

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the Waters Estates Subdivision, a 5-lot subdivision in an "R/A" Residential/Agriculture Zoning District.

Board of County Commissioners Meeting Date: April 4, 2023.

Property Owners & Developers: Kenneth and Nicole Waters.

The Board reviewed the record which is comprised of:

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 & Warranty 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
 - A-8: Flood Plain Map
 - 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-10: Utilities Map
 - S-11: Nitrate Priority Map
 - S-12: Irrigation Company Map
 - S-13: Google Imagery Map
 - S-14: Notice of Posting- Addie Jo Harris
 - S-15: Site Photographs
 - 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 April 13, 2022, 2021 and Planning & Zoning Commission sign in sheet for April 13, 2022.
3. All Information and Testimony presented at the Commissions Public Hearing on April 13, 2022.

4. Planning & Zoning Commission Reason & Decision, signed by Chairman Darren Leavitt on May 9, 2022.

REQUESTED ACTION: Uphold, conditionally uphold, or overrule the recommendation of the Planning & Zoning Commission on the proposed subdivision. The Board may determine that more information is required and shall return the plat to the Planning & Zoning Commission for a new hearing. Upon reaching a decision, the Board shall make written findings to specify the following:

- a. The ordinance and standards used in evaluating the proposal.
- b. The reasons for approval or denial.
- c. if denied, what actions the applicant could have taken to obtain approval.

The Board shall only overrule the Commission by a majority vote. The final decision of the Board shall be issued in writing with a Reason & Decision. The Commission shall receive notice of the Board decision.

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 (C) and Section 10-6-6 as the proposed lot sizes meet and some exceed the minimum acreage required in a Residential/Agriculture Zoning District with lots ranging in size from 1 acre to 10.58 acres; and
- b. the subdivision is compatible with existing uses, is compatible with existing lot/parcel sizes in the area and is surrounded by lands zoned Residential/Agriculture on all four sides; and
- c. the subdivision will have legal access via 400 W McDonaldville Road, Lot 1 having direct access and the remaining 4 lots with access via the construction of a new private easement. McDonaldville Road approaches will need to meet the distances between approaches in accordance with the Bingham County Road Standards; and
- d. 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 to have individual culinary wells and sanitary sewer systems; and
- e. the lots proposed are to have irrigation water rights assessed by the People's Canal & Irrigation District and the water delivery will be via a new pressurized irrigation system; and
- f. 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
- g. the proposed Subdivision is consistent with the Bingham County Comprehensive Plan as the area is designated in the Agriculture, however, the Board found the use and associated land uses are in conformance with the Residential/Residential Agriculture designation, which is established to direct the orderly and timely

conversion of land as the need arises into Residential areas that are still rural in character; and

- h. Discussion was held in regards to there being a county owned and permitted gravel pit nearby, wherein it was decided that on future Applications where this may apply, Public Works Director, Dusty Whited, would disclose that information within the Government Agency Testimony. As that did not happen for this Application, Director Olsen stated if having a gravel pit nearby is a concern, the Application could be remanded back to the Planning & Zoning Commission to gather additional testimony regarding the gravel pit. Director Olsen recommended that the Board acknowledge the Conditional Use Permit for crushing on the property within the decision made.
- i. It was clarified that water would be provided to this development by the People's Canal & Irrigation Company; and
- j. Commissioner Jackson asked if the pond would need to be fenced. Director Olsen clarified that it would not need to be fenced; and
- k. Chairman Manwaring added that all code requirements have been met and his concerns have been addressed; and
- l. Commissioner Bair added to the record that all subdivision requirements have been met and agree with all staff comments made.

The Board reviewed the requirements within Bingham County Code Section 10-4-2 (C): Purposes of Zones- Residential/Agricultural "R/A": The purpose of the "R/A" zone is to permit the establishment of low-density single-family dwellings with lot sizes sufficient for individual sewer and water facilities that have:

1. Suitability of parcel for agricultural purposes: The Board had no concerns.
2. Proximity to existing areas of similar population density: The Board had no concerns.
3. Lot size compatible with existing lot sizes in the immediate area: The Board had no concerns.
4. Compatible with the existing uses in the immediate area: The Board had no concerns.
5. Protection from incompatible uses: The Board had no concerns.
6. Accessibility to adequate utilities: The Board had no concerns. Chairman Manwaring added that this should be addressed with the utility companies.
7. Adequate service by roadways: The Board had no concerns.

DECISION

Commissioner Bair moved to uphold the decision of the Planning & Zoning Commission to approve the proposal from Kenneth and Nicole Waters to develop a 5-Lot subdivision to be known as Waters Estates Subdivision, on 17.58 acres, zoned Residential/Agricultural and the approximate location is 400 West McDonaldville Road and 450 North Lambert Road. Commissioner Bair added there would be a change to the Comprehensive Plan from "A" Agriculture to "R/RA" Residential/Residential Agriculture and Director Olsen would verify the water source for irrigation

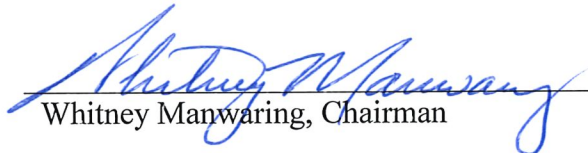
to be sure that the Preliminary Plat is noted correctly. Commissioner Bair also added the Developer should be advised that the County has adjoining land which contains a Conditional Use Permit for an active gravel source. Commissioner Jackson seconded. All voted in favor. The motion carried.


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 18 day of April 2023.

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


Whitney Manwaring, Chairman


Mark Bair, Commissioner


Eric Jackson, Commissioner