

## BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

### REASON & DECISION

In regards to: The Planning & Zoning Commission's recommendation to the Board of Commissioners regarding the Johnson Compound Subdivision, a 3-Lot Subdivision and Decision by the Board.

Application filed by: Russell & Mary Ann Johnson

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

1. Exhibits to the Staff Report:

- A-1: Application for Subdivision Plat
- A-2: Johnson Subdivision Narrative- HLE
- A-3: Johnson Compound Preliminary Plat
- A-4: Quit Claim Deed- signed by Russell & Mary Ann Johnson
- A-5: Custom Soil Resource Report- USDA
- A-6: Guarantee- Issued by First American Title Company
- A-7: Well Information Summary- IDWR
- A-8: Johnson Compound- Flood Plain Map
- A-9: Johnson Compound Subdivision- Parcel Map
- A-10: Johnson Compound- Zoning Map
- A-11: Johnson Compound- Comprehensive Plan Map
- A-12: Johnson Compound- Aerial Map
- A-13: Johnson Compound- Area of Impact Map
- A-14: Johnson Compound- Subdivision Map
- A-15: Johnson Compound- School District Map
- A-16: Johnson Compound- Utilities Map
- A-17: Photograph of nearby School
- A-18: Photographs
- S-2: Proof of Publication
- S-3: Blackfoot/Snake River Government Agency Notice List
- S-4: Property Owners Notice List
- S-6: Notice of Posting- Addie Jo Harris- Planner

2. Planning & Zoning Commission Meeting Minutes from March 9, 2022 and Planning & Zoning Commission Sign in Sheet from March 9, 2022.

3. Planning & Zoning Commission Reason & Decision, April 4, 2022.

4.

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

1. Requested Action: The Subdivision request meeting followed the procedure set forth in Bingham County Code Section 10-14-4(E) to consider the Preliminary Plat:

2. In accordance with Bingham County Code Section 10-3-6, Notice was provided as follows:

- a. Sent to Government Agencies on February 1, 2022 (S-3 List of Government Agencies and Notice)

- b. Published in the Bingham News Chronicle on February 8, 2022 (S-2 Affidavit of Publication)
    - c. Sent to 11 property owners within 300' of this property on February 1, 2022 (S-4 Property Owners Mailing List and Notice)
    - d. The site was posted on February 10, 2022 (A-18 Pictures and S-6 Property Posting)
  3. Governmental Agencies who provided comments were:
    - a. (T-1) Barbara Marlatt, Bingham County Treasurers Office, stated the second half of 2021's taxes will need to be paid prior the Treasurer signing the Plat. If recorded after April 15, 2022, taxes will need to be prepaid for 2022.
    - b. (T-2) Marc Pange, Groveland Water and Sewer District, stated connections to their system are not available within a reasonable proximity to this property.
    - c. (T-3) Verl Jarvie, Blackfoot Fire Marshal, had no comments.
    - d. (T-4) Dusty Whited, Bingham County Public Works, stated Thomas Road is a Major Collector with a speed limit of 35 mph with an approach spacing requirement of 125 feet at this location. Further, a gang mailbox should be located inside the subdivision and street signage, if applicable, will need to be installed by the developer.
    - e. (T-5) David Romrell, Bingham County Surveyor, stated language needs to be added to the owner's certificate regarding the dedication to Bingham County for the public road and how lots will access 100 S Thomas Road.
    - f. (T-6) Allan Johnson, Regional Engineering Manager, Idaho Department of Environmental Quality, provided general land development recommendations.
    - g. (T-7) Chief Deputy Jeff Gardner, Bingham County Sheriff's Office, had no issues.
  4. Public testimony was received at the Commission Hearing from (T-8) Chris Street, Applicant's Representative. Testimony in support was provided by (T-9) the Applicant Russell Johnson and Mr. Johnson submitted a map he referred to in his testimony regarding the proposed approach location and easement for accessing the easterly two (2) lots.
  5. There was no testimony received in neutral or in opposition so after Mr. Johnson's testimony, the Public Hearing was closed.
  6. The Planning & Zoning Commission recommended approval of the Application without conditions, as reflected in the Reasons & Decision.

## CONCLUSIONS OF LAW

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

- a. the Application met the requirements in Bingham County Code Section 10-4-2(B) as the purpose of the Agriculture "A" Zone is to preserve and protect the decreasing supply of agricultural land. The Applicants desire to keep 6.39 acres zoned Agriculture, to be known as Lot 1, which has an existing residence, culinary well, and sanitary sewer system. Further, the remainder of the Subdivision is zoned Residential/Agriculture "R/A", and pursuant to Bingham County Code Section 10-4-2(C), the purpose of "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 Board found the proposal is very compatible with zoning, existing uses in the area, and compatible with existing lot sizes in the area as the proposed Subdivision is surrounded by parcels of similar size, near the Thomas Townsite, and near Subdivisions of the same zoning designation for similar Short Plats. The Plat shows Lot 1 to maintain its current existing access, and Lots 2 and 3 will be accessed via a new private 50 ft. easement (as shown by the Applicant in Exhibit T-9A) from 100 South Thomas Road; and
- b. the Application met the requirements in Bingham County Ordinance Sections 10-6-6(B)(1) and 10-14-4(B) because proposed lots exceed the 1 acre minimum with individual culinary wells and sanitary sewer systems. Further, irrigation water rights will be assessed by the Bingham Ground Water District and will be transferred to a new point of diversion once new wells are drilled for the use of Lots 2 and 3; and
- c. 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 Lot 1 is zoned Agriculture and has a Comprehensive Plan Map designation of Agriculture and Lots 2 and 3 are zoned Residential/Agriculture and have a Comprehensive Plan Map designation of Residential/Residential Agricultural; 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 recommendation of the Planning and Zoning Commission to approve the 3-Lot Short plat subdivision to be known as Johnson Compound Subdivision on 9.1 acres. Further, any phases and/or parcels created in the vicinity must be

continuous and progress in an orderly fashion. . Commissioner Lewis 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