

## BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the 1<sup>st</sup> Amended Ponderosa Acres, a 5-lot Subdivision.

Application filed by: Tracie & Truman Wilcox

### REASON & DECISION

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

1. Exhibits to the Staff Report:

- S-1: Planning & Zoning Commission Staff Report
- A-1: Application for Subdivision Plat
- A-2: 1<sup>st</sup> Amended Ponderosa Subdivision Narrative- HLE
- A-3: 1<sup>st</sup> Amended Ponderosa Subdivision Map- HLE
- A-4: 1<sup>st</sup> Amended Ponderosa Subdivision Legal Description- HLE
- A-5: Custom Soil Resource Report: United States Department of Agriculture
- A-6: Guarantee- First American Title Company
- A-7: Idaho Department of Water Resources- Construction Search- Well
- S-2: 1<sup>st</sup> Amended Ponderosa Acres- Parcel Map
- S-3: 1<sup>st</sup> Amended Ponderosa Acres- Zoning Map
- S-4: 1<sup>st</sup> Amended Ponderosa Acres- Comprehensive Map
- S-5: 1<sup>st</sup> Amended Ponderosa Acres- Flood Plain Map
- S-6: 1<sup>st</sup> Amended Ponderosa Acres- Aerial Map
- S-7: 1<sup>st</sup> Amended Ponderosa Acres- Subdivision Map
- S-8: 1<sup>st</sup> Amended Ponderosa Acres- Area of Impact Map
- S-9: 1<sup>st</sup> Amended Ponderosa Acres- School District Map
- S-10: 1<sup>st</sup> Amended Ponderosa Acres- Utilities Map
- S-11: 1<sup>st</sup> Amended Ponderosa Acres- Nitrate Priority Area Map
- S-12: 1<sup>st</sup> Amended Ponderosa Acres- Irrigation Company Map
- S-13: 1<sup>st</sup> Amended Ponderosa Acres- Additional Map
- S-14: Notice of Posting- Addie Jo Harris- Planner
- S-15: further photographs
- S-16: Proof of Publication- Bingham News Chronicle
- S-17: Blackfoot/Snake River Government Agency Notice List
- S-18: Property Owners Notice List & Notice of Mailing

2. Planning & Zoning Commission Meeting Minutes April 13, 2022 and Planning & Zoning Commission sign in sheet for April 13, 2022.

3. Planning & Zoning Commission Reason & Decision, dated May 9, 2022.

4. All Information and Testimony presented at the Public Hearing on April 13, 2022:

- a. T-1: Testimony from Tanna Beal- Bingham County Treasurers Office
- b. T-2: Testimony from Sheriff Craig Rowland
- c. T-3: Testimony from David Romrell- Bingham County Surveyor
- d. T-4: Testimony from June Thelin- Bingham County Public Works
- e. T-5: Testimony from Allan Johnson- Department of Environmental Quality

- f. T-6: Testimony from Marc Pange- Groveland Water and Sewer District
- g. T-7: Oath or Affirmation- Chris Street

B. As to procedural items, the Board finds the following is a part of the official record:

1. Requested Action: The Meeting was held pursuant to Bingham County Section 10-14-4(E) to receive the Planning & Zoning Commissions recommendation on the Application.
2. In accordance with Bingham County Code 10-3-6 Notice was provided as follows:
  - a. Sent to 31 Government Agencies on March 18, 2022 (S-17 List of Government Agencies and Notice)
  - b. Published in the Bingham News Chronicle on March 22, 2022 (S-16 Affidavit of Publication)
  - c. Sent to 25 property owners within 300' of this property on March 18, 2022. One letter was returned undeliverable addressed to Daley and Laura Montague (S-18 Property Owners Mailing List and Notice)
  - d. Site was posted on March 21, 2022 (S-15 Pictures & S-14 Property Posting)
3. Government Agencies provided the following comments:
  - a. **(T-1)** Tanna Beal, Bingham County Treasurers Office, Stated the 2<sup>nd</sup> half of taxes will need to be paid for 2021. If the plat is not recorded by April 15<sup>th</sup>, taxes for 2022 will need to be pre-paid prior to the Treasurer signing the plat.
  - b. **(T-2)** Sheriff Craig Rowland, Bingham County Sheriff's Office, had no issues.
  - c. **(T-3)** David Romrell, Bingham County Surveyor, asked if lots currently have or have had irrigation water rights in the past? If so, irrigation must be provided to all lots per Bingham County Code 10-14-4(B)(4)(d).
  - d. **(T-4)** Allan Johnson, Department of Environmental Quality, provided general land development recommendations.
  - e. **(T-5)** Marc Pange, Groveland Water and Sewer District Chairman, stated GWSD has existing gravity sewer along 460 W Bishop Drive immediately adjacent to the proposed subdivision lots. However, GWSD does not have a water connection available within a reasonable proximity to the property, as it is approximately 1.58 miles to the nearest connection.
4. At the Planning & Zoning Commissions Public Hearing, testimony was received by the Applicant's Representative Chris Street, who clarified pressurized irrigation would be provided to the Subdivision.
5. After Mr. Street's testimony, the Public Hearing was closed as there was no additional testimony provided.
6. The Planning & Zoning Commission moved to recommend approval of the Application, without conditions, as reflected in the Reason & Decision.

## CONCLUSIONS OF LAW

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

1. the Zoning Amendment Application was filed by the property owners in accordance with Bingham County Code Section 10-15-2(D) and the Board previously heard the Public Hearing to amend the zoning from a combination of Heavy Commercial/Residential to all Residential.
2. the Board confirmed Bingham County Code Section 10-4-2(D) provides for the description and qualifications for the Residential Zoning District and found the parcel meets that designation as:
  - a. Two of the three parcels are currently zoned Residential/Agriculture and the other parcel is currently zoned as Heavy Commercial. The intent is to amend the zoning of all three parcels to Residential. The remainder of the Ponderosa Subdivision has a zoning designation of Residential/Agriculture with zoning to the South as Residential.
  - b. There are several parcels less than one acre in the Ponderosa Subdivision.
  - c. The Applicant stated the intent for sanitary sewer service is to connect to the Groveland Water and Sewer District mainline in 460 W. Bishop Drive, which will satisfy the criteria of connection to create parcels less than one acre in size according to the Bingham County Area Regulations.
  - d. The area features mixed lot sizes consisting of Residential and Agricultural uses thereby the request to amend the zoning designation appears to be consistent and compatible with existing uses in the vicinity.
  - e. The parcel would be protected from incompatible uses, as the desires is the construction of single-family Residential development and there is currently a mixture of Residential uses on various parcel sizes in the area.
  - f. The parcel has adequate service by roadways. The Public Works Director provided the distances between approaches as required by the Bingham County Road Standards Manual and the proposed Plat appears to meet those standards.
3. the Application meets the Area Regulations requirement of a Residential Zoning District as the parcels are proposed to be less than one-acre in size and will have a connection for sanitary sewer services to the existing Groveland water and Sewer District line in 460 W Bishop Drive as required by Bingham County Code Section 10-6-6(2) and have sufficient frontage to 460 W Bishop Drive as required by Bingham County Code Section 10-6-7.
4. the proposed subdivision and zoning designation are consistent with the Bingham County Comprehensive Plan as the parcel has a map designation of Multi-Use and Residential/Residential Agriculture, which are both supported by the Residential Zoning District.
5. the Application met the requirements of Idaho Code Section 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 to the Public Hearing and notice was posted on the property a minimum of one-week prior to the Public Hearing.

## DECISION

Commissioner Lewis moved to uphold the recommendation of the Planning & Zoning Commission to approve the 1<sup>st</sup> Amended Ponderosa Acres Subdivision on 4.04 acres, as described within the information presented under the condition that there will be creation of Covenants, Conditions and Restrictions similar to the original subdivision and that all Staff corrections are made to the Plat. Further, any phases and/or parcels created in the vicinity must be continuous and progress in an orderly fashion. 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 17 day of June 2022.

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

  
Whitney Manwaring, Chairman

  
Mark Bair, Commissioner

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Jessica Lewis, Commissioner