

BOARD OF BINGHAM COUNTY COMMISSIONERS

REASON & DECISION

In regards to: The Planning & Zoning Commission's recommendation to approve 1) the Zoning Amendment of approximately 3.80 acres, located at 3 North 725 West, Blackfoot, Idaho, from "C1" Light Commercial to "R/A" Residential/Agriculture. The Application is in conformance with the Bingham County Comprehensive Plan Map Designation which is a combination of Multi-Use and Residential/Residential Agriculture and 2) to plat a 3-lot residential subdivision to be known as Kambridge Creek Subdivision, a replat of Lots 5 to 8 in Block 5 of the 1st Amended Riverside Townsite.

Property Owner & Developer: Julie Hudson

Property Location: 3 North 725 West, Blackfoot, Idaho, Parcel No. RP7040300, Township 2 South, Range 34 East, Section 35 consisting of 3.80 acres

Representative: Chris Street, Professional Land Surveyor with HLE, Inc

Board of County Commissioners Public Hearing Date: March 6, 2024

The record provided to the Board is comprised of the following:

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- Lindsey Dalley- Commission Clerk
 - CC-4: Property Owners Notice List & Notice- Lindsey Dalley- Commission Clerk
 - CC-5: Notice of Posting- Tiffany Olsen- Planning & Development Director
 - CC-6: Testimony received prior to the Boards Public Hearing- Marc Pange- Groveland Water and Sewer District
 - CC-7: Oath of Affirmation- Chris Street- HLE
 - CC-8: Oath of Affirmation- Marc Pange- Groveland Water and Sewer District
2. Planning & Zoning Reason & Decision signed by Chairman Darren Leavitt on January 22, 2024
3. Planning & Zoning P&Z Public Hearing Minutes & Audio- January 10, 2024
4. Exhibits to the Planning & Zoning Commission Staff Report:
 - S-1: Staff Report- Planning & Zoning Commission
 - A-1: Application for Zone Change & Application for Subdivision Plat
 - A-2: Kambridge Creek Subdivision Narrative
 - A-3: Kambridge Creek Subdivision Preliminary Plat
 - A-4: Boundary Description
 - A-5: Quit Claim Deed
 - A-6: Custom Soil Resource Report- United States Department of Agriculture
 - A-7: Guarantee- Flying S Title and Escrow of Idaho, Inc

A-8: Well Construction Search- Idaho Department of Water Resources
A-9: Water shares certificate for Julie Hudson- The United Canal company
A-10: State of Idaho Corner Perpetuation and Filing Record

S-2: Parcel Map
S-3: Zoning Map
S-4: Comprehensive Plan Map
S-5: Flood Plain Map
S-6: Subdivision Map
S-7: Area of Impact Map
S-8: School District Map
S-9: Utilities Map
S-10: Nitrate Priority Area Map
S-11: Irrigation Provider Map
S-12: ½-mile proximity parcels by size Map and List
S-13: Google Earth Imagery Map
S-14: Notice of Posting- Addie Jo Harris- Assistant Director/Lead Planner
S-15: Site Pictures
S-16: Proof of Publication- Bingham News Chronicle-Planning & Zoning
Commission Public Hearing Notice
S-17- Blackfoot/Snake River Government Agency Notice List & Notice of
Mailing- Addie Jo Harris- Assistant Director/Lead Planner
S-18: Property Owners List and Notice of Mailing- Planning & Zoning
Commission- Addie Jo Harris- Assistant Director/Lead Planner

5. All Information and Testimony presented prior to the Planning & Zoning Commission Public Hearing.
6. There was no Testimony received in favor, in neutral, nor in opposition of the Application during the Planning & Zoning Commission Public Hearing.

As to procedural items, the Board finds the following:

1. **Requested Action:** The Public Hearing was held pursuant to Bingham County Code 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 of the Boards Public Hearing was provided as follows:
 - a. Sent to Government Agencies on February 8, 2024 (CC-3 List of Government Agencies and Notice)
 - b. Published in the Bingham News Chronicle on February 10, 2024 (CC-2: Affidavit of Publication)
 - c. Sent to property owners within 300' of this property on February 8, 2024. (CC-16 Property Owners Mailing List and Notice)
 - d. Site was posted on February 15 and February 20, 2024 (CC-5 Affidavit of Posting)

3. The Commissioners Clerk and Planning & Development Department received Government Agency comment prior to the Board's Public Hearing, which was as follows:
CC-6: Marc Pange, Groveland Water and Sewer District, who stated as follows:
 - 1) GWSD has a sewer connection available located adjacent to Hwy 39 along the south right-of-way. This is a pressure sewer line that is approximately 100 feet from the subdivision southerly property boundary.
 - 2) GWSD does not have a water connection available within reasonable proximity to the subdivision.
4. The Commissioners Clerk, nor the Planning & Development Department received any additional Testimony prior to the Board's Public Hearing.

After presentation of the Staff Report and confirmation that there were no additional questions for county staff, the Public Hearing was opened and testimony was presented at the Public Hearing, which was as follows:

(CC-7) Applicant's Representative Chris Street, Professional Land Surveyor with HLE, Inc., of 800 Judicial Street, Blackfoot, Idaho, who referred to the pressure line, which is in the southerly right-of-way and in order to tie into the line, it would require boring underneath Highway 39. The smaller lift stations that have been completed on a recent subdivision were on the south side of Highway 39 and did not require boring. In speaking to the Applicant regarding this matter, she felt that it was more appropriate to have individual septic rather than trying to bore across Highway 39, which is reflected in the proposal.

Mr. Street added that the existing home is on the southerly lot of the three lots and the two new lots would be further north than the highway right-of way.

Chairman Manwaring stated that it could be expensive to bore underneath the road for two lots. Mr. Street confirmed and stated the small lift stations are fairly close in cost as a drainfield but the cost to bore underneath the road, permitting and working with the Idaho Transportation Department, would be additional costs. The Applicant was trying to stay clear from having to do so and that is why the proposal was submitted as it was.

Chairman Manwaring asked if Groveland Water and Sewer is okay with individual wells connecting into their line, to which Mr. Street stated he believed they would be but he would refer to Mr. Pange for clarification.

(CC-8) Marc Pange, Groveland Water and Sewer District, of 457 W Hwy 39, Blackfoot, Idaho, stated that Groveland Water and Sewer has a policy to follow Idaho State Statute 42-3212, which demand a sewer connection within 200 feet of a dwelling. The two parcels being proposed are both well outside of that 200-foot range and therefore, they do not have the desire to supersede the state statue.

Commissioner Bair asked Mr. Street if he was aware of what the cost would be to bore underneath Highway 39, to which Mr. Street stated he did not currently have a cost estimate but it is not an unfeasible thing to do. When boring was presented to the Applicant, she felt that they would like to go with the individual wells. Mr. Street stated when in close proximity to sewer lines, they try to

push the Applicant to connect into the line. Commissioner Bair stated that he would prefer being connected to a community line if available.

Commissioner Bair stated that he would like to see what the cost would be to install a small lift station, piping, boring and to hook into the sewer line. Commissioner Bair stated that he would also like to see the cost of two domestic drainfields, a tank and the connection.

Ms. Olsen stated as this is a Public Hearing and new information can be received today but to take in the new information, another Public Hearing would need to be noticed before the Board with that information in order to make a decision. If today was only in reference to the subdivision and was not noticed as a Public Hearing, then it would need to be remanded to the Planning & Zoning Commission.

Chairman Manwaring asked if there was any testimony in favor, neutral nor in opposition, to which there was none.

REASON

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

1. The Board found that the Application met all requirements in Bingham County Code Title 10 Chapter 15 as the Application was submitted by the property owner. The Board found the proposal is in an area of similar population density, the proposed lot sizes are compatible with the immediate area and have adequate access from 725 W; and
2. The Board found that the Application for a Zoning Amendment is supported by the Comprehensive Plan Map as the parcel is in a combination of Multi-Use and Residential/Residential Agriculture area; and
3. The Board found that the Application met the requirements to be an amended zoning district of "R/A" Residential/Agriculture pursuant to Bingham County Code Sections 10-4-2(C) and 10-6-6(B)(1) as the purpose of "R/A" zone is to establish low density single-family dwellings with lot sizes sufficient for individual sewer and water facilities. The Board found the parcels exceed the minimum lot size in the R/A zone of 1-acre each, with 3 lots at 1.10, 1.11 and 1.59 acres and are able to facilitate individual culinary wells, septic systems and drainfields on Lots 1 and 2 as 3 already has existing services. Additionally, the Board found there is accessibility to utilities, irrigation water, and adequate service by roadways with approach accessed to be approved by the County Public Works Division; and
4. The Board found that the Application met the requirements of Bingham County Code 10-14-4 (A) because the Application was complete and included all items listed in 10-14-4(A) 1-23; and
5. The Board found that the Application met the requirements in Bingham County Code Section 10-14-4(B) as irrigation water is delivered from the United Canal

Company with 8 water shares. The Board recognized that the Applicant had been advised during the Planning & Zoning Commission Public Hearing that a Home Owners Association and Water Uses Agreement will be required prior to the Final Plat along with copies of the distribution system and Operating Plan to comply with Bingham County Code Section 10-14-8(H); and

6. the proposed Zoning Amendment and Subdivision are considered to be consistent with the Bingham County Comprehensive Plan as the area is designated primarily as Multi-Use and Residential/Agriculture, which allows for the desired Zoning Amendment and residential development; and
7. The Board found that the Application met the notice requirements of Idaho Code Title 67, Chapter 65 and Bingham County Code Section 10-3-6.

The Board held further deliberation regarding the Zoning Amendment, which was as follows:

Chairman Manwaring stated several years ago corridors along Highway 39 were made Multi-Use, which falls in like with the Comprehensive Plan. Chairman stated that on both sides of the property are "C1" Light Commercial but there is also Residential in the area as well. Therefore, he has no major issues regarding this Application.

Commissioner Bair asked if the irrigation is going to be in a ditch or pressurized, to which Ms. Olsen clarified that it would be in a ditch with the United Canal Company.

Chairman Manwaring read verbiage from the Plat, which states that irrigation will be delivered for Lots 1 and 2 through existing ditches along the northerly boundary, and along the east side of the lots. delivery to Lot 3 will be through the existing underground irrigation system along the east side of the lots.

Commissioner Jackson stated that he believes this property is a good location for a Zoning Amendment and to add a few homes.

The Board reviewed requirements of Bingham County Code Section 10-4-2(C) and deliberation was held as follows:

- 1) Suitability of parcel for agricultural purposes
 - a. The Board had no concerns. Chairman Manwaring stated that the homeowner would still be able to have a small garden or a few livestock.
- 2) Proximity of existing areas of similar population density
 - a. The Board had no concerns.
- 3) Lot size compatible with existing areas of similar population density
 - a. The Board had no concerns.
- 4) Compatible with the existing uses in the immediate area
 - a. The Board had no concerns.

- 5) Protection from incompatible uses
 - a. The Board had no concerns.
- 6) Accessibility to adequate utilities
 - a. The board had no concerns.
- 7) Adequate service by roadways
 - a. The Board had no concerns.

There were no further questions at this time.

The Board held further deliberation in regards to the Subdivision Application, which was as follows:

Chairman Manwaring referenced testimony given by Mr. Street where he stated that the cost of the lift pump station would be about the same cost as the drainfields. In reference to the cost of boring, Mr. Chairman stated where there are three lots and one existing home, the cost to bore might be more than the Applicant would like to spend. Chairman Manwaring stated that Mr. Pange testified that Groveland Water and Sewer District follows Idaho Code Section 42-3212, which requiring hookups that are 200 feet but the subject parcels are outside of that 200 feet. Chairman Manwaring reiterated that the cost to bore could be more than the Applicant would like to spend and with there only being two lots, he would not be in favor.

Chairman Manwaring also stated in looking at Bingham County Code 10-4-2(C), it states to permit the establishment of low-density single-family dwellings with lot sizes sufficient for individual sewer and water facilities, which were previously reviewed. Chairman Manwaring stated that he is not in favor of tabling this matter to find out cost and he believes that what the Board believes is reasonable may not be reasonable for other individuals or the Applicant.

Commissioner Bair stated that he feels as though there is not enough information to make a decision today. The Board would be guessing the cost as to boring and he would like to see the cost of what it would take to install two individual septic systems as compared to putting in a lift station and boring under the road. Therefore, Commissioner Bair confirmed that he would like to table this matter in order to obtain a list of cost comparison.

Commissioner Jackson stated that he would like to see connection into the sewer line when possible but would hate an undue burden on the homeowners to do so. Therefore, he too would like to table this matter to establish cost estimates.

Ms. Olsen stated if the Board decides to table this matter, she would wait until the necessary information is received from the Applicant's Representative. After which, she would be in contact with Lindsey Dalley, Commission Clerk, to reschedule and publish.

DECISION

Decision: Commissioner Jackson moved to uphold the decision of the Planning & Zoning Commission to approve the Zoning Amendment by Julie Hudson from "C1" Light Commercial to "R/A" Residential Agriculture on approximately 3.80 acres located at 3

North 725 West, Blackfoot, Idaho 83221. Commissioner Bair seconded. All voted in favor. The motion carried.

Decision: Commissioner Bair moved to table the plat of the 3-Lot subdivision to be known as Kambridge Creek Subdivision, specifically to receive cost estimates for the following: to install a small lift station, the piping to be included, cost of boring, cost to hook up to the sewer line and also the cost of two domestic drainfields, septic tanks and all connection costs. Commissioner Jackson seconded. All in favor- Commissioner Bair and Commissioner Jackson. All opposed- Chairman Manwaring.

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 15 day of March 2024.

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


Whitney Manwaring, Chairman

Mark Bair, Commissioner


Eric Jackson, Commissioner