



Memo

To: Mayor and Hayden City Council

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

Date: 5/12/2026

Agenda Item: Appeal of Staff's Determination - Bettis Addition Minor Subdivision Expiration

Agenda Item Location

New Business

Background Information

The developer for the Bettis Addition subdivision (J2021-0146) executed the Memorandum of Understanding (MOU) for their proposed subdivision in May 2021, at the current 480 E Orchard Avenue address. Per Hayden City Code (HCC) 12-3-4(G), the approval duration is 2 years from the executed MOU, after which the developer may apply for and receive three 1-year extensions for good cause if actual work has commenced and is continuing, up to a maximum approval duration of 5 years. The City Council has granted two 1-year extensions, making the expiration date of the subdivision May 28, 2025.

The developer uploaded documents prior to the project expiration; however, they failed to provide a full final plat application as defined by HCC 12-3-3, as the fees invoiced were not paid. Staff notified them multiple times from before their approval expired in March 2025, to November 2025 and continued to attempt to reach them through March 2026 to rectify partially constructed infrastructure. Staff determined that, due to these stated reasons, this subdivision has expired.

In March 2026, the developer expressed interest in starting construction on the project again. Most recently, the developer was notified of the expiration of Bettis Addition with a final written decision on April 2, 2026, regarding the subdivision expiration, and they have appealed this decision pursuant to HCC 1-1-5.

The two options for this appeal that the staff presents to Council are:

Option 1:

Grant an exclusive extension to the Bettis Addition minor subdivision, with the condition that they shall resubmit construction plans for staff review and approval to current codes and standards, and the construction work identified on the approved plans shall be completed within 1-year of the construction plan re-approval.

Option 2:

Uphold the expiration date of May 28, 2025. The developer may choose to apply for a minor subdivision, beginning with the preliminary plat process. This would start the project at the beginning and hold the public and agency noticing requirements typical of all proposed minor subdivisions.

Staff recommends the Council select either Option 1 or 2 so staff and the developer have a clear path forward.

Fiscal Impact

This item has no fiscal impact on the City of Hayden.

Budget Funding Source / Transfer Request

N/A

Attachment

- Vicinity Map
- Preliminary Plat
- Staff's Written Decisions
- Hayden City Code 12-3-3 and 12-3-4(G)
- Appeal from Bart North
- Final Plat Invoice

Figure 1 - Vicinity Map





8930 N Government Way | Hayden, ID 83835

11/10/2025

Nate Bettis
PO Box 662
Hayden, ID 83835
kbettisexcavating@gmail.com

RE: J2021-0146 Bettis Addition Subdivision Expiration

Good Day,

The Bettis Addition subdivision began in 2021 and received extensions to complete the project to include plat recordation by March 28, 2025. The last inspection on the project site was completed on October 27, 2022. A final plat was submitted to the City of Hayden on March 6, 2025; however, no fees were ever paid and therefore the review was never started. Hayden City Code §12-3-4(G) identifies the approval duration as follows:

Failure to file the final plat application within two (2) years after the date of City Council approval of the master development agreement which approved the preliminary plat shall cause all approvals of said subdivision plan to be null and void, unless an extension of one year has been applied for by the developer and approved by the City Council, except as provided for in subsection 13 of this section. After the two (2) years have elapsed, the developer may apply for and receive additional extensions for good cause of time if actual work has been commenced and is continuing on the installation of the improvements up to a maximum of five (5) years, after which the preliminary plat approval shall be null and void and reapplication for a new preliminary plat application shall be required.

As the last inspection occurred three years ago, it is clear that continuing installation of improvements has not occurred. Therefore, according to the City's records the above-mentioned project has **expired**.

If you have any additional questions, please contact me at 208-209-2020 or dphillips@haydenid.gov.

Sincerely,

A handwritten signature in blue ink that reads "Donna Phillips".

Donna Phillips, GISP
Community Development Director



April 2, 2026

Kenton Bettis
PO Box 662
Hayden, ID 83835

Sent via Electronic Mail

Re: Bettis Addition (J2021-0146 – PZE-21-0044 & PZE-21-0156) Expiration Final Decision

Dear Landowners,

As indicated most recently in my email on March 27, 2026, and in accordance with Hayden City Code (HCC) 12-3-4(G), the subdivision with the proposed name of Bettis Addition (Project) expired on May 28, 2025.

The Project requested and were granted two extensions to your Project. Although you uploaded final plat documents before the expiration date from the second extension, you did not pay the required application fees, as required in HCC 12-3-3. Accordingly, the approvals associated with this Project have lapsed.

Please consider this letter a final decision. If you wish to appeal, you may do so in writing within fourteen (14) days of this letter, pursuant to HCC 1-1-5. The deadline to file an appeal is April 16, 2026.

The decision does not relieve you of your obligation to abandon the partially constructed infrastructure, as identified in letters from Alan Soderling dated January 14, 2026 and March 13, 2026, which are attached for reference.

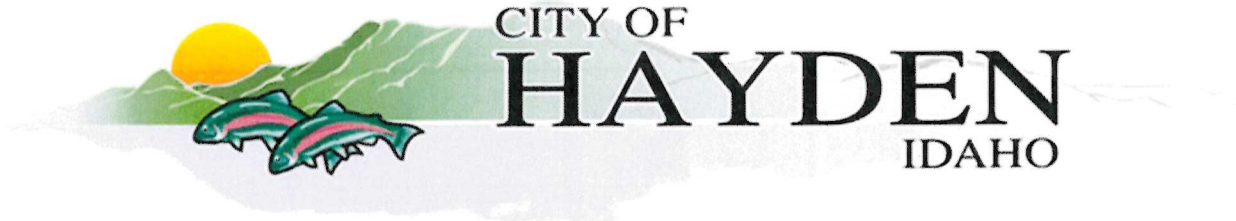
You may reapply through our portal for new permits. Any new application will be reviewed in accordance to current codes and standards. If you elect to proceed in this manner, please refer to the checklists on our website under the [Planning Department's webpage](#).

Sincerely,

A handwritten signature in blue ink, appearing to read "Dulci Kau", is positioned above the printed name and title.

Dulci Kau, P.E.
City Engineer

Cc via electronic mail: Bart North, Lisa Ailport, Fonda Jovick, Alan Soderling, Donna Phillips, Ty Kovatch



ATTACHMENT

January 14, 2026

Ken Bettis
P.O. Box 662
Hayden, Idaho 83835-0662

Dear Mr. Bettis,

As you are aware, your application for a subdivision on parcel H045024101AD, located at 480 E. Orchard has expired. In pursuit of your application, you were required to construct sewer infrastructure. With the expiration of your application, the City needs to visually inspect your sewer connections to ensure that it is properly capped and the public sewer system is not being adversely affected. In addition, you are required to submit record drawings stamped by a licensed engineer which provide the limits of these improvements.

The City will return your bond once these important steps are resolved. Please contact me at your earliest convenience to communicate your plan to resolve these issues, I can be reached at 208.209.2018.

Prior to scheduling your inspection, please ensure that you are prepared to provide a visual inspection of your capped sewer connections. To schedule your inspection, contact Jeston Perez at 208.209.1084.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alan Soderling", is written over the typed name.

Alan Soderling, P.E.
Public Works Director
City of Hayden

Cc: Nate Bettis, Bart North



ATTACHMENT

March 13, 2026

Ken Bettis
P.O. Box 662
Hayden, Idaho 83835-0662

Dear Mr. Bettis,

I am following up on my January 14, 2026 letter regarding your expired subdivision application for parcel H045024101AD, located at 480 E. Orchard and your obligation to provide the City record drawings stamped by an engineer of the sewer infrastructure you installed, and provide the opportunity for the City to visually inspect your sewer connections to ensure that they are properly capped and the public sewer system is not being adversely affected.

It has been nearly 60 days and you have not responded to resolve these issues. **If you do not respond by Friday, April 3, 2026, the City will initiate work to perform the work outlined above using our contractors, at your expense. You will forfeit the bond you provided, and if that is not sufficient to cover the City's cost, the City will pursue recovery of any difference from you.**

We encourage you to respond to our communications and bring these issues to resolution, which would enable the City to return your bond. Please contact me at your earliest convenience to communicate your plan to resolve these issues, I can be reached at 208.209.2018.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Soderling", with a horizontal line extending to the right.

Alan Soderling, P.E.
Public Works Director
City of Hayden

Cc: Nate Bettis, Bart North

12-3-3: APPLICATION:

A. Prior to submittal of a formal subdivision application, the developer shall have completed a preapplication meeting with City staff to review the proposal. A developer seeking a preapplication meeting shall submit a copy of a concept plan to the Planning Department. A preapplication meeting will be scheduled at the earliest available date, upon receipt of the required conceptual plans and application by the City. The scope of the preapplication meeting shall include, but not be limited to:

1. The general subdivision process.
2. Overall design, lot sizes, and street layout.
3. Preliminary utility design.
4. Conformity to this Code, City standards, and policies.
5. Potential off site impacts/mitigations.
6. Off site/on site improvements.

Additional preapplication reviews may be scheduled when, in the collective judgment of staff, the proposed subdivision is extraordinarily complex, proposes large impacts to City infrastructure, or requires extraordinary staff time. When all issues have been adequately addressed, staff shall issue a written notice to proceed with subdivision application.

B. Following the completion of the preapplication meeting, a completed application for a subdivision plan approval may be submitted to and accepted by the City. Said application shall be on a form provided by the City. Along with the application the developer shall submit three (3) copies of the subdivision plan on eighteen inch by twenty seven inch (18" x 27") paper, one copy on eleven inch by seventeen inch (11" x 17") paper, and one copy on eight and one-half inch by eleven inch (8¹/₂" x 11") paper. Details and specifications shall conform to the standards described in section 12-3-4 of this chapter and the Idaho Code.

Each application shall be accompanied by a fee in an amount to be established by the resolution of the Council. (Ord. 542, 1-27-2015)

12-3-4: PROCEDURES:

A. Subdivision Plan Standards: Every subdivision plan shall consist of one or more maps, prepared by an engineer or surveyor licensed in the State of Idaho and drawn to a scale that is reasonable and legible with written data which considered together, they shall fully and clearly disclose the following information:

1. The name of the proposed subdivision;
2. The legal description of the land contained within the subdivision;
3. The names, mailing addresses, telephone numbers, fax numbers and e-mail addresses of the applicant and all persons, firms and corporations holding interests in said land;
4. Proof of ownership and consent from all property owners and lienholders granting authorization to subdivide the property and the name and contact information of the authorized agent;
5. A list, prepared by a title company licensed to do business in the State of Idaho, of the names and mailing addresses of all property owners whose property is within or adjacent to the area bounded by lines three hundred feet (300') from the external boundary of the entire proposal area. Such list shall be provided on self-adhesive labels in the number of copies necessary for the hearing(s) scheduled. Said list shall be accompanied by a date stamped tax map prepared by Kootenai County;
6. The name, a mailing address, telephone number, fax number, and e-mail address of the Idaho licensed engineer that prepared the plan;
7. The location of the boundary lines of the proposed subdivision in relation to section, quarter section and quarter-quarter section lines and any adjacent corporate boundaries of the City which are part of the legal description of the property;
8. The boundaries and dimensions of all blocks and lots within the proposed subdivision together with the numbers proposed to be assigned each block and lot. A lot utilized for open space, placement of utility infrastructure such as a lift station, and the like shall be titled a "tract";
9. A data table showing the number of lots, the smallest, largest and average lot area within the proposal site, the total acreage of the entire proposal area, and the density in lots per acre;
10. A statement of proposed provisions for irrigation/domestic water supplies and sewage disposal in the form of a will serve letter from the applicable purveyor, and the Idaho Department of Environmental Quality approved facility plan, if applicable;
11. A sketch map of the general vicinity in which the land proposed for subdivision lies prepared at a scale of not more than four hundred feet (400') to the inch. The vicinity map shall show all adjacent lots and shall show how the streets and

cul-de-sac shall be limited to four hundred feet (400') in length measured from the edge of adjacent street right-of-way to the back of the cul-de- sac, unless an exception to this standard is allowed by the City Engineer.

f. Provisions have been made for parks and open space that are consistent with the adopted Parks Master Plan, as amended, and that satisfies the City's requirement.

4. Provisions have been made for erosion controls and geohazards stabilization both during construction and as needed for permanent controls to the satisfaction of the City.

5. Provisions have been made for gas, power, telecommunications, mailboxes, and similar infrastructure.

6. Provisions have been made for driveway locations that take into consideration the width and location of the driveway in relation to the location of snow storage, utility boxes, crosswalks, adjacent roads, mailboxes and the like.

7. The area proposed for subdivision is zoned for the proposed use and the use conforms to other requirements found in this Code.

8. The developer has made adequate plans to ensure that the community will bear no more than its fair share of costs to provide services by paying fees, furnishing land, or providing other mitigation measures for off site impacts to streets, parks, and other public facilities within the community. It is the expectation that in most cases, off site improvements will be dealt with through the agreements.

G. Approval Duration: Failure to file the final plat application within two (2) years after the date of City Council approval of the master development agreement which approved the preliminary plat shall cause all approvals of said subdivision plan to be null and void, unless an extension of one year has been applied for by the developer and approved by the City Council, except as provided for in subsection I3 of this section. After the two (2) years have elapsed, the developer may apply for and receive additional extensions for good cause of time if actual work has been commenced and is continuing on the installation of the improvements up to a maximum of five (5) years, after which the preliminary plat approval shall be null and void and reapplication for a new preliminary plat application shall be required.

H. Changes, Alterations Or Deletions:

1. Upon issuance of agency and/or public hearing notices, and prior to approval of the preliminary subdivision plan by the City Council, any alterations of the plan must be reviewed by the Community and Economic Development Director or his/her designee to determine if the alterations are considered substantive. If the amendment is major or involves a substantial or significant change to the plan, said changes may be subject to agency and public notice requirements as detailed in subsection B of this section.

2. After approval of the subdivision plan and before approval of a final subdivision plat, the City Engineer may, in writing, approve minor changes of the plan. If an amendment is major or involves a substantial change in the conditions of approval, the same procedures for a public hearing for subdivision plan approval must be followed to address the requested amendment. The public hearing on the proposed amendment shall be limited to the proposed amendment, and the commission shall make a decision to recommend approval, approval with conditions, or denial. The recommendation will be brought forward for City Council decision as an addendum to the development agreement.

I. Phasing Of Subdivisions:

1. Subdivisions may be phased, to be developed in portions periodically according to a proposed schedule, so long as each phase contains all of the necessary improvements to function as a subdivision without the completion of any of the other phases. The developer shall indicate plans for phasing at the time of application. The plans shall show proposed phasing boundaries, proposed interim or temporary solutions to sanitary sewer systems and to the handling of traffic on local streets within the subdivision and shall be accompanied by a narrative description of assurance of completion of permanent system improvements.

2. A phasing plan shall coordinate required infrastructure systems, dedications, off site improvements, open space/parks, landscaping, private utilities, or other elements of a subdivision. The plan may indicate times of triggering mechanisms for improvements.

3. Approval duration for phased subdivision: The application for the first plat in a phased subdivision shall be made in accordance with section 12-3-3 of this chapter and the final plat application for the final phase of a phased subdivision shall be submitted no later than five (5) years after the date of City Council approval of the master development agreement which approved the entire subdivision in concept unless extensions of one year have been applied for by the developer and approved by the City Council or if some other time frame has been agreed to in the master development agreement.

J. Commencement Of Construction: Upon approval by the City Council, subsequent review and approval of the final construction plans by the City Engineer, which substantially conform to the subdivision plans approved by the Council, execution of the construction improvement agreement as required in chapter 7 of this title, and completion of a preconstruction conference between the developer, the City, affected agencies and utility providers, the developer may proceed with construction of the subdivision. No construction of any kind, other than that authorized with a site disturbance permit, shall take place on the site prior to those actions. During construction, the City has the authority to conduct periodic inspections of the project site and the required infrastructure improvements. (Ord. 578, 1-9-2018)

K. Completion Of Construction And Acceptance Of Infrastructure:

1. Prior to scheduling the final inspection of the required subdivision infrastructure improvements for completion, the

BETTIS ADDITION SUBDIVISION - EXPIRATION APPEAL APPLICATION – APRIL 15, 2026

Application:

- Subdivision Name: Bettis Addition Subdivision
- Street Address: 480 E. Orchard Ave Hayden, Idaho 83835
- Parcel Identification Number: H-4050-24-01-AD (AIN 145710)
- Completed/Pending Project Processes:
 - PZE-21-0044: Minor Subdivision/Preliminary Plat – Completed/Approved 3/17/2021
 - PZE-21-0156: Subdivision Construction – Completed/Approved 7/16/2021
 - PZE-25-0029: Subdivision Final Plat – Submitted 3/6/2025, Expired 4/3/2026

Applicant (Appellant) Information:

Name: Kenton Bettis
Address: PO Box 662
Hayden, Idaho 83835

Applicant Representative:

Owner Representative:
Nathan Ferguson
kbettisexcavating@gmail.com
208.661.5653

Engineer/Surveyor:
North Engineering
Bart North, PE
bartdnorth@gmail.com
208.755.6255

Request:

Applicant requests that City Council stay the expiration of Process PZE-25-0029 (Subdivision Final Plat) and allow the Applicant to complete the subdivision construction and final plat recordation on or before December 31, 2026. A proposed project completion sequence/schedule is attached to this narrative for reference.

Basis of Request:

Final Plat Application Submittal:

- As noted in Project Chronology below, the Final Plat Application was submitted on March 3, 2025, before the current extension had lapsed. Final Plat Application submittal was an attempt to demonstrate substantive progress and Applicant's intent to complete the project.
- City did not notify Applicant of application sufficiency review findings nor did City notify Applicant of link for payment of application fees as is typical to the application processes administered by the City of Hayden.
- In review of Applicant records, no follow up communication regarding the Final Plat Application was received from the City.

- This could be construed as a delay caused by an act of omission by the City that stalled timely processing of the Final Plat Application.
- On or about March 27, 2026, Applicant became aware that the Final Plat Application processing was stalled due to non-payment of application fees. The fees were paid on March 27, 2026.
- Final Plat Application was rejected by City due to non-payment of application fees on or about April 4, 2026 and (apparently) the application fee payment reversed.

Applicant does not wish to deliberate over malfeasance on the part of either party to the Memorandum of Understanding and Construction Improvement Agreement of record. Applicant simply desires to complete the project.

Memorandum of Understanding:

- Reference Memorandum of Understanding (MOU) of record (Instrument 2836015000, executed on May 21, 2021), Project Regulations and Policies, Paragraph 5.
- Referenced MOU paragraph provides for:
 - Two (2) year approval window for project completion.
 - One (1) year extension if applied for by developer and approved by City Council. *Extensions were requested by the Applicant in writing on March 7, 2023 and again on February 29, 2024. No notification in writing to Applicant in writing from the City appears to have been received that the extension requests were approved by the City nor acknowledgement of such extension duration.*
 - “After the two years have elapsed, the developer may apply for and receive additional extensions for good cause of time if actual work has been commenced and is continuing on the installation of the improvements up to a maximum of five years...”
- Maximum Extension Duration as interpreted from MOU
 - May 21, 2021 plus 2 years = May 21 2023;
 - May 21, 2023 plus 5 years = May 21, 2028
- The basis for the stay of PZE-25-0069 exists within the MOU:
 - The attached project chronology demonstrates substantive (though delayed) progress has occurred on the project over its duration, notably and recently the submittal of the Final Plat Application.
 - The Applicant has requested extensions in writing and in recent verbal communication with the City in order to proceed with project completion.
 - With reference to the attached project schedule, the Applicant proposes to complete the project in 2026.

Required Findings for City Council to stay PZE-25-0029 (Subdivision Final Plat) expiration:

City Council may stay the subdivision expiration if, by reason of facts stated in the appeal a stay, in the City Council's opinion, would not cause imminent peril to life and property (Interpreted from HCC 1-1-5).

Plea for Stay of PZE-25-0029 Expiration:

Acknowledgements:

1. With reference to the Project Chronology attached to this narrative, Applicant acknowledges that the project was delayed. In 2024, Applicant experienced a health issue event that became the priority and focus of effort which eclipsed the intended completion of this project. Recovery has occurred but has been slow with adjustments. The Applicant is now in position to complete this project in 2026..
2. Applicant acknowledges that follow up to the Final Plat Application submittal could have been made by Applicant representatives. Applicant is equally culpable for the stall in Final Plat Application processing.
3. Applicant acknowledges that the City is within their legal and vested right to declare PZE-25-0029 expired.

Basis of Plea to stay expiration of PZE-25-0029:

1. For reference, a project chronology is provided as an attachment to this narrative. Over the course of time that elapsed from construction approval, the site has been formatted to the approved subdivision configuration as follows:
 - Avondale Irrigation District water main was extended to serve the approved lot configuration in accordance with the approved construction plan and currently exists on the subject parcel.
 - Sewer services were connected to the City Sewer Main in Orchard Avenue and stubbed on to the parcel to serve the approved lot configuration in accordance with the approved construction plan.
 - The road subbase has been prepared by removing topsoil and replacing with structural fill meeting the City's requirements.
2. Abandonment of the installed water main and sewer services would constitute an undue hardship to the Applicant due to the lost investment of constructing said improvements and any costs that may be incurred to properly abandon said improvements.
3. It is Applicant's intent to complete the project in 2026. If PZE-25-0029 expiration is not stayed, the Applicant's only alternative to complete the project is to re-apply for the subdivision. Subdivision approval process would consist of repeating the following tasks with burden to both the City and the Applicant:
 - Pre-Application Conference
 - Subdivision Application Submittal/Processing
 - Construction Plan Submittal/Processing
 - Prepare/Execute/Record Memorandum of Understanding
 - Prepare/Execute/Record Construction Improvement Agreement
 - Pre-Construction Conference

Subdivision approval process can reasonably take up to 90 days and may extend to 120 days depending on how schedules fall into place. In view of the proposed project completion schedule, this may exclude the project completion in 2026. The additional administrative burden of repeating the administrative tasks to re-constitute the project approval, along with the delay of the project completion into 2027 both constitute undue hardship to both parties of the Memorandum of Understanding and Construction Improvement Agreement of record.

BETTIS ADDITION SUBDIVISION - PROJECT CHRONOLOGY SUMMARY

Project Step Description	Start	Complete
PZE-19-0241 Pre-Development Meeting	8/20/2019	
PZE 20-0228 Pre-Development Meeting	11/17/2020	
PZE-21-0044 Minor Subdivision Preliminary Plat	3/17/2021	4/23/2021
Memorandum of Understanding		5/26/2021
PZE-21-0156 Subdivision Construction	7/6/2021	Pending
Submit Construction Plans	6/30/2021	
Construction Plan Approval		2/8/2022
Construction Improvement Agreement		4/22/2022
Pre-Construction Conference		4/22/2022
J2022-0287 Orchard Ave ROW Encroachment Permit	4/19/2022	
Orchard Ave Water Main Replacement and Sewer Service Taps	10/10/2022	10/20/2022
Water Main Extension on to Site	6/1/2023	9/1/2023
Sewer Service Extension on to Site	6/1/2023	9/1/2023
Bettis Lane Topsoil Stripping		2024
Bettis Lane Subbase Import/Compaction		2025
Extension Request 1		3/7/2023
Extension Request 2		2/29/2024
PZE-25-0029 Subdivision Final Plat Application Submittal	3/3/2025	
PZE-25-0029 Expiration Notice	4/2/2026	

CITY OF HAYDEN

8930 N GOVERNMENT WAY
HAYDEN, ID 83835-9214
(208) 772-4411

Print Date: 09/11/2025

Project Number: J2021-0146

Filed As: BETTIS ADDITION

Location: 480 E ORCHARD AVE

Pay by Account in Full



Total Balance Due: \$1100.00

NORTH ENGINEERING
PO BOX 2486
HAYDEN, ID 83835-2486

Invoice	Number	Date	Due	Adjustments	Payments	Balance
	00024529	3/6/2025	4/5/2025	\$0.00	\$0.00	<u>\$1100.00</u>

Quantity	Category	Description	Billed
1	PZE	Subdivision - Final Plat Application	\$1100.00

Total Balance Due: \$1100.00