. A plan for landscape protection, tree preservation, and tree introduction shall be evaluated to determine compliance with this standard;*
- 3. Natural habitat and other areas of significant value to wildlife, including migration corridors as identified by Idaho fish and game;*
- 4. Historically significant structures or sites; and*
- 5. Wetlands, natural drainage channels or watercourses.*

Complies. No change in existing subdivision standards.

B. Lot Requirements:

- 1. Each lot shall contain a satisfactory building site which is properly related to topography.*
- 2. Corner lots shall be a sufficient area without obstructive landscaping to provide acceptable visibility for traffic safety.*
- 3. Each lot shall have access to an internal street or drive, where practicable.*
- 4. Calculation of lot area shall not include land which is below the "natural or ordinary high water mark" of navigable streams (as defined by Idaho Code sections 50-1202 and 36-1601), and therefore subject to the public trust doctrine.*
- 5. If lots in a residential land use area are more than double the minimum acreage required for a residential zoning district (R-.4 - R-2^{1/2}), equal or exceed the minimum acreage required in the residential/agricultural district (R-5) or are within an area of city impact, applicants may be required to arrange lots in anticipation of future resubdivision and provide for future streets where necessary to serve potential lots.*
- 6. Each lot located adjacent to public lands shall have adequate setbacks and a landscaping plan which provide defensible space to protect private property from wildland fires, to reduce the likelihood of fires spreading from private property to public lands, and to protect public health, safety and welfare.*
The board may consider additional requirements recommended by the fire district, including, but not limited to, larger building setbacks from public lands, additional water supply systems, and specific landscaping design. The board may also consider options proposed by the applicant to meet the safety goals of this subsection.

Complies. No change in existing subdivision standards.

C. Blocks: Blocks shall be designed to assure traffic safety and ease of traffic control and circulation. Blocks shall allow for two (2) tiers of lots unless topography or other factors indicate irregularly shaped blocks indented by cul-de-sacs. The board has the authority to review and modify block sizes.

Complies. No change in existing subdivision standards.

D. Utilities: The subdivider shall:

- 1. Grant a public and private utility easement of at least ten feet (10') in width on the edge of the access road right of way and, where topographic or other conditions permit, centered on all side lot lines;*
- 2. Install utilities prior to road surfacing; and*
- 3. Where practicable, relocate underground any existing aboveground utilities, excluding power transmission lines.*

Complies. No change in existing subdivision standards.

E. Drainage:

- 1. The subdivider shall provide suitable drainage facilities for any surface runoff from within or upstream of the subdivision. Natural drainage channels shall be used whenever possible. To avoid soil erosion and manage nutrients, sediment catchment basins may be required.*
- 2. Where a subdivision contains a stream, watercourse, drainageway, channel or ditch, an easement shall be provided adequate to contain that watercourse and any further width necessary for maintenance or reconstruction.*

Complies. No change in existing subdivision standards.

F. Water Supply:

- 1. Central Water Systems:*
 - a. Circular or looped water supply systems may be required.*
 - b. In addition to subsection F1a of this section and the requirements of subsection 10-5-1F2 of this chapter, the board reserves the option to require central water systems for subdivisions where necessary to provide for the public health, safety or general welfare.*
- 2. Irrigation System Requirements: All subdivisions shall satisfy the requirements of Idaho Code section 31-3805 for irrigation water delivery.*

Complies. No change in existing subdivision standards.

G. Sewage Disposal:

- 1. All sewage disposal systems shall meet any additional requirements that the board deems necessary to protect the public health, safety or general welfare.*
- 2. The board may determine larger minimum lot sizes than one acre upon evaluation of engineering reports. The board may require a second engineer's opinion where necessary.*

Complies. No change in existing subdivision standards.

H. Solid Waste Disposal: The subdivider shall present a written plan for:

1. The orderly and efficient removal of solid waste from the subdivision to the county landfill or disposal site;
2. The grinding of recyclable yard waste; and
3. The recycling of other types of recyclable waste.

Complies. No change in existing subdivision standards.

I. Park Or School Site Dedication: Based on a recommendation regarding the suitability of the site from the recreation or school district, an applicant may be required to provide either land or a financial contribution or both for playgrounds, recreation space or a school site based on a rationally related formula determined by a resolution or ordinance of the board.

Complies. No change in existing subdivision standards.

J. Access Easements: The board may require an access easement to publicly administered land, streams, rivers, lakes and reservoirs. An applicant shall clearly delineate for the public the location of any access easement by appropriate signage and rail fencing, and create an obligation by the homeowners' association to maintain unrestricted passage by the public. The board may require a bike path connector to the existing recreation district trail system or an easement for a future trail system connection.

Complies. No change in existing subdivision standards.

K. Development Rights: On a final subdivision or PUD plat, the applicant may be required to relinquish, or transfer to an approved land trust, any residual rights to develop residential, commercial or industrial uses in all common or open space areas, as those are defined in this title.

L. Hillside Standards: a-d...

... Complies. No change in existing subdivision standards.

4. Hillside Subdivision Evaluation: In addition to considerations pertinent to regular subdivisions, no structure or building envelope shall be located within the mountain overlay district. For a parcel of land that straddles the mountain overlay district and another district, individual lots may be drawn that include portions of the mountain overlay district. However, each lot shall include buildable land outside of the mountain overlay district.

Also, the commission and board shall consider:

a. -f...

*M. Design Of Subdivisions Within Or Adjacent To Lands Zoned A-20, A-40, R-10 Or RR-40: Subdivisions shall be designed to preserve natural, open space and scenic resources, protect sensitive areas such as riparian areas, wetlands, wildlife habitat and wildlife migration corridors, and watercourses, and reduce impact on neighboring properties. **Complies. No change in existing subdivision standards.***

*1. In addition to the above, subdivisions within or adjacent to lands zoned A-20, A-40, R-10 and RR-40 shall be designed and residential structures located to minimize the impact on agricultural land, farming operations, and sensitive environmental features. a-e... **Complies. No change in existing subdivision standards.***

2. For lands located within the R-2, R-2^{1/2}, and R-5 zoning district subdivisions, nothing in this subsection is intended to substitute or limit the ability to submit a development proposal for a planned unit development pursuant to chapter 6 of this title. A-c... **Complies. No change in existing subdivision standards.**

N. Street Improvements:

1-4... **Complies. No change in existing subdivision standards.**

O. Intersection Location And Specifications: 1-5... **Complies. No change in existing subdivision standards.**

P. Landscaping And Grading: **Complies. No change in existing subdivision standards.**

Q. Nonmotorized Facilities: **Complies. No change in existing subdivision standards.**

R. Wildlife: Lands in the wildlife overlay district shall be developed as permitted by title 9, chapter 20 of this code. In addition, the following standards shall apply:

1. Fencing:

a-e... **Complies. No change in existing subdivision standards.**

2. Domestic Animals: ...

3. Exterior Lighting: ...

4. Construction Timing: ...

Complies. No change in existing subdivision standards.

S. Gates: ... **Complies. No change in existing subdivision standards.**

T. Riparian And Wetland Areas: ... **Complies. No change in existing subdivision standards.**

Findings of Fact and Conclusion of Law: The design components of this subdivision are already in place. Subdivision design standards are not applicable to this proposal to shift lot lines between Lot 14, 15A, and Lot 17.

IV. DECISION AND CONDITIONS

► **Decision:** Having considered the information presented, the above criteria, and the recommendation by the Administrator, the Board of Commissioners upon a motion by Commissioner [REDACTED], a second by Commissioner [REDACTED], and [REDACTED] to [REDACTED] vote, hereby approves this plat amendment application by [REDACTED], to [REDACTED], subject to the following conditions:

Conditions of approval:

1. Plat shall include Plat Notes on original plat including updated references to Blaine County Code;

2. Record the final plat within 1 year of final approval or seek and be granted an extension at the Board's discretion within that year;
3. Pay all county engineer fees, if any, prior to obtaining the final county signatures;
4. Place the standard health department signature note on the face of the final plat;
5. Set out the square footage of each lot on the final recorded plat;
6. Satisfy the monumentation requirements of state law and §10-4-5(H);
7. Comply with the survey requirements of Blaine Co. Resolution #2002-54;
8. Add to the plat an I.C. §50-1334 certificate regarding the type of domestic water system;

Approved plat notes are indicated on the plat dated 7/27/2023. Required additional plat notes are:

- a) Septic systems shall be built with riser, out-flow filters and drainfield inspection ports on each system. Periodic inspections of individual septic systems, as recommended by the system manufacturer, are required and are the responsibility of the homeowner.
- b) Pursuant to State regulations, maintenance and weed control for all lots are the responsibility of the developer until the lot is sold and thereafter the responsibility of the owners of the individual lots. The control program to be implemented by the responsible party will target those species designated on the Idaho Noxious Weed List. Mowing and manual removal are recommended, although biological control has been shown to be effective in eradicating knapweed.
- c) Yew plants are unlawful in Blaine County pursuant to Blaine County Code Title 3, Chapter 2. All parts of the yew plant, living or dead, are poisonous and known to cause sudden death to all species of animals, including humans, if ingested.
- d) All existing and future lighting is subject to review for compliance with County Code, Title 9, Chapter 29A, Outdoor Lighting.
- e) Change preliminary plat note 9 to correct ownership: Lot 15AA Josh and Nancy Glick, Lot 14A Robert and Judith Pitman, and Lot 17A Schatz a' Tequila LLC.

Idaho Code §67-6535(c) Notice: The owner of the property subject to this application and decision may request a regulatory taking analysis pursuant to I.C. 67-8003.

IT IS SO ORDERED.

DATED this ____ day of _____, 2023

BLAINE COUNTY BOARD OF COMMISSIONERS

Muffy Davis, Chair

CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the _____ day of _____, 2023, she served a true and correct copy of the foregoing document by depositing the same in the U.S. Mail addressed as follows or by service otherwise as noted:

Staff