

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve Greg's Subdivision, a 6-Lot Subdivision

Application filed by: Colleen Gregory, c/o Jon Gregory

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 (2021): Application for Subdivision Plat

A-2: Greg's Subdivision Existing Use & Proposed Use Document

A-3: Greg's Subdivision- Preliminary Plat

A-4: Quit Claim Deed

A-5: Natural Resources Conservation Service- Web Soil Survey

A-6: Subdivision Guarantee- Commonwealth Land Title Insurance Company

A-7: State of Idaho Department of Water Resources- Well Driller's Report

A-8: Greg's Subdivision- Flood Plain Map

A-9: Greg's Subdivision- Parcel Map

A-10: Greg's Subdivision- Zoning Map

A-11: Greg's Subdivision- Comprehensive Plan Map

A-12: Greg's Subdivision- Aerial Map

A-13: Greg's Subdivision- Area of Impact Map

A-14: Greg's Subdivision- Subdivisions Map

A-15: Greg's Subdivision- School District Map

A-16: Approximate Proposed Location map

A-17: Further photographs

A-18: Greg's Subdivision- Utilities Map

A-19: Reasoning & Decision of Law of the Bingham County Commissioners regarding the 6-Lot Subdivision known as Greg's Subdivision- Dated October 7, 2019.

S-2: Proof of Publication- Idaho State Journal

S-3: Blackfoot/Snake River Government Agency Notice List & Notice of Mailing- December 21, 2021.

S-4: Property Owners Notice List & Notice of Mailing- December 21, 2021

S-6: Notice of Posting- Addie Jo Harris- December 17, 2021

2. Planning & Zoning Commission Meeting Minutes January 12, 2022 and Planning & Zoning Commission sign n sheet for January 12, 2022.

3. Planning & Zoning Commission Reason & Decision, dated January 24, 2022.

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

- 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 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 Government Agencies on December 21, 2021 (S-3 List of Government Agencies and Notice)
 - b. Published in the Bingham News Chronicle on December 17, 2021 (S-2 Affidavit of Publication)
 - c. Sent to 14 property owners within 300' of this property on December 21, 2021. (S-4 Property Owners Mailing List and Notice)
 - d. Site was posted on December 17, 2021 (S-6 Property Posting)
 3. Government Agencies provided the following comments:

(T-1) Barbara Marlatt, Bingham County Treasurers Office, stated the taxes will need to be paid in full for 2021 prior to the Treasurer signing the plat.

(T-2) Verl Jarvie, Blackfoot Fire Marshal, had no comments.

(T-3) Marc Pange, Groveland Water and Sewer District, stated:

 - i. Groveland Water and Sewer District does not have water connection within a reasonable proximity to the proposed subdivision.
 - ii. Groveland Water and Sewer District has a pressure sewer main available at Highway 39 and 500 West, approximately 0.85 miles NE of the proposed subdivision.

(T-4) David Romrell, Bingham County Surveyor, stated per comments from the original Application (commends dated 8/12/2019 and included herein), the Application should require acknowledgment from the Browns and Gerdes for use of easement getting to private roadway from end of cul-de-sac.

(T-5) Chief Deputy Jeff Gardner, Bingham County Sheriff's Office, had no issues.

(T-6) Dusty Whited, Bingham County Public Works Director, who stated driveway approaches must meet the new 2022 Road Approach Standards. It appears that there will be six dwellings off of the Lovell Lane extension private easement.

(T-7) Allan Johnson, Department of Environmental Quality, who stated this site overlies the ground water capture zones for several nearby private wells and a list of public water systems as detailed in Mr. Johnson's letter. DEQ recommends consolidation of drinking water services wherever feasible. DEQ considers public drinking water systems generally more protective of human health and ground water resources than using individual private wells, and we recommend that the developer be required to investigate connecting to an existing public drinking water system or establishing a public drinking water system for this development. Further, general recommendations for the land development were included in the letter.

4. At the Planning & Zoning Commissions Public Hearing, testimony was received by (T-8) Jon Gregory, the Applicant's Representative. After Mr. Gregory's testimony, the Public Hearing was closed as there was no testimony provided for in support, in neutral, or in opposition.
5. The Planning & Zoning Commission recommended to approve the Application, without conditions.

CONCLUSIONS OF LAW

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

- a. the Application had previously been approved by the Board however failed to meet the two year timeframe to record a Final Plat; therefore the process must be initiated from the beginning pursuant to Bingham County Code Section 10-14-5(D)(E).
- b. the Application met the requirements in Bingham County Code Section 10-4-2 (D) as the parcel is zoned Residential. The Board found the proposal is very compatible with existing uses in the area and the proposed lot sizes are far greater than what is required in a Residential Zoning District with lots ranging in size between 1.104 to 1.351 acres which is very compatible with existing lot sizes in the area. The Subdivision will be accessed via a County Road, Lovell Lane, and will have a private road, Greg's Road, that shall be modified to comply with Bingham County Code Section 10-6-8 "Easement Regulations". Additionally, the Subdivision is near several other Subdivisions in the area and is surrounded by other parcels zoned Residential; and
- c. the Application met the requirements in Bingham County Ordinance Sections 10-6-6(B)(1) and 10-14-4(B) because the proposed lots exceed the 1 acre minimum for individual wells and septic systems and drain fields. Further, the Board found irrigation water will be served with a pressurized irrigation system; and
- d. 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
- e. 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 Residential/Residential Agricultural area; and
- f. 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 to 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 the 6-Lot Subdivision, to be known as Greg’s Subdivision, on approximately 8.3 acres, zoned Residential and located at 533 W. 37 S., at the end of Lovell Lane. Chairman Manwaring seconded. Both Commissioners voted in favor. The motion carried. Commissioner Lewis was absent.

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