



TETON COUNTY, IDAHO | Board of County Commissioners

Written Decision for Dorothy Gayle Subdivision Final Plat

7/10/2025

This is a Written Decision on the findings for the Dorothy Gayle Subdivision Final Plat made under Subdivision Final Plat Review pursuant to Title 9, Chapter 3-2, Teton County Subdivision Ordinance, (revised 5/16/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030)

HEARING DATES:

June 9, 2025 & June 23, 2025

LEGAL DESCRIPTION: RP05N45E054650; TAX #6770 SEC 5 T5N R45E

LOCATION: W 4850 N;

ZONING DISTRICT: A/RR-2.5

PROPERTY SIZE: 40.46 acres

APPLICANT & OWNER: Jones Lehi LLC, Dorthy & Harry V Jones Family LLC

ENGINEER/SURVEYOR: Curt Behle & Civilize LLC

OVERVIEW: Jones Lehi, LLC and Harry V Jones Family LLC, represented by Curt Behle and Civilize Engineering, have applied for a 7 lot subdivision near W 4850 N, SW of the City of Teton. The application was originally for 16 lots but has reduced to 6 residential lots at the Preliminary Plat stage and one lot being a proposed Open Space Lot to accommodate a fire pond. The parcel includes the Big Game Migration Corridor & Seasonal Range.

Procedural Background

SUBMISSION AND SCHEDULING: The application for the subdivision Extension Request was submitted on October 8, 2024. Extension Requests are reviewed by the Board of County Commissioners ("BoCC") at a Public Meeting.

The subdivision applicants submitted a concept application for a subdivision on August 13, 2021. However, it was not signed nor formally deemed complete by the Planning Administrator. Therefore, the application timeline under Title 9 of Teton County Code began November 5, 2021, when the application was reviewed and approved by the Planning and Zoning Commission (PZC).

The applicant submitted preliminary plat materials on August 11, 2023. The application was reviewed, and then deemed materially complete and scheduled for the November 23, 2023 PZC agenda. The PZC reviewed the application and continued the hearing until February 13, 2024, because the applicant had not provided proof of legal access to ensure the roads could be improved to County Local Road Standards, which require a 60' width. At the February 13, 2024, hearing, the PZC reviewed the updated easement information provided by the applicant and recommended approval of the application with the condition that the applicant receive judicial or other resolution on the legal access.

The BoCC reviewed the application on April 22, 2024, and continued the hearing for additional information. At the July 8, 2024, BoCC meeting, the BoCC approved the item with 8 conditions of approval, including addressing the legal access.

The following commissioners were present for review of the request for reconsideration: Brad Wolfe, Michael Whitfield, and Ron James.

County Staff Joshua Chase was present.

The applicant was in attendance.

FINAL PLAT REVIEW PUBLIC HEARING

BoCC – Public Hearing of June 09, 2025

APPLICABLE COUNTY CODE: Subdivision Final Plat Review pursuant to Title 9, Chapter 3-2, Teton County Subdivision Ordinance, (revised 5/16/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030)





FINAL PLAT REVIEW PUBLIC HEARING

ACTION ITEM - 1:45 PM - PUBLIC HEARING: Dorothy Gayle Ranch Final Plat Hearing Mr. Chase gave the staff report for the Dorothy Gayle Ranch final plat hearing. The Eustachy Wysong access issue impacts this application as well. Curt Behle, representing the applicant, stated that he does not believe there is an access issue with this application. Public comment was opened at 4:46. Glenn Moradian pointed out the roads at issue on the GIS map to illustrate the choke point, 5000N between N3000W and N3250W. Mr. Moradian argued that the applicant has not established access. Merri Moradian presented instrument #238814 and instrument #270431. She believes that instrument #270431 is invalid because it is missing information and was illegally submitted with the application. Public comment was closed at 5:01 PM. Curt Behle had no further comments.

The Board discussed further legal review and questions regarding access that they had in relation to this application. Commissioner Dan Powers moved to continue the Board's consideration and deliberation on the Dorothy Gayle Final Plat to June 23rd at 2:45 PM in order to obtain additional information from legal counsel, which motion was seconded by Commissioner Ron James, and was passed unanimously by the Board.

REASONING AND ANALYSIS

The Board has acted without any effect on their decision by any information presented after the close of the public hearing in this matter. Based on the facts presented at the above-described public hearing and in the written record of this matter, which include conflicting facts and arguments.

Surrounding landowners have presented information throughout the review process challenging the scope of the easements relied upon by the Dorothy Gayle subdivision proposal. The Applicant has repeatedly asserted that the easements at issue do provide sufficient access to the proposed subdivision. The Idaho Supreme Court has explained that a county "Board has no authority to adjudicate easements." *Hawkins v. Bonneville Cnty. Bd. of Comm'rs*, 151 Idaho 228, 234, 254 P.3d 1224, 1230 (2011). The Idaho Supreme Court has also held

that if a land use application is submitted and proper access to the land is not certain, the decision-maker must make the application's approval expressly contingent upon judicial resolution of the access issue. This holding is consistent with notions of fairness, finality, and judicial efficiency. At the county level, the [opponents] were left trying to prove a negative—that the proposed subdivision did not have access as required by [county code]. But it is the [applicants] who have the burden to show that each requirement under the [county code], which includes appropriate access to the proposed subdivision, is satisfied. Therefore, the burden is on the [applicants] to establish, through a declaratory action in district court, that the easement allows for subdivision access consistent with the [county code] requirements.

Shinn v. Bd. of Cnty. (In re Variance ZV2011-2), 156 Idaho 491, 496, 328 P.3d 471, 476 (2014). Thus, while a county board or commission cannot adjudicate easement issues or other servitudes regarding access, and must assess the application without considering them, the County must also make its approval contingent on a judicial resolution of any such issues that are reasonably raised. Where there are plausible arguments regarding access for a subdivision, Idaho courts have explained that a county must "make the application's approval expressly contingent upon judicial resolution of the access issue." *Shinn*, 156 Idaho at 496, 328 P.3d at 476.

Here, the Board has previously approved the Subdivision's preliminary plat with a requirement that the Applicant

Demonstrate that the development has legal access via W4850N and N3250W to County Road N3000W sufficient to allow improvement of the roads to meet County local road standards required by Title 9 through judicial court order or other legal resolution between the affected private parties through signed agreement.

It is apparent that, to date, no action has been taken in relation to this condition, except that some discussions may have occurred, but they have not resolved the access issues. Despite the arguments of the parties, the Board finds that there are colorable and plausible arguments made to dispute or sustain access to this proposed subdivision, but it is not the Board's jurisdiction to finally resolve the issue of access. Therefore, in accordance with the directive in *Shinn*, the Board determined to conditionally grant approval of the subdivision with the requirement for the matter of access to be resolved through judicial resolution.





DECISION

The Board's consideration and deliberation relating to the proposed Dorothy Gayle Final Plat was continued to June 23, 2025, to obtain additional information from legal counsel. By that date, the Board had reviewed the legal issues involved with this application.

On June 23, 2025, the Board concluded that the Criteria for Approval of a Final Plat found in Teton County Code § 9-3-2(D) can be satisfied, and APPROVED the Final Plat for Dorothy Gayle Subdivision as described in the application materials submitted on August 10, 2023, and additional information attached to the staff report, with the following conditions of approval:

1. Approval is expressly contingent upon judicial resolution of the access issue to the County Road, sufficient to meet improvements to county road standards.
2. Approval is also contingent upon final technical review of the Final Plat and submission of appropriate financial surety.

Conclusion:

Having given due consideration to the application and materials presented, and to the applicable review criteria, the Teton County Board of County Commissioners, for the reasons described above, hereby makes the following conclusions: The application for FINAL PLAT of the Dorothy Gayle Subdivision meets or can meet all of the requirements of the Teton County Code § 9-3-2(D), and is therefore APPROVED with the following conditions:

1. Approval is expressly contingent upon judicial resolution of the access issue to the County Road, sufficient to meet improvements to county road standards.
2. Approval is also contingent upon final technical review of the Final Plat and submission of appropriate financial surety.





Teton County Board of County Commissioners, Chair

Date

NOTICE OF APPLICABLE RIGHTS

Applicants have a right to request a regulatory taking analysis of this decision pursuant to Idaho Code § 67- 8003. Further, per Idaho Code § 67-6535, and in accordance with Idaho Rule of Civil Procedure 84, an applicant or an affected person has the right to seek review of this decision.

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of July 2025, I served a true and correct copy of the foregoing document upon the following:

<p>Curt Behle curtbehle@gmail.com</p> <p>Brent Crowther bcrowther@civilize.design</p>	<p><input type="checkbox"/> Mailing</p> <p><input type="checkbox"/> Hand Delivery</p> <p><input type="checkbox"/> Fax</p> <p><input checked="" type="checkbox"/> E-Mail</p> <p><input type="checkbox"/> Overnight Mail</p> <p><input type="checkbox"/> Courthouse Box</p>
---	---

Clerk

