

BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS

In regards to: The Planning & Zoning Commission's recommendation to approve the Woodsy Acres at Creek Cove Subdivision a Replat of the Spring Creek Estates Subdivision consisting of 1-Lot in an Agricultural Zone.

Board of County Commissioners Meeting Date: August 30, 2023

Property Owners & Developers: Dwight Enterprises, LLC
c/o John & Carla Dwight

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
- A-5: Custom Soil Resource Report- United States Department of Agriculture
- A-6: Guarantee- Commonwealth Land Title Insurance Company
- A-7: IDWR- Well Information Summary
- A-8: Reason & Decision for August 10, 2022- Conditional Use Permit
- A-9: Email from Idaho Irrigation District regarding water rights
- A-10: Email from Carla Dwight regarding covenants
- S-2: Zoning Map
- S-3: Comprehensive Plan Map
- S-4: Flood Plain Map
- S-5: Aerial 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: Bonneville County Government Agency List & Notice of Mailing- Addie Jo Harris.
- 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 July 12, 2023 and Planning & Zoning Commission sign in sheet for March 8, 2023.
3. All Information and Testimony presented at the Commissions Public Hearing on July 12, 2023.
4. Planning & Zoning Commission Reason & Decision, signed by Chairman Darren Leavitt on July 25, 2023.

A. **REQUESTED ACTION:** Uphold, conditionally uphold, or overrule the decision of the Planning & Zoning Commission on the proposed subdivision. At the July 12, 2023 Planning & Zoning Commission Public Hearing, the Commission considered Dwight Enterprises, LLC, c/o John and Carla Dwight, request to replat Lot 1 Block 1 of the Spring Creek Estates Subdivision and incorporate adjacent lands to develop a 1-Lot Subdivision, to be known as “Woodsy Acres at Creek Cove Subdivision,” on approximately 18.84 acres, in a “A” Agriculture Zoning District. The proposed 1-Lot Subdivision has an existing culinary well and is proposing an individual septic system and drain field for sanitary sewer service. Irrigation water rights have been verified on the property and are assessed by the Idaho Irrigation District, with delivery from Sand Creek Canal, through the existing mainline and pump in the easement as platted with the Spring Creek Estates Subdivision. The property is in an “AO” flood zone and is proposed to have direct access to 1200 E Park Road. The Comprehensive Plan Map has this area identified as Residential/Residential Agriculture.

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 (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 is increasing in size to 18.84 acres which meets the minimum acreage, per lot, required to be compliant with the Agricultural Zone and Area Regulations; and
- b. The Board found that the Application met the requirements in Bingham County Ordinance Section 10-6-6(B)(4) and 10-14-4 (B) as the proposed lot meets the 5-acre minimum and is sufficient in size to qualify for the addition of sanitary sewer system as the land already has a culinary well. If a public water drinking system is required by the Department of Environmental Quality, the Applicants shall work with appropriate agencies to procure the necessary permitting; and
- c. Irrigation water rights are assessed by the Idaho Irrigation District, with delivery from the Sand Creek Canal, through the existing mainline and pump in the easement as platted with the Spring Creek Estates Subdivision which remains the same with this proposed Subdivision; and

- d. 1200 E. Park Road has a Functional Classification of a Minor Arterial according to the Bingham County Road Standards. An access exists as part of the Spring Creek Estates Subdivision Plat that does not currently meet the Approach Standards, however, because it was platted prior to the Approach Standards being enacted, the approach will be authorized; and
- e. The Board found that the property is in the flood plain and the Applicants are aware that all development in the flood plain is required to be constructed to FEMA and Bingham County Regulations; and
- f. The Board found that 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 Board found that the proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan as the area is designated as Residential/Residential Agriculture which allows for the desired use.
- h. Discussion was held in regards to testimony in opposition submitted by B.J. Driscoll, Attorney at Law, on behalf of Olivia's Land LLC, wherein Olivia's Land LLC owns a parcel south of the subject property. Mr. Driscoll stated the Applicant's amended the Spring Creek Estates Covenants without following proper procedure, which requires notice, input and involvement from those that are subject to the covenants. Chairman Manwaring confirmed with Legal Counsel that this issue had been addressed properly. Ms. Olsen stated that both original covenants and revised covenants have been rescinded. Mr. Rogers concluded that the concern was satisfied due to the rescinding of covenants.
- i. Chairman Manwaring confirmed with Ms. Olsen that there did not need to be a Comprehensive Plan Map Amendment made, to which Ms. Olsen stated there is a blended area but not too significant. In the future, if the Developer decided to densify, it would require a zoning amendment but for the current Application, there is no issue.
- j. Chairman Manwaring stated that his questions had been answered and he had no further concerns pertaining to the Application.
- k. Commissioner Jackson had no concerns pertaining to the Application.
- l. Commissioner Bair stated the Application meets all requirements and he had no further concerns pertaining to the Application.

DECISION

Commissioner Jackson moved to uphold the decision of the Planning & Zoning Commission to approve the request by Dwight Enterprises, LLC, c/o John and Carla Dwight, for a replat of the Spring Creek Estates Subdivision to a 1-Lot Subdivision to be known as the "Woodsy Acres at Creek Cove," on approximately 18.84 acres in a "A" Agriculture Zone. Said decision is based upon the record, the Reason & Decision of the Planning & Zoning Commission and discussion held today. 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 13th day of September, 2023.

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


Whitney Manwaring, Chairman


Mark Bair, Commissioner


Eric Jackson, Commissioner