



Memo

To: Mayor and Hayden City Council

From: Dulci Kau, P.E., City Engineer

Date: 5/20/2026

Agenda Item: Approval of the Deferred Improvement Agreement with Nathan C. Bemis

Agenda Item Location

Consent

Background and Recommended Action or Motion

As part of the site and building improvements at 234 E Jensen Drive, Permit No. PB26-0140, the property owner is required to construct frontage improvements in accordance to the City of Hayden Transportation Master Plan. The property owner has agreed to the terms of the agreement to defer the construction of the frontage improvements.

Staff recommends approval of the Nathan C. Bemis Deferred Improvement Agreement and authorize the Mayor to sign the agreement prior to recordation with Kootenai County.

Functional Impact of Authorizing

Authorization of this agreement would keep the responsibility of constructing the frontage improvements with the property owner in accordance with city code.

Functional Impact of Not Authorizing

If not approved, City Council would need to provide a path forward for the construction of frontage improvements.

Fiscal Impact

There is no anticipated fiscal impact as the property owner remains responsible for the widening improvements when constructed.

Budget Funding Source / Transfer Request

N/A

Attachment

Vicinity Map

Deferred Improvement Agreement

Figure 1 - Vicinity Map



NATHAN C. BEMIS DEFERRED IMPROVEMENT AGREEMENT

This agreement is entered into between Nathan C. Bemis, 234 E Jensen Drive, Hayden, Idaho 83835, hereinafter “Developer”, and the City of Hayden, an Idaho municipal corporation, 8930 N. Government Way, Hayden, Idaho 83835, hereinafter “City.”

WHEREAS, Developer is the owner of Kootenai County Tax Parcel Number H-5400-000-0140 more particularly described as JENSEN ADDITION, LOT 14, Section 13 Township 51North Range 04West; and

WHEREAS, Hayden Municipal Code requires that at the time of issuance of a building permit for an accessory dwelling unit (ADU) that construction/installation of frontage improvements shall be required as part of the site improvements; and

WHEREAS, the Hayden Municipal Code 11-4-7(C)(5) provides that in areas where the final, finish grade and/or street section cannot be established; where a frontage improvement has been installed at a prior time which is not fully consistent, but is generally consistent, with currently adopted standards; where there are safety concerns; or if there are other factors, which, as determined by the city, merit waiving or deferring the obligation to construct said improvements and instead provide related dedications and easements to the city, the obligation(s) may be deferred or waived in whole or in part by the city engineer. If deferred, the developer shall be required to enter into a deferred improvement agreement incorporating the approved deferral(s) as a condition of approval for the application; and

WHEREAS, DEVELOPER has an approved building permit PB26-0140 and site plan for a new structure on the property and will apply for a Certificate of Occupancy; and

WHEREAS, the City Engineer has determined that the installation of the frontage improvements, which generally include asphalt match, curb, gutter, swales, sidewalks or paths, landscaping, stormwater facilities, and other related features hereafter known as “Frontage Improvements” and which are further described below, may be deferred at this time on the condition that the property owner enter into an Agreement which will require the property owner to construct or participate in the funding of the frontage improvements at a later date determined by the City; and

WHEREAS, the description of said deferred Frontage Improvements are defined as follows:

- a. Along E Jensen Drive the following shall be deferred:
 - i. Pavement Widening to 14 feet from future road centerline, and
 - ii. Installation of concrete curb and gutter, and
 - iii. Installation of a 10-foot swale, street trees, and associated irrigation, and
 - iv. Installation of a 5-foot concrete sidewalk
 - v. Installation of a concrete approach

NOW THEREFORE, the parties agree as follows:

1. City agrees to process the Certificate of Occupancy under Building Permit PB26-0140, and allow DEVELOPER to defer the installation of the Frontage Improvements along East Jensen Drive until the earliest of the following scenarios occur:
 - a. Upon any further development of the subject property, DEVELOPER or its successor in interest shall construct the deferred improvements in accordance with the current Transportation Plan or corridor plan that is adopted and in effect at the time of application for a building permit unless centerline grade has not yet been established, in which case, DEVELOPER or its successor in interest shall pay to the City the cost of the deferred improvements. Said costs shall be prepared by a licensed Engineer in the State of Idaho in accordance to the Transportation Plan or Subplan that is adopted and in effect at the time of application for a building permit and shall be approved by the City Engineer. In either case, a Certificate of Occupancy shall not be issued until the improvements are constructed and accepted by the City or payment has been made to the City; or
 - b. If E Jensen Drive is improved by the City, or adjacent property owners to the north or south, prior to any further development of the subject property, DEVELOPER, or its successor in interest shall reimburse the actual costs to construct the Frontage Improvements that were deferred pursuant to this Agreement. If the City intends to improve E Jensen Drive it shall provide notice of the award of contract to DEVELOPER, which may be accomplished by publication or other means including verbally. Said payment shall be made within ninety (90) days of DEVELOPER being provided written notice of the project completion and the dollar amount associated with the Frontage Improvements. If frontage improvements are constructed by the adjacent property owners, DEVELOPER shall be directly responsible to pay for the improvements on the real property described in this agreement.
 - c. If 10 years have passed from the contract date.
2. DEVELOPER acknowledges the benefit that it is receiving from the City by deferring the Frontage Improvements, which under the existing City Code are required to be constructed at this time.

In exchange for the benefits that it is receiving by deferring its present obligation to a later date DEVELOPER consents, for itself, its successors and assigns, to the placement of a lien on the subject property in the amount of the costs incurred by the CITY for the construction of the frontage improvements associated with the subject property, should DEVELOPER, its successors or

assigns, fail or refuse to perform the duties and obligations articulated in #1 above.

DEVELOPER waives the right to contest the City's authority to lien the subject property but retains its ability to perform the obligations itself in accordance with the terms of this agreement. Should DEVELOPER perform its obligations under this agreement then the CITY shall not be entitled to enforce its lien rights created herein and the lien provisions herein shall be of no force or effect.

1. The Developer acknowledges that a project on E Jensen Drive could be completed with a Local Improvement District (LID) and hereby waives the right to contest the formation of a LID to complete road improvements. This waiver does not prohibit the Developer from challenging the amount of the individual LID assessment.
2. The Developer acknowledges that it is possible the City will improve and/or reconstruct E Jensen Drive without the use of a LID. In this case the Developer shall reimburse the City the actual costs to construct the frontage improvements that were deferred pursuant to the agreement. Said payment shall be made within one hundred eighty (180) days of the Developer being provided written notice of the project completion and the dollar amount associated with the frontage improvements.
3. Prior to issuance of the final Certificate of Occupancy for building permit PB26-0140, DEVELOPER shall deed the right of way necessary to allow for the future widening of E Jensen Drive, and grant the necessary roadway, drainage, utility, and snow storage easements. Said easements and/or deeds will be in accordance with the particular Transportation Plan or corridor plan that is adopted and in effect at the time of issuance of the building permit. Nothing shall preclude the City from requiring additional right-of-way dedication and or easements in the future in accordance with the most current Transportation Plan or corridor plan and City Code.
4. DEVELOPER, or its successor in interest may continue to use the property over which the rights of way are dedicated and easements are granted, for purposes other than the installation of structures and any required site improvements, until the Frontage Improvements are installed or the City determines, in its sole discretion, it is not in the best interest of the City and/or the public for the use to continue, on the following conditions:
 - a. DEVELOPER shall maintain the area at DEVELOPER's sole expense;
 - b. DEVELOPER shall discontinue the use of the right-of-way and easement area within thirty (30) day's written notice of the City;
 - c. DEVELOPER agrees to indemnify and hold the City, its elected officials, officers and employees harmless for any and all claims of damage or injury

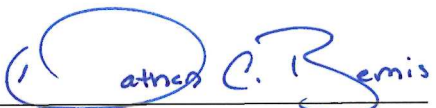
to persons or property resulting from DEVELOPER's use of the right-of-way, and/or easements, or for the City allowing DEVELOPER to use the property; until City requires Developer to discontinue the use of the right-of-way and easement area.

5. In addition to the scenarios set out in Paragraph 1, DEVELOPER agrees that at such time as DEVELOPER applies for any subsequent building permits, site reviews, or subdivision, DEVELOPER shall comply with the code in effect at the time of that application.
6. DEVELOPER agrees that by deferring the Frontage Improvements, DEVELOPER waives the right to request installation of the Frontage Improvements in compliance with the standards at the time of this building permit application and concedes that said frontage improvements will be installed in conformance with the standards in effect at the time of the installation and at the locations approved by the City.
7. The parties agree that the terms of this agreement shall run with the land and shall be binding upon their heirs and assigns and shall be recorded in the Kootenai County Recorder's office.
8. This Deferred Improvement Agreement is hereby declared to be severable. Should any portion of this agreement be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the agreement before the declaration of partial invalidity.

CITY OF HAYDEN

NATHAN C. BEMIS

Alan Davis, Mayor
Date: _____



Nathan C. Bemis, Owner/Developer
Date: 5-20-2026

ATTEST:

Abbi Sanchez, City Clerk

STATE OF IDAHO)
):ss
County of Kootenai)

On this _____ day of _____, 20____, before me, a Notary for the State of Idaho, personally appeared Alan Davis and Abbi Sanchez known, or identified to me to be the Mayor and City Clerk, of the City of Hayden, Kootenai County, Idaho, executing the herein instrument, and acknowledged to me that such city of Hayden executed the same.

IN WITNESS WHEREOF, I have hereto set my hand affixed my official seal the date and year in this certificate first above written.

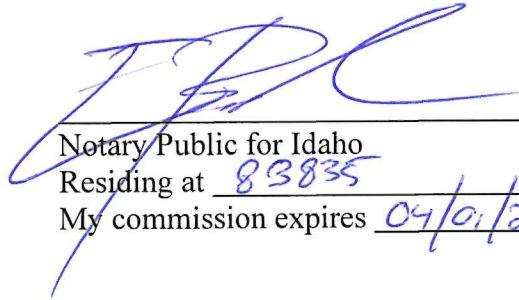
Notary Public for the State of Idaho
Residing at:
Commission Expires:

STATE OF Idaho)
) ss.
County of Kootenai)

On this 20th day of, May 2026, before me, Erich M Barkan, a Notary Public in and for said State, personally appeared Nathan C Bemis, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.





Notary Public for Idaho
Residing at 83835
My commission expires 04/01/2031