

Addendum to THE QUIET LOT 8
SUBSEQUENT MINOR SUBDIVISION
STAFF REPORT

DATE: March 28, 2023

To: Broadwater County Planning Board
From: Nichole Brown, Broadwater County Community Development Director
Subject: New Information for Public Hearing before the Planning Board to be held on
March 28, 2023

SUBDIVIDER: Gary and Flora Bay
P.O. Box 11858
Bozeman, MT 59719

LEGAL DESCRIPTION: Situated in Section 13, Township 2 North, Range 1
East, Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is located off Eustis Road,
approximately five and one quarter (5.25) miles northeast of
Hwy 287/I-90 interchange.

NEW INFORMATION ANALYSIS BY THE BROADWATER COUNTY
COMMISSION:

Section 76-3-615, MCA governs the consideration of new information presented during the review of a subdivision application. On March 3, 2023 the Broadwater County Commission during a duly noticed public meeting was informed of documents presented as a part of this subdivision after the last public hearing before the Broadwater County Planning Board. The Broadwater County Commission determined that this document constitutes new information regarding this subdivision application that had not been considered at a public hearing before the Broadwater County Planning Board. Pursuant to the 2021 Broadwater County Subdivision Regulations, the Broadwater County Planning Board holds the only public hearings on subdivisions. The developer's representative presented a Shared Driveway Easement and the Broadwater County Commissioners considered it to be new information. Therefore, the Broadwater County Planning Board has scheduled a subsequent public hearing for consideration of **only the new** information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

Pursuant to Section 76-3-615(4), if a public hearing is directed to be held, the 60-working-day review period required is suspended and the new hearing must be noticed and held within 45

days of the governing body's determination to schedule a new hearing. After the new public hearing, the working-day time limit resumes for the Broadwater County Commission to review the subdivision application and make a determination. The Broadwater County Commission must make a determination on this subdivision application by April 11, 2023.

ATTACHMENTS: A. Grant of Shared Driveway Access Easement

NEW INFORMATION:

The new information/documents submitted as part of this subdivision application process since the last Broadwater County Planning Board public hearing on February 7, 2023, are discussed in this Addendum to the Staff Report. Recommended findings of fact as they related to the primary review criteria and conditions to mitigate the impacts of the findings of fact are set forth in each section for the Broadwater County Planning Board's consideration, as well as an analysis of the 2020 Broadwater County Growth Policy. The Broadwater County Planning Board will also have to **analyze** public comment received during the public hearing to determine if the public comment is relevant, and if so, whether the public comment requires new/additional findings of fact and conditions to mitigate the impacts of those findings of fact. **Only public comment on the new information can be heard by the Broadwater County Planning Board during the public hearing.** (*Section 76-3-615(2)(b), MCA*). **The Broadwater Planning Board is required to submit public comments on water and sanitation in its recommendations to the Broadwater County Commission.** (*2012 Broadwater County Subdivision Regulations II-D-1.h.5*).

A. NEW INFORMATION – Grant of Shared Driveway Access Easement

1. SUMMARY: Traffic impacts were discussed in the Staff Report originally submitted to the Planning Board under EFFECTS ON ROADS. The Staff Report stated:

Legal and physical access to both lots will be via a thirty (30) foot wide shared driveway easement along the north boundary of the proposed subdivision. Although Lot 8B does have county road frontage the sixty (60) foot wide ravine and drainage easement 'No Build Zone' separates the road from any potential building sites. Therefore, both lots will need to access the homesites from the newly created shared driveway easement.

Based on the above, the following conditions of approval were suggested:

Prior to final plat approval, the subdivider shall demonstrate that each lot within the proposed subdivision abuts a public road or has obtained adequate and appropriate easements across all necessary properties, from a public road to each lot in the subdivision, whether a road has been constructed on that property and has dedicated the easement or private road for public use or for the use of the subdivision. **(Mitigates Findings of Fact under “The provision of legal and physical access to each parcel within the proposed subdivision”)** (Chapter V-H and Definitions – 1, Broadwater County Subdivision Regulations)

2. **DEFINITION OF LOCAL SERVICES:** All services or facilities local government is authorized to provide that benefit their citizens, such as water supply, sewage disposal, law enforcement, fire protection, emergency services, transportation system, educational system, noxious weed control, as well as services that local government does not provide such as power, telephone, state highways, etc. *Broadwater County Subdivision Regulations, Definition 34.*
3. **ANALYSIS:** According to the Grant of Shared Driveway Access Easement, the easement that is included on Lot 8A will be utilized by Lot 8B for perpetuity for ingress and egress by both lots to Eustis Road. Any successors in title to each tract shall not obstruct or restrict use of the easement and no buildings or structures may be constructed upon said easement. The easement shall remain no less than thirty (30) feet wide and owners shall work in cooperation for routine and necessary repairs.
4. **SUGGESTED FINDING:** The addition of this Grant of Shared Driveway Access Easement should be beneficial to the future lot owners as it provides a written understanding of the obligations of each lot owner to participate in the repairs and maintenance of the shared easement.
5. **SUGGESTED CONDITIONS:**
 - a. The Grant of Shared Driveway Access Easement shall be signed and notarized by the developer and recorded with the final plat. (**Mitigates Findings of Fact under “The provision of legal and physical access to each parcel within the proposed subdivision”**) (Chapter V-H and Definitions – 1, Broadwater County Subdivision Regulations)
6. **CONCLUSIONS:** With the addition of this recommended condition, the impacts on the Local Services as it relates to access roads shall be mitigated.