



FINAL PLAT REVIEW PUBLIC HEARING (CONTINUED)

FOR: Bertin Ranch Subdivision
WHERE: E 4500 S & S 500 E
Board of County Commissioners –
PREPARED FOR: Public Hearing on August 26, 2024 & October 28th, 2024

APPLICANT & OWNER: Taylor Bertin of Bertin Holdings LLC, represented by Curt Behle
ENGINEER/SURVEYOR: Civilize, PLLC

OVERVIEW: Applicant is proposing a 4-lot subdivision on 10.21 acres accessed from Private Road S 500 E. Proposed lots are 2.5 to 2.71 acres. A fire pond is proposed on Lot 4 of the development. Each lot is proposed to have individual well and septic systems. There are no overlays present on the property.

The final plat application was heard on August 26, 2024 but continued for missing information.

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

LEGAL DESCRIPTION: RP04N45E247900

LOCATION: E 4500 S and S 500 E

ZONING DISTRICT: A/RR-2.5

PROPERTY SIZE: 10.21 acres

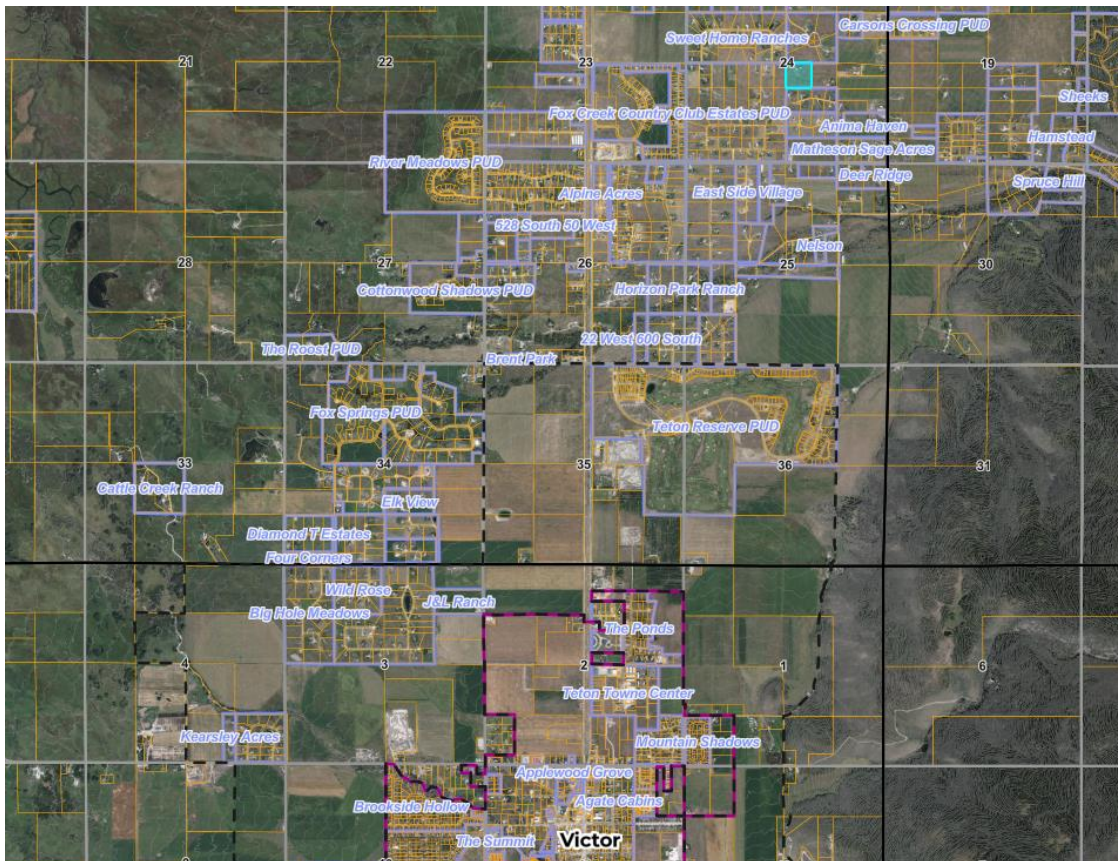


Figure 1. Vicinity map; Subject Parcel Highlighted Blue

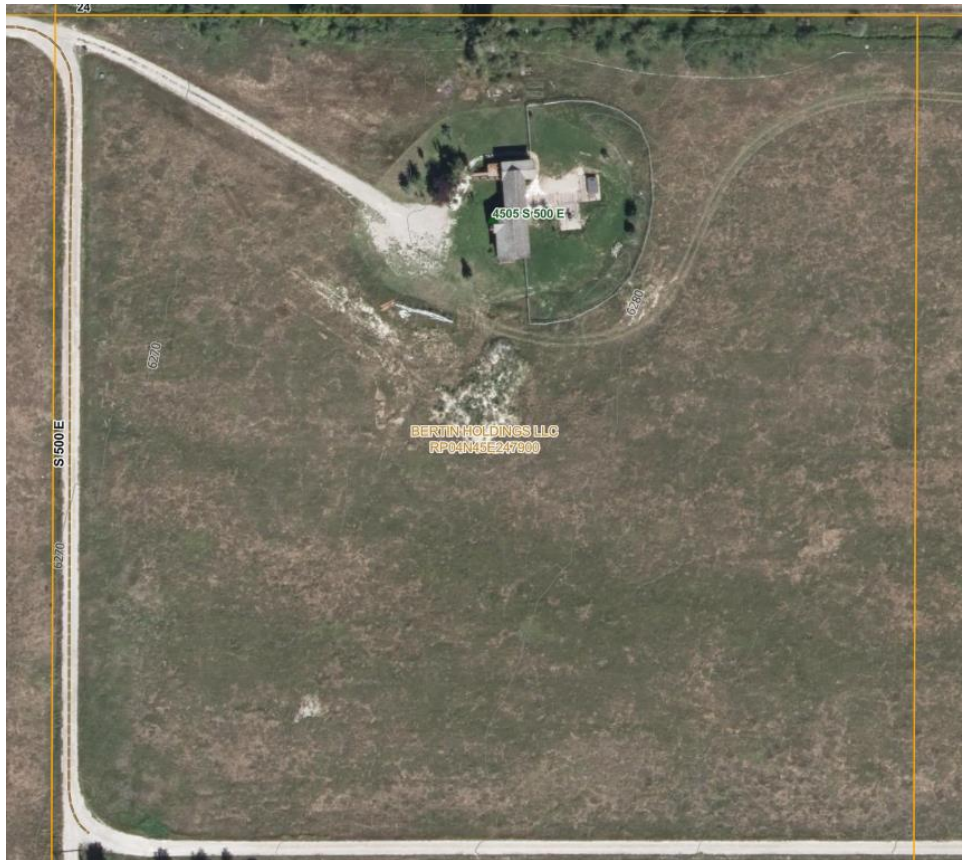


Figure 2. Aerial Image; Existing Conditions of the property.

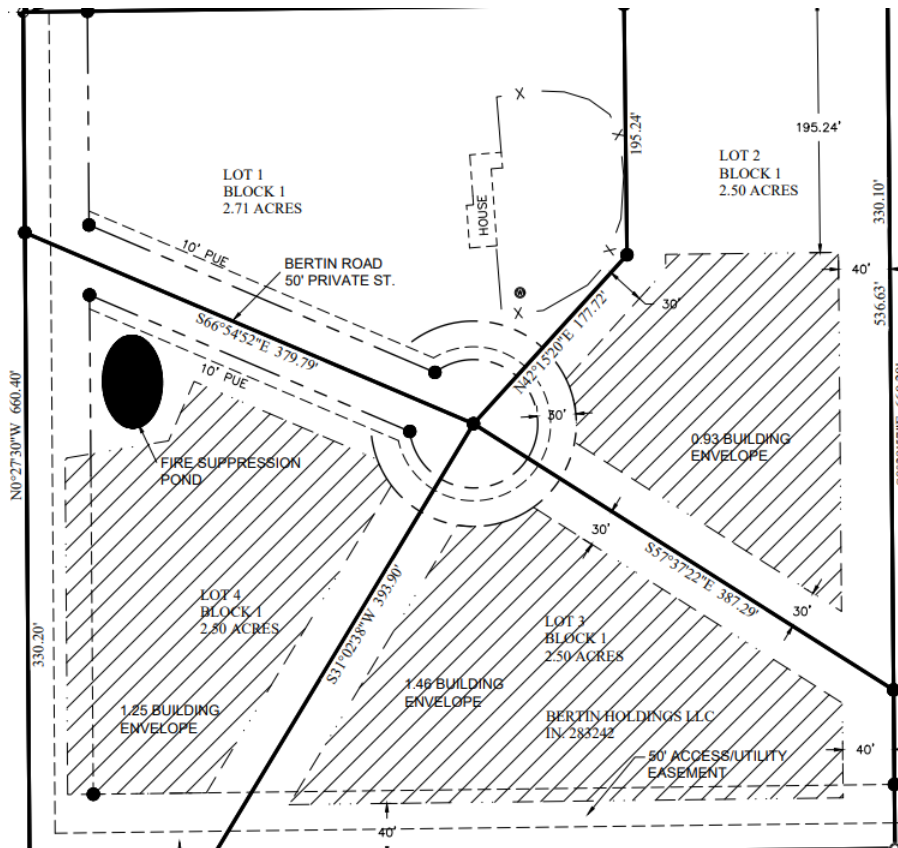


Figure 3. Final Plat Layout

PROJECT BACKGROUND & REVIEW HISTORY

Pre-application: The pre-application conference requirement was satisfied July 25, 2022.

Concept Review: The first step in the subdivision process is a Concept Plan Review (9-3-2B). The application was deemed complete 8/2/22. Because there were fewer than 10 lots, the Concept application was reviewed administratively on 10/22/22.

CONDITIONS OF APPROVAL:

1. The existing access from S 500 E and E 4500 S be physically removed.
2. If the existing structures are intended to remain on Lot 1, please include them on the preliminary plat (labeled as existing structures) to confirm building setbacks and lot configuration.
3. Schedule a brief meeting before preliminary plat materials with Teton County Fire Marshal and Planning to discuss the potential for a shared fire pond with the neighboring parcel.

The following items shall also be addressed and submitted in addition to the Preliminary Plat Application checklist:

Bertin Ranch- Administrative Concept Review

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1. Submit an application for Subdivision/Land Development Review with EIPH and receive approvals before submitting a Preliminary Plat application.
2. Address all other comments from the Public Works Director before submitting Preliminary Plat application

ADMINISTRATIVE ACTION:

Approve the Concept Plan, with the conditions of approval listed in this Report, having provided the reasons and justifications for the approval.

Having concluded that the Criteria for Approval of a Concept Plan found in Title 9-3-2-B can be satisfied with the inclusion of the recommended conditions of approval,

- and having found that the considerations for granting the Concept Plan Approval the applicant can be justified and have been presented in the application materials, staff report, and presentations to the Planning Department,
- and having found that the proposal is generally consistent with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,
- I APPROVE the Concept Plan for Bertin Ranch Subdivision as described in the application materials submitted 8/2/22 with the following conditions of approval: 1) The existing access from S 500 E and E 4500 S be physically removed; 2) If the existing structures are intended to remain on Lot 1, please include them on the preliminary plat (labeled as existing structures) to confirm building setbacks and lot configuration. 3) Schedule a brief meeting before preliminary plat materials with Teton County Fire Marshal and Planning to discuss the potential for a shared fire pond with the neighboring parcel.


Jade Krueger, Planning Administrator

Staff comment: Condition of approval #1 was not addressed in preliminary plat materials.

Planning & Zoning Commission Preliminary Plat Review: The PZC reviewed the application on 2/13/24 and recommended approval with the 8 conditions of approval in the staff report and added 9 – Fox Creek Canal co. agreement in place.

MOTION: *Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2-C can be satisfied, I move to recommend APPROVAL of the Preliminary Plat for Bertin Ranch Subdivision as described in the application materials submitted on November 6, 2023, and additional information attached to the staff report with the additional condition of approval: 9) Fox Creek Canal Co. agreement in place.*

RESULT:	ADOPTED [Unanimous]
MOVER:	Wade Kaufman
SECONDER:	Wyatt Penfold
AYES	Lindsey Love, Tim Watters, Wyatt Penfold, Wade Kaufman, James Weber, Tyler Wertenbruch
NAYES	None
ABSTAIN	None

Conditions of Approval

1. The plat should be updated in the following ways:
 1. Signature for Planning & Zoning is the Chair person.
 2. The note indicates it is a two lot subdivision and should be amended to reflect the lots of the subdivision.
2. A road access/maintenance agreement for private road S 500 E should be presented.

3. Ownership changed to an LLC after the Concept Review was completed. Please submit LLC documentation indicating Taylor Bertin has permission to act on behalf of the LLC.
4. The development agreement lists both Curt Behle and Taylor Bertin as “Developer.” One person should be listed here and responsible in the DA.
5. The new roadway is not included in the cost estimate for the subdivision. This is required infrastructure. The old access being vegetated should also be incorporated into the DA and Cost Estimate.
6. The CCRs should be updated to reflect Right to Farm Provisions, Teton County Dark Sky lighting compliance, and weed maintenance and control.
7. Address Public Works Comments:
 1. The existing driveway to Lot 1 shall be removed and revegetated. Lot shall be accessed from proposed new Bertin Road.
 2. Plat note to indicate all lots will be accessed from an interior subdivision road (Bertin Road).
 3. Both E4500 S and S500 be improved/constructed to County Local Road Standards.
 4. Preliminary Plat title be amended to show it is in T4N, R45E, not T5N.
8. Financial Surety of 125% of the cost estimate is required with the final plat application.

Staff comment: All conditions remain on this application. Applicant requested to be scheduled for preliminary plat review with the BoCC on February 14, 2024 and was advised that any additional materials related to the recommended conditions would need to be submitted by March 25, 2024 if the applicant intended to do so. As of 4/10/24, nothing was submitted.

Board of County Commissioners Preliminary Plat Review: The BoCC reviewed and approved the application on April 22, 2024 with the conditions of approval listed below:

MOTION: *Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2-C can be satisfied, I move to APPROVE the Preliminary Plat for Bertin Ranch Subdivision as described in the application materials submitted on November 6, 2023, and additional information attached to the staff report, with the following conditions of approval:*

Conditions of Approval

1. The plat should be updated in the following ways:
 - a. Signature for Planning & Zoning is the P&Z Chair person.
 - b. The note indicates it is a two lot subdivision and should be amended to reflect the lots of the subdivision.
2. A road access/maintenance agreement for private road S 500 E should be presented.
3. Ownership changed to an LLC after the Concept Review was completed. Please submit LLC documentation indicating Taylor Bertin has permission to act on behalf of the LLC.
4. The development agreement lists both Curt Behle and Taylor Bertin as “Developer.” One person should be listed here and be held responsible in the DA.
5. The new roadway is not included in the cost estimate for the subdivision. This is required infrastructure. The old access being vegetated should also be incorporated into the DA and Cost Estimate.
6. The CCRs should be updated to reflect Right to Farm Provisions, Teton County Dark Sky lighting compliance, and weed maintenance and control.
7. Address Public Works Comments:
 - a. The existing driveway to Lot 1 shall be removed and revegetated. Lots shall be accessed from proposed new Bertin Road.
 - b. Plat note to indicate all lots will be accessed from an interior subdivision road (Bertin Road).
 - c. Both E4500 S and S500 be improved/constructed to County Local Road Standards to their access point.
 - d. Preliminary Plat title be amended to show it is in T4N, R45E, not T5N.
8. Financial Surety of 125% of the cost estimate is required with the final plat application.
9. Fox Creek Canal Company should provide a letter indicating they’ve reviewed the proposal and irrigation on the property.

10. The applicant must provide documented access to fire suppression that meets the Fire Marshall requirements.

11. At the applicant's request, the applicant will provide building envelopes on the final plat to minimize land disturbance.

Staff comment: Conditions 4, 5, 7b, 8 and 9 have not been addressed. Applicant provided one building envelope on Lot 2.

Board of County Commissioners Final Plat Review: The BoCC reviewed and continued the application on August 26, 2024 with the conditions of approval listed below:

MOTION: *I move to continue the public hearing for Bertin Ranch Subdivision Final Plat in order to obtain additional information from the applicant or other agencies with regard to the missing elements that were required for final plat approval to Oct 28th at 1:00 PM.*

Conditions from Staff Report:

1. The cost estimate should be broken into improvement categories that indicate the roadway improvements for the interior subdivision road and necessary roadway improvements leading to the development. The old access being vegetated should also be incorporated into the DA and Cost Estimate.
2. A plat note is required to indicate all lots will be accessed from an interior subdivision road (Bertin Road).
3. Financial Surety of 125% of the cost estimate is required with the final plat application. The applicant provided a "Bondability letter" which is not sufficient.
4. Cost estimate subtotal construction cost needs to be updated to reflect the true construction costs.
5. The development agreement needs to include the plat, legal description and cost estimate.
6. Taylor Bertin and Curt Behle are both listed as "the developer" in the Development agreement.

Commissioners Conditions:

- The development agreement lists both Curt Behle and Taylor Bertin as "Developer." One person should be listed here and be held responsible in the DA.
- The cost estimate should be broken into improvement categories that indicate the roadway improvements for the interior subdivision road and necessary roadway improvements leading to the development. The old access being vegetated should also be incorporated into the DA and Cost Estimate.
- Address public works comment that Plat note be added to indicate all lots will be accessed from an interior subdivision road (Bertin Road).
- Financial Surety of 125% of the cost estimate is required with the final plat application.
- Fox Creek Canal Company should provide a letter indicating they've reviewed the proposal and irrigation on the property.
- At the applicant's request, the applicant will provide building envelopes on the final plat to minimize land disturbance.

Staff comment: The applicant is yet to provide sufficient financial surety. The development agreement still needs to include the plat, legal description, and cost estimate. All other conditions have been met.

REVIEW & INTER-AGENCY COMMENTS:

The County has solicited comments from other agencies and has received comments from the following entities.

1. **ROADS & UTILITIES:** The Public Works Director made the following comments on the Final Plat as of October 11, 2024:
 - All concerns regarding the Bertin Ranch Subdivision have been addressed.
2. **FIRE PROTECTION:** Teton County Fire Marshal reviewed and approved the fire department access and water supply for the proposal on 1/22/24 (Attachment P).
3. **WASTEWATER TREATMENT:** The applicant has received preliminary approval from EIPH as of 9/7/22. No groundwater was encountered, nor any bedrock. The parcel is not within any Wetland & Waterways Overlay areas. Therefore, a nutrient pathogen evaluation was requested. *A NP Investigation may still be requested.*
4. **PLANS & STUDIES:** No additional plans or studies were requested given the lack of overlays. The number of lots did not trigger a TIS or FIA.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE

Idaho Code, Title 67, Section 67-6509, 67-6511, 67-6512. The public hearing for the BoCC was duly noticed in the Teton Valley News on October 9 and October 16, 2024. A notification was sent via mail to surrounding property owners within a 300-foot buffer area on October 7, 2024. A notice was also posted on the property providing information about the public hearing on October 16, 2024.

PUBLIC COMMENT:

Staff has received one public comment on this application as of October 22, 2024. This comment is from Sweet Home Ranches HOA stating they have voted to not allow another subdivision to access their ponds. (Attachment N)

OVERVIEW OF FINAL PLAT APPROVAL (9-3-2-D2):

This phase of the subdivision/PUD process is to present the Board of County Commissioners the completed documentation as required by this Ordinance for a final review before rendering a decision to approve, deny, amend or remand this application. If the Board elects to amend the application, additional findings and reasoning shall be made in writing in accordance with State code. Otherwise the findings and reasoning should be contained in the Master Plan / Development Agreement / and Final Plat. (amd. 06-05)

CONSIDERATION OF APPROVAL:

In conjunction with the decision for approval, approval with conditions, or denial of an application for a subdivision or PUD, the Board shall make written findings with respect to the items required with the submission of the application and the criteria below. Additional written findings are not necessary where the public documents or records of the public hearing already provide a written record.

- i. Each exception to otherwise applicable restrictions shall be identified and the reasons supporting the exceptions stated.
- ii. The subdivision or PUD is consistent with the public health, safety and welfare of the County and with all applicable provisions of Title 9 and Title 8 of the Teton County code. (amd. 11-14-08)
- iii. The information required in the application has been verified and is correct.

STAFF RECOMMENDATION:

The financial surety is still insufficient. Staff has been clear on the requirements and the applicant has not provided the correct documentation. The CNA surety documentation is a prequalification application approval. It is not a binding agreement nor does it present an obligation for the company to provide any bond. The Surety Bonds Direct documentation is supplemented with an email chain stating that the bond amount is a pre-qualification line bond for \$150,000. The 125% surety needs to be at least \$165,000. This documentation is still in no way a binding agreement. The bonds the applicant is applying for are not the correct type of bond. The applicant will need to apply for and receive a financial guarantee bond. The applicant has been applying for performance bonds.

Staff sent the documentation for legal review.

CONDITIONS OF APPROVAL:

1. Financial Surety of 125% of the cost estimate is required with the final plat application. The applicant provided two pre-qualification letters for bonds, both of which are insufficient.
2. The development agreement needs to include the plat, legal description and cost estimate.

BOARD OF COUNTY COMMISSIONERS ACTIONS

- A. Approve the Final Plat, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Approve the Final Plat, with modifications to the application, or adding conditions of approval, having provided the reasons and justifications for the approval and any modifications or conditions.
- C. Deny the Final Plat application and provide the reasons and justifications for the denial.
- D. Continue to a future BoCC Public Hearing with reasons given as to the continuation or need for additional information.
- E. Table to a future BoCC meeting with reasons given for the continuation or need for additional information.

MOTIONS

The following motions could provide a reasoned statement if a Commissioner wanted to approve or deny the application:

APPROVAL

Having concluded that the Criteria for Approval of a Final Plat found in Title 9-3-2-D can be satisfied, I move to APPROVE the Final Plat for Bertin Ranch Subdivision as described in the application materials submitted on May 22, 2024, and additional information attached to the staff report. (with the following conditions of approval...)

DENIAL

Having concluded that the Criteria for Approval of a Final Plat found in Title 9-3-2-D have not been satisfied, I move to DENY the Final Plat for Bertin Ranch Subdivision as described in the application materials submitted on May 22, 2024 and additional information attached to the staff report, based on the following findings:

- 1.....

CONTINUATION

I move to continue the public hearing for Bertin Ranch Subdivision Final Plat in order to obtain additional information from the applicant or other agencies *for the following hearing date and time...*

Prepared by:

Torin Bjorklund, Associate Planner
Jade Krueger, Planning Administrator

ATTACHMENTS:

- | | |
|--|--|
| A. Final Plat Application (3 pages) | K. Warranty Deed (2 pages) |
| B. Final Plat Narrative (2 pages) | L. Improvement Plans (14 Pages) |
| C. Applicant Supplemental Materials (20 pages) | M. Public Works Letter (1 Page) |
| D. Final Plat (1 page) | N. Public Comment (1 Page) |
| E. CCRs (11 pages) | O. EIPH Approval Letter (11 Pages) |
| F. Development Agreement (15 Pages) | P. Fire Marshal Approval Letter (1 page) |
| G. Cost Estimate (1 Page) | Q. Bertin Holdings, LLC EIN (2 pages) |
| H. Bertin Holdings, LLC OA (12 Pages) | R. Surety Bonds Direct Letter (3 Pages) |
| I. Water Rights Letter (2 Pages) | S. CAN Surety Letter (1 page) |
| J. Road Maintenance Agreement (2 Pages) | |

End of Staff Report