

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the Zoning Amendment from "C2" Heavy Commercial and "R/A" Residential/Agriculture to "R" Residential.

Application filed by: Tracie & Truman Wilcox

REASON & DECISION

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

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

S-1: Staff Report- Planning & Zoning Commission

A-1: Application for Zone Change

A-2: Wilcox Rezone Narrative- HLE

A-3: 1st Amended Ponderosa Subdivision Map- HLE

A-4: 1st Amended Ponderosa Subdivision Legal Description- HLE

S-2: 1st Amended Ponderosa Acres & Zone Change- Parcel Map

S-3: 1st Amended Ponderosa Acres & Zone Change- Zoning Map

S-4: 1st Amended Ponderosa Acres & Zone Change- Comprehensive Plan Map

S-5: 1st Amended Ponderosa Acres & Zone Change- Flood Plain Map

S-6: 1st Amended Ponderosa Acres & Zone Change- Aerial Map

S-7: 1st Amended Ponderosa Acres & Zone Change- Subdivision Map

S-8: 1st Amended Ponderosa Acres & Zone Change- Area of Impact Map

S-9: 1st Amended Ponderosa Acres & Zone Change- School District Map

S-10: 1st Amended Ponderosa Acres & Zone Change- Utilities Map

S-11: 1st Amended Ponderosa Acres & Zone Change- Nitrate Priority Area Map

S-12: 1st Amended Ponderosa Acres & Zone Change- irrigation Company Map

S-13: Wilcox Zone Change- ½ miles proximity parcels by size

S-13A Property Owners parcels by size for ½ mile proximity parcels by size map

S-14: Map

S-15: Notice of Posting: Addie Jo Harris

S-16: Miscellaneous photographs

S-17- Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission

S-18: Blackfoot/Snake River Government Agency Notice List & Notice

S-19: Property Owners List- Planning & Zoning Commission

3. Planning & Zoning Commission Meeting Minutes April 13, 2022 and Planning & Zoning Commission sign in sheet for April 13, 2022.
 4. Planning & Zoning Commission Reason & Decision, dated May 9, 2022.
 5. All Information and Testimony presented at the Public Hearing on April 13, 2022:
 - T-1: Testimony from Sheriff Rowland- Bingham County Sheriff's Office
 - T-2: Testimony from June Thelin- Bingham County Public Works
 - T-3: Testimony from Allan Johnson- Department of Environmental Quality
 - T-4: Testimony from Marc Pange- Groveland Water and Sewer District
 - T-5: Oath or Affirmation- Chris Street- HLE
- B. As to procedural items, the Board finds the following:
1. Requested Action: The Public Hearing was held pursuant to Bingham County Section 10-3-6(A)(11) where the Board held a Public Hearing, using the same notice and hearing procedures as the Commission, on the Application for an Amendment to the Zoning Designation.
 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. (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:
 - (T-1) Sheriff Rowland, Bingham County Sheriff, had no issues.
 - (T-2) Dusty Whited, Bingham County Public Works, had no comments.
 - (T-3) Allan Johnson, Idaho Department of Environmental Quality, provided general land development recommendations.
 - (T-4) Marc Pange, Groveland Water and Sewer District, 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 1.8 miles to the nearest connection.
 4. There were no public response received prior to the Boards Public Hearing.
 5. Testimony received at the Board's Public Hearing included the following:
 - a. Jeff Shoemaker who lives at 19 North 460 West., Blackfoot, Idaho, who stated his concern is that manufactured homes would be placed on the property. He explained that he spoke with Mr. Wilcox who informed him that there would be restrictions on what is placed on the property.
 6. After Mr. Shoemaker's testimony, the Public Hearing was closed.

CONCLUSION 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).
2. Bingham County Code Section 10-4-2(D) provides for the description and qualifications for the Residential Zoning District and the Board 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 proposed zoning designation is 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.
4. 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 Bair moved to recommend approval to amend the zoning amendment requested by Tracie and Truman Wilcox to amend the zoning designation of approximately 4.04 acres located at 460 W. Highway 39, Blackfoot Idaho, for the intended purpose of a proposed re-plat, in accordance with the requirements of Bingham County Code 10, zoning regulations and subject to all applicable laws in regulations. Commissioner Lewis asked to include the zoning amendment. Commissioner Bair added that this would be rezone from "C2" Heavy Commercial and

Residential/Agriculture to Residential. 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

Jessica Lewis, Commissioner