

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the Andrade Subdivision, a 2-Lot Subdivision

Application filed by: Armando Diego Bustamente-Aquino and Dore Patricia Vidal Andrade

REASON & DECISION

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

1. Exhibits to the Staff Report:

S-5: Planning & Zoning Commission Staff Report

A-1: Application for Subdivision Plat

A-2: Andrade Subdivision Narrative- HLE

A-4: Warranty Deed

A-5: Custom Soil Resource Report- United Department of Agriculture Resources

A-6: Guarantee- First American Title Company

A-7: Well Construction Search- Idaho Department of Water Resources

A-8: Andrade Subdivision- Flood Plain Map

A-9: Andrade Subdivision- Parcel Map

A-10: Andrade Subdivision- Zoning Map

A-11: Andrade Subdivision- Comprehensive Plan Map

A-12: Andrade Subdivision- Aerial Map

A-13: Andrade Subdivision- Area of Impact Map

A-14: Andrade Subdivision- Subdivisions Map

A-15: Andrade Subdivision- School District Map

A-16: Map- Approximate Location of Proposed Subdivision

A-17: Further photographs

A-18: Andrade Subdivision- Utilities Map

S-2: Proof of Publication- Idaho state Journal

S-3: Blackfoot/Snake River Government Agency Notice List- Notice of Mailing (Addie Jo Harris- January 7, 2022)

S-4: Property Owners Notice List- Notice of Mailing (Addie Jo Harris- January 7, 2022)

S-6: Notice of Posting (Addie Jo Harris- January 13, 2022)

2. Planning & Zoning Commission Meeting Minutes February 9, 2022 and Planning & Zoning Commission sign in sheet for February 9, 2022.

3. Planning & Zoning Commission Reason & Decision, dated March 10, 2022.

4. All Information and Testimony presented at the Commissions Public Hearing on January 12, 2022.

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 January 7, 2022 (S-3 List of Government Agencies and Notice)
 - b. Published in the Bingham News Chronicle on January 10, 2022 (S-2 Affidavit of Publication)
 - c. Sent to 12 property owners within 300' of this property on January 7, 2022. (S-4 Property Owners Mailing List and Notice)
 - d. Site was posted on January 13, 2022 (S-6 Property Posting)
3. Government Agencies provided the following comments:
 - (T-1) Chief Deputy Jeff Gardner, Bingham County Sheriff's Office, had no issues.
 - (T-2) Verl Jarvie, Blackfoot Fire marshal, stated the Applicants shall provide access to all lots as a minimum requirement of IDAPA 18.0801.022.03 for driveways.
 - (T-3) Groveland Water and Sewer District stated they do not have water and sewer connections within a reasonable proximity to the proposed Subdivision.
 - (T-4) David Romrell, Bingham County Surveyor, stated the bearing and distance to the west line of Lot 1 is needed and to add a note regarding gang mailbox's being required.
 - (T-5) Allan Johnson, Department of Environmental Quality, offered general recommendations for land development.
 - (T-6) Dusty Whited, Bingham County Public Works, stated Bond Road has a functional classification of a local road and driveway spacing would be 65 feet as the speed limit is 50 mph.
 - (T-7) Barbara Marlatt, Bingham County Treasurers Office, stated taxes are paid in full. If the plat is recorded after April 15, 2022, taxes will need to be prepaid.
4. Public testimony received prior to the Public Hearing included:
 - (T-8) Mya Silva, email dated January 27, 2022, in opposition and included 11 signatures in opposition as well as 7 testimonies, in opposition.
5. The Commission moved to recommend approval of the Application, without conditions.

CONCLUSIONS OF LAW

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

- a. the Application met the requirements in Bingham County Code Section 10-4-2 (C) as the purpose of "A" zone is to preserve and protect the decreasing supply of agricultural land. The Application meets and/or exceeds the minimum lot sizes requirement and the Commission found the proposal is very compatible with the area. The Subdivision will be serviced by 500 W Bond Road; and

- b. the Application met the requirements in Bingham County Ordinance Sections 10-6-6(B)(4) because proposed lots exceed the 5 acre minimum and 10-14-4(B) because the subdivision is proposing individual wells, septic systems and drain fields, with irrigation water assessed by the Peoples Canal Company via a pressurized system; and to have individual wells and septic systems and drain fields.
- c. 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; and
- d. the proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan as the parcel is designated in the Comprehensive Plan Map as an Agricultural area; and
- e. 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 Bair moved to uphold the decision of the Planning and Zoning Commission to approve a 2-Lot Subdivision to be known as Andrade Subdivision located at 262 N. 500 W., Blackfoot, Idaho. Further, all phases and/or parcels created in the vicinity must be continuous and progress in an orderly fashion. Chairman Manwaring seconded. Both Commissioners 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

Jessica Lewis, Commissioner