

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS
REASON AND DECISION

In regards to: The Planning & Zoning Commission's recommendation to approve The Acres Subdivision, a 16-Lot Subdivision, with proposed lots ranging in size from 1 to 2 acres. Lots are proposed to have access via construction of a new County Road extending from 900 W Wilson Road. Each lot would have an individual septic system and private well for culinary purposes. The nearest water connection is in Trego Road approx. 3.5 miles to the Northeast. The nearest sewer line lift station is approx. 0.5 miles North and ¼ mile West in Highway 39. This property does not have surface water rights therefore, irrigation water rights will be assessed by the Bingham Ground Water District and a point of diversion will be changed to the new wells. The parcel was zoned "A" Agriculture however the Board of County Commissioners previously approved a zoning amendment to "R/A" Residential/Agriculture on approximately 20.00 acres located at 38 S. 900 W., Blackfoot, Idaho, along with the Comprehensive Plan Map for the entire parcel to Residential/Residential Agriculture.

Board of County Commissioners Meeting Date: June 28, 2022

Application filed by: 3 Putt Partners, LLC

A. The Board finds that the record is comprised of:

1. Exhibits to the Board Public Hearing Staff Report:

CC-1: Staff Report- Board of County Commissioners

CC-2: Proof of Publication- Bingham News Chronicle- Board of County Commissioners

CC-3: Blackfoot/Snake River Government Agency Notice List & Notice

CC-4: Property Owners Notice List & Notice

CC-5: Notice of Posting- Addie Jo Harris- Planner

S-20: Planning & Zoning Reason & Decision- June 13, 2022

S-21: Planning & Zoning Minutes- May 11, 2022

Audio File of the Planning & Zoning Commission Public Hearing

2. Exhibits to the Planning & Zoning Commission Staff Report:

S-1: Staff Report- Planning & Zoning Commission

S-21: Planning & Zoning Commission Minutes from May 11, 2022

A-1: Application for Zone Change

A-2: The Acres Subdivision Narrative- HLE

A-3: Application for Subdivision Plat.

A-4: The Acres Subdivision Narrative- HLE

A-5: The Acres Subdivision- Map- HLE

A-6: Warranty Deed

A-7: Custom Soil Resource Report for Bingham Area, Idaho

A-8: Subdivision Guarantee

A-9: Well Construction Search- Idaho Department of Water Resources

A-10: Federal Emergency Management Agency Letter to Mr. Arave

- A-11: Letter from Chris Street- HLE, regarding water rights
 - A-12: Letter from Dewight Lee- Managing Partner of 3-Putt Partners, LLC
 - S-2: Parcel Map
 - S-3: Zoning Map
 - S-4: Comprehensive Plan Map
 - S-5: Flood Plain Map
 - S-6: Aerial Map
 - S-7: Subdivision Map
 - S-8: Area of Impact Map
 - S-9: School District Map
 - S-10: Utilities Map
 - S-11: Nitrate Priority Area Map
 - S-12: Irrigation Company Map
 - S-13: ½ miles proximity parcels by size Map and List
 - S-14: Google Imagery Map
 - S-15: Notice of Posting: Addie Jo Harris
 - S-16: Miscellaneous photographs
 - S-17- Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission Public Hearing Notice
 - S-18: Blackfoot/Snake River Government Agency Notice List & Notice
 - S-19: Property Owners List- Planning & Zoning Commission
3. All Information and Testimony presented prior to the Planning & Zoning Commission Public Hearing:
- T-1: Testimony from Verl Jarvie, Blackfoot Fire District
 - T-2: Testimony from Alan Stander
 - T-2D: Photographs provided by Alan Stander
 - T-2E: Soil Survey provided by Alan Stander
 - T-3: Testimony from Barbara Marlatt- Bingham County Treasurers Office
 - T-4: Testimony from Bingham County Sheriff's Office
 - T-5: Testimony from Bingham County Public Works
 - T-6: Testimony from Allan Johnson- Department of Environmental Quality
 - T-7: Testimony from Gwen Inskip, Bingham County Surveyor
 - T-8: Testimony from Kurt & Deanna Smith in opposition
 - T-9: Testimony from Steve & Kittie Peterson in opposition
 - T-10: Testimony from Dewight Lee, Rod Albertson & Mike Anderson- 3-Putt Partners LLC in favor
4. Testimony presented at the Planning & Zoning Commission Public Hearing:
- T-11: Oath or Affirmation- Chris Street
 - T-11A: The Acres Subdivision Map- HLE
 - T-11B: The Acres Subdivision Engineers Estimate- HLE
 - T-12: Oath or Affirmation- Dewight Lee
 - T-13: Oath or Affirmation- Rod Albertson
 - T-14: Oath or Affirmation- Jay McCandless

- T-15: Oath or Affirmation- Alan Stander
- T-16: Oath or Affirmation- Kurt Smith
- T-17: Oath or Affirmation- Eric Jackson
- T-18: Oath or Affirmation- Lance Stander
- T-19: Oath or Affirmation- Layne Hamilton

B. As to procedural items, the Board finds the following:

1. Requested Action: The meeting was held pursuant to Bingham County Section 10-14-4(E) to consider the Planning & Zoning Commissions recommendation on the Application.
2. The Board reviewed the Preliminary Plat, the written information presented to the Commission, and the Commission Minute and the statement of action taken, prior to making a determination on the proposed plat.

C. After review of all content provided and presentation of the Staff Report by Director Olsen, a brief discussion was held in regards to water and possible contamination. Commissioner Bair asked instead of putting in a lift station and other expensive infrastructure, why couldn't the Board require a pressurized sewer system that would go into the line. Director Olsen stated that she was not certain if that option had been explored by the Applicant at this time but does not believe a quote was requested based upon this scenario for the Planning & Zoning Commissions consideration. Chairman Manwaring referred to testimony from Mr. Street, wherein he stated sewer connection was discussed, along with sanitary sewer lift station and pressurized sewer lines, with a brief review of said estimated costs.

Commissioner Lewis referred to a letter from the Department of Environmental Quality, wherein the letter recommends consolidation of drinking water and or wastewater services to reduce contamination, which will be done.

REASON

Based on the entire record, and the Staff Report, the Board finds:

1. prior to consideration of the Subdivision, the Board moved to approve a zoning modification from "A" Agriculture to "R/A" Residential/Agricultural. The Board found the Application met the requirements in Bingham County Code Section 10-4-2 (C) as the purpose of an "R/A" Zone is to permit the establishment of low-density single-family dwellings with lot sizes sufficient for individual sewer and water facilities. The Carpenters' have an existing home and accessory structure; in which the accessory structure was constructed too close to the property line.
2. the Application met the Area Regulations requirement of a Residential/Agricultural Zoning District as the parcels are proposed greater than one-acre in size and will have an individual sanitary sewer system and culinary well as required by Bingham County Code Section 10-6-6. The Application also meets the frontage requirements of Bingham County Code Section 10-6-7.

3. the Application met the Requirements of Bingham County Code Section 10-14-4(A) because the Application was completed and included all items listed in Sections 10-14-4 (A) 1-23
4. the proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan as the parcel map designation was amended by the Board to Residential/Residential Agriculture, as an action item prior to the consideration of this Subdivision.
5. the Application met the requirements of Idaho Code §67-6513 and Bingham County Code Section 10-3-6 because the Public Hearing was held for all property owners within 300 feet; published in the official newspaper a minimum of 15 days prior the Hearing and notice was posted on the property a minimum of one week prior to the Hearing.

DECISION

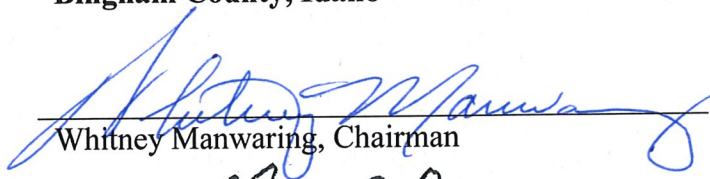
Commissioner Lewis moved to uphold the recommendation of the Planning & Zoning Commissions decision to approve the 16-Lot Subdivision, to be known as The Acres Subdivision, based upon the information provided within the record and with the conditions to (1) connect to the community well, (2) the Right to Farm Act will be placed on the Plat; and (3) the location of the community well placed on the Final Plat. Commissioner Bair seconded. All voted in favor. The motion carried.

Request for Reconsideration/Judicial Review: Upon denial or approval of a Zone Change, with adverse conditions, pursuant to Idaho Code Section 67-6535(2)(b), the Applicant or affected person seeking Judicial Review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

Regulatory Takings: Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek Judicial Review as provided by Chapter 52, Title 67, Idaho Code.

Dates this 23 day of August 2022.

**Board of Bingham County Commissioners
Bingham County, Idaho**


Whitney Manwaring, Chairman



Mark Bair, Commissioner


Jessica Lewis, Commissioner