

## **BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS**

In regards to: The Planning & Zoning Commission's recommendation to approve the Wapello Villa Subdivision, Division No.3, 14 Lots in a Residential/Agriculture Zone.

Board of County Commissioners Meeting Date: January 24, 2024

Property Owners & Developers: Jay and Nadine Marlow

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: Plat
- A-4: Legal Description- Wapello Villa Division No. 3 Boundary
- A-5: Warranty Deed
- A-6: USDA- Custom Soil Resource Report
- A-7: Guarantee- Old Republic
- A-8: IDWR- Well Information Summary
- A-9: Blackfoot Irrigation Company Water Share Certificate
- 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: Aerial Image
- S-13: Notice of Posting- Addie Jo Harris
- S-14: Google Images
- S-15: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission
- S-16: Blackfoot/Snake River Government Agency Notice & Notice of Mailing- Tiffany G. Olson
- S-17: Property Owners List & Notice of Mailing- Tiffany G. Olson

2. Planning & Zoning Commission Meeting Exhibits & Minutes from December 13, 2023 and Planning & Zoning Commission sign in sheet for December 13, 2023.

Reason & Decision- Wapello Villa Division 3  
Property Owner & Developer- Jay & Nadine Marlow

3. All Information and Testimony presented at the Commissions Public Hearing on December 13, 2023.
4. Planning & Zoning Commission Reason & Decision, signed by Chairman Darren Leavitt on December 19, 2023.

A. **REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the December 13, 2023 Planning & Zoning Commission Public Hearing, the Commission recommended approval of the proposal from property owners and developers, Jay and Nadine Marlow, to create a 14-lot development to be known as “Wapello Villa Subdivision, Division No.3” in a Residential/Agriculture Zoning District. This Application was approved by the Board of County Commissioners on August 25, 2021 but the Marlows failed to record a Final Plat within two (2) years from the date of approval; pursuant to Bingham County Code Section 10-14-5E, the approval is null and void. Therefore, the same proposal from Jay and Nadine Marlow that was previously approved has been reheard.

Pursuant to Bingham County Code Section 10-14-4 (e)(2)., the Board shall review the Preliminary Plat, the written information presented to the Planning & Zoning Commission, and the Commission Minutes or the statement of action taken prior to making a determination on the proposed plat.

#### **REASON**

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

- a. The Board found that the Application met the requirements in Bingham County Code Section 10-4-2(C) as 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 Application contains lot sizes compatible with the area and is an extension of Wapello Villa Divisions 1 and 2. The Subdivision will be serviced from 200 East through an extension of a public road, 330 North Marlow Loop, which will loop back to 200 East; and
- b. The Board found that the Application still met the requirements of Bingham County Ordinance Section 10-6-6(B)(1) and 10-14-4(B) because proposed lots meet the 1-acre minimum to have individual wells, septic systems and drain fields, with irrigation water assessed by the Blackfoot Irrigation Company and delivery provided by a pressurized system located in 10’ irrigation easement along the rear lot lines; and
- c. The Board found that the Application still met the requirements of Bingham County Code 10-14-4(A) because the Application was completed and included all items listed in 10-14-4(A) 1-23; and
- d. The proposed subdivision will be consistent with the Bingham County Comprehensive Plan and Map area as this parcel is designated

Residential/Agriculture which provides for residential development. Additionally, this area has significant residential development and is approximately 1.5 miles from the Blackfoot Area of City Impact boundaries where growth is intended; and

- e. Chairman Manwaring had no concerns; and
- f. Commissioner Bair had no concerns; and
- g. Commissioner Jackson had no concerns.

### DECISION

Commissioner Jackson moved to uphold the decision of the Planning & Zoning Recommendation to approve the Wapello Villa Division 3 Subdivision consisting of 14-lots, located at approximately 330 N. 200 E., Blackfoot, Idaho, as proposed by Jay and Nadine Marlow. This decision is based upon the Reason & Decision of the Planning & Zoning Commission and discussion held. 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.

Dated this 5<sup>th</sup> day of February, 2024.

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

  
Whitney Manwaring, Chairman

  
Mark Bair, Commissioner

  
Eric Jackson, Commissioner