

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the East View Subdivision, a 2-lot Subdivision in an "A" Agriculture Zoning District.

Board of County Commissioners Meeting Date: February 13, 2023

Property Owners & Developers: William and Lisa Wells

The Board reviewed the record, which is comprised of the following:

1. Exhibits to the Staff Report:
 - S-1: Planning & Zoning Commission Staff Report
 - A-1: Application for Subdivision Plat
 - A-2: Subdivision Narrative
 - A-3: Preliminary Plat
 - A-4: Legal Description
 - A-4A: Quitclaim Deed
 - A-5: Custom Soil Resource Report- United States Department of Agriculture
 - A-6: Guarantee- First American Title Company
 - A-7: IDWR- Well Information Summary
 - S-2: Parcel Map
 - S-3: Zoning Map
 - S-4: Comprehensive Plan Map
 - S-5: Flood Plain Map
 - S-6: Aerial Map
 - S-7: Subdivision Map
 - S-8: Area of Impact Map
 - S-9: School District Map
 - S-10: Utilities Map
 - S-11: Nitrate Priority Area Map
 - S-12: irrigation Map
 - S-13: Approx. Proposed Location Map
 - S-14: Notice of Posting: Addie Jo Harris
 - S-15: Google Imagery Map
 - S-16: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission
 - S-17: Blackfoot/Snake River Government Agency Notice & Notice of Mailing- Addie Jo Harris
 - S-18: Property Owners List & Notice of Mailing- Addie Jo Harris
2. Planning & Zoning Commission Meeting Exhibits & Minutes from December 14, 2022 and Planning & Zoning Commission sign in sheet for December 14, 2022.
3. All Information and Testimony presented at the Commissions Public Hearing on December 14, 2022.

4. Planning & Zoning Commission Reason & Decision, signed by Chairman Darren Leavitt on January 3, 2023.

A. **REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the December 14, 2022 Planning & Zoning Public Hearing, the Commission recommended approval of the Application from William and Lisa Wells requested to develop a 2-Lot Subdivision, to be known as “East View Subdivision”, on approximately 11.34 acres with a current use of irrigated farm ground, in a “A” Agriculture Zoning District, with lot sizes of 6.08 and 6.25 acres. Each lot will have individual septic systems, wells for culinary purposes, and irrigation water rights from the Bingham Ground Water District with the point of diversion from the existing irrigation well. The 2 lots will enter into a Shared Maintenance Agreement for the use of the irrigation system. Additionally, both lots will have access to 200 E Wicks Road via a 50’ private easement to be constructed by the Applicants, meeting setbacks from property lines and structures on adjacent parcels. The Comprehensive Plan Map has this area identified as Agriculture.

REASON

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

- a. the Application met the requirements in Bingham County Code Section 10-4-2 (B) as the purpose of “A” Agriculture zone is to preserve and protect the decreasing supply of agricultural land. This zone also is established to control the infiltration of urban development into agricultural areas which will adversely affect agricultural operations. The proposed lot sizes are 6.08 and 6.25 acres which meets, and exceeds, the minimum lot size required to be compliant with the area regulation and allows opportunity for continued agricultural production on each lot; and
- b. the Application met the requirements in Bingham County Ordinance Sections 10-6-6(B)(4) and 10-14-4(B) because the proposed lots exceed the 5-acre minimum with individual culinary wells and sanitary sewer systems. Additionally, irrigation water will be provided from the Bingham Ground Water District with a point of diversion from an existing irrigation well; and
- c. the Application met the requirements in Bingham County Ordinance Section 10-6-8 because each lot will be provided access via a 50-foot easement extending from 200 E Wicks Road terminating in a cul-de-sac providing adequate access and turn around for safety vehicles and meeting all required setbacks from property lines and structures on adjacent parcels; and
- d. the Application met all 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 area is designated as Agriculture.

- f. Chairman Manwaring stated the subject property is outside the City Area of Impact and the flood plain, but is in the high nitrate area and the applicants will need to be aware of that.
- g. Discussion was held in regards to a “gang mailbox”, wherein Dusty Whited, Bingham County Public Works Director, stated in submitted testimony that, “The proposed gang mailbox and turnout location should be inside a private easement”. The Blackfoot Postmaster has provided written confirmation that a gang mailbox would not be required for this subdivision.
- h. Commissioner Bair added that all subdivision recommendations have been met and he agreed with all Staff Comments provided within the Staff Report.

The Board reviewed the requirements within Bingham County Code Section 10-4-2 (B): Purposes of Zones- Agricultural (A): The purpose of the “A” Zone is to preserve and protect the decreasing supply of agricultural land. This zone also is established to control the infiltration of urban development into agricultural areas which will adversely affect agricultural operations in order to and deliberation was held as follows:

1. Allow productive agricultural land areas to be protected: The Board had no concerns.
2. To promote the public health, safety, and welfare by encouraging the protection of viable farm land, in accordance with the Comprehensive Plan, to encourage urban density development inside cities and in areas of city impact; and to protect fish wildlife, and recreation resources, consistent with the purposes of the Local Land Use Planning Act, Idaho Code Section 67-6501 et seq., as amended: The Board had no concerns.
3. Protect agricultural and range land uses and wildlife management areas from unreasonable adverse impacts from adjacent development: The Board had no concerns.

DECISION

Commissioner Jackson moved to uphold the decision of the Planning & Zoning Commission to approve the East View Subdivision, requested by William and Lisa Wells, for a 2-lot subdivision to be known as the East View Subdivision. Commissioner Jackson’s motion was based upon the record as presented and the Reason & Decision of the Planning & Zoning Commission. 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 7 day of March 2023.

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


Whitney Manwaring, Chairman


Mark Bair, Commissioner


Eric Jackson, Commissioner