

**BINGHAM COUNTY PLANNING & ZONING COMMISSION  
REASON AND DECISION**

**APPLICATION OF:** Apple Grove Estates Subdivision

**PROPERTY OWNERS  
AND APPLICANTS:** Rob and Laree Wray

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**Requested Action:** Property Owners and Applicants, Rob and LaRee Wray, requested to develop a (7) seven-lot subdivision with six (6) single-family residential lots and one (1) lot consisting of approx. 0.387 acres to be dedicated as a 50-foot-wide public road right-of-way, to be known as Apple Grove Estates, on approximately 12.82 acres of land, zoned "R/A" Residential/Agriculture, in accordance with Bingham County Code, Title 10, Chapter 14, *Subdivision Regulations*.

**Property Location:** Parcel No. RP0328200, located West of 416 W 175 N, Blackfoot, 83221

**Applicable Regulations:** Bingham County Comprehensive Plan dated November 20, 2018  
Bingham County Zoning Ordinance 2012-08, as amended

**Public Hearing Date:** January 14, 2026

**I. PUBLIC HEARING RECORD AND INFORMATION**

1. The following was reviewed by the Commission:
  - a. Application and materials submitted by the Applicant; and
  - b. Staff Report, maps, notice, and other materials.
  
2. Planning and Development Services Assistant Director/Lead Planner Addie Jo Jackman presented the Staff Report for the Application. She reviewed the requested action and acknowledged that before the Public Hearing, the Commissioners were provided the record of written testimony received, which included:

(T-1) Bingham County Public Works submitted testimony in a neutral position and stated they have reviewed the construction drawings and would like to see a detail for the ditch work that was done under the new proposed county road. The detail should use the " Idaho Standard for Public Works Construction "ISPWC." An inspection by an engineer verifying that it was installed to ISPWC or removed and rebuilt should be required by the board.

(T-2) Groveland Water and Sewer District (GWSD) submitted testimony in a neutral position and stated that a gravity sewer connection is available within the public right-of-way near the easterly property boundary. Pursuant to Idaho Code §42-3212, only parcels within 200 linear feet are required to connect; therefore, only Lot 1 would otherwise be required. GWSD had not received a sewer service application and indicated that, if connections were required for additional lots, a Development Agreement and payment of Sewer Availability Fees would be necessary. A culinary water connection is available approximately 1,320 feet from the property boundary, with all extension costs borne by the developer and limited to culinary use.

*Staff Comment contained in the Staff Report: Assistant Director Jackman provided clarification for the Commission and the record that Lot 1 of the proposed subdivision is non-buildable and therefore would not require connection to the Groveland Water and Sewer District's system.*

3. With no questions from the Commission, testimony was presented by the Applicants' Representative (T-3) Chris Street, Professional Land Surveyor with Harper Leavitt Engineering, 800 W Judicial, Blackfoot, ID. Mr. Street provided a larger printed version of the plat map, which was entered into the record as Exhibit T-3A. He explained that a survey and preliminary road design work had been completed on the conversion of a private road to a County road, and reiterated that Lot 1 is designated non-buildable and would not require utility service. He testified that the proposed County road would improve access for existing parcels created with division rights, and open surrounding lands to future development upon County acceptance.

Regarding utilities, Mr. Street presented a cost analysis indicating that connection to GWSD's sewer line would require a lift station due to topography and would be cost-prohibitive for a 6-lot subdivision (estimated total infrastructure cost approximately \$1.3 million, or roughly \$170,000 per lot for utilities alone).

In response to Commission questions, Mr. Street stated that the nearest culinary water extension cost is estimated at approximately \$70 per linear foot, and that road construction testing and final design would be completed for County acceptance.

4. Testimony in favor of the Application was received by:

(T-4) Robert Wray, 3070 N Moose Lane, Moore, ID, who testified that he was born and raised in Bingham County and is the landowner of this proposed subdivision. Mr. Wray stated the intent is to provide family-sized residential lots compatible with agricultural living that have proximity to schools, church, freeway access, and INL bus routes. He explained that the proposed development would maintain the agricultural character with larger lot sizes sufficient for a garden, a cow, or a horse. He has exhausted the use of all division rights for the creation of nearby parcels. Mr. Wray also testified that Lot 1 is

intended to remain an apple grove and be a community/open space area for the benefit of the subdivision and adjacent property owners.

In response to the Commissioner's questions, Mr. Wray confirmed that irrigation water will be delivered via canal shares and that groundwater rights will serve as backup when canal water is unavailable.

(T-6) Drew Batten, 416 W 175 N, Blackfoot, ID, testified that he is currently building his home on one of the parcels created with a division right and was excited to see the area further developed. Mr. Batten supported the Application, citing neighborhood cohesion, family-oriented community benefits, cleanup/preservation of the apple grove, and his preference for maintained residential development rather than unmanaged agricultural fields.

Testimony in the neutral position was received by:

(T-7) Marc Pange, Groveland Water and Sewer District, 457 W Highway 39, Blackfoot, ID, referred to the previous written testimony he provided and testified that he was not aware that Lot 1 would not be developed. In response to the Commission's questions, he confirmed that GWSD's water service is not intended for agricultural irrigation related to future maintenance of the apple grove.

Testimony in a position of opposition was not received, and Mr. Street did not offer a rebuttal. Chairman Johns closed the Public Hearing for this Application.

5. Commission discussion began with Chairman Johns, who testified that the biggest concern was water and sewer connection feasibility. Commissioner Thomson testified that he was concerned with this area being surrounded by farm fields and that it may be a little controversial to build homes in the middle of those farms. Chairman Johns questioned whether wheel lines or handlines had been placed since the pivot had been removed. He also questioned the ownership of the surrounding fields and whether there was a plan to develop those lands. Mrs. Jackman responded that she was unaware of irrigation modifications and that she was also unaware of future land development on the surrounding fields.

Chairman Johns stated that the County Road would create a nice barrier from the fields, to which Commissioner Jolley agreed. Commissioner Winder stated that once a County Road was accepted, it would not be long before the surrounding property was developed. Commissioner Carter testified that this area would be great for development, but had concerns about there being enough groundwater rights.

Commissioner Carter clarified that his concern was more about the household water use from a culinary well. He cited that the Staff Report included 10 shares of canal water, but

he did not see anything on the groundwater rights. Mrs. Jackman stated the Staff Report includes excerpts from the Applicant's materials providing that surface water rights will be used for irrigation and commented that groundwater rights are not required to establish a new culinary well. Commissioner Jolley sought clarification on whether the maximum area one could irrigate from a culinary well was still half an acre. Mrs. Jackman responded that it was, but that the state statute was modified in relation to using a culinary well for any irrigation in a subdivision, which was not something that is regulated or enforced by the Planning & Development Services Department, but rather the Idaho Department of Water Resources.

Commissioner Carter testified that, in his opinion, groundwater rights should be required to remain with the property and not be sold or transferred, and questioned if that was under the Commission's purview to place as a condition. Paul Rogers, County Civil Attorney, confirmed it was within the Commission's purview. Commissioner Carter stated he thought this area was a great place to develop, but he would like to see the groundwater rights remain on the property and recommended that as a condition. Commissioner Jolley questioned Commissioner Carter as to why he wanted to see that as a condition. Commissioner Carter explained that essentially all water is pulled out of the same pool of water, whether it's for agricultural or culinary use. He believed that the average household use of water would equal or exceed the agricultural use, and if there were no connection of the groundwater rights to that land, it could essentially be sold and considered double-dipping since an individual culinary well would have already been approved. He stated it personally made sense, and although it may not have been required in the past, it would be setting a precedent. Chairman Johns asked if he was concerned that if something did happen to the surface water, landowners would not be able to irrigate. Commissioner Carter responded that he was concerned about the water use from the culinary well. Mr. Rogers reviewed the Local Land Use Planning Act to determine if it was under the Commission's purview and found that the Idaho Department of Water Resources can override ground use, but the Commission cannot override the Idaho Department of Water Resources.

Commissioner Winder commented that it was worth noting that the Applicant and the Developer have made these lots bigger than the minimum requirement, and could essentially squeeze in three (3) more lots with three (3) more individual wells and septic systems, but have chosen not to. He testified that he understood the water concerns but expressed that the Applicant had shown a conservative effort by not adding additional lots for financial gain. Chairman Johns directed the Commission to determine if this condition was applicable. Commissioner Jolley was not sure if the water rights could be sold and utilized locally for agricultural use, but if so, he thought the water rights could be better used to increase local agriculture. Commissioner Jolley agreed with Commissioner Winder that this area is not being overpopulated with the proposed lot sizes and was in favor of the

Application. Commissioner Carter stated that this topic may be beyond the Commission's purview and withdrew his recommendation for condition consideration.

Commissioner Thomson questioned whether there was a concern with there being 10 lots with only one access, in and out, in the event of an emergency? Mrs. Jackman responded that the International Fire Code does not require two points of access for this number of lots.

## II. REASON

The Planning and Zoning Commission found:

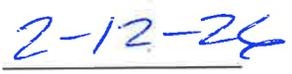
1. the Application met the requirements of Bingham County Code Title 10, Chapter 14, *Subdivision Regulations*; and
2. the Application met the requirements of Bingham County Code Section 10-4-2(C), which states that the purpose of the "R/A" Zone is to permit the establishment of low-density single-family dwellings with lot sizes sufficient for individual sewer and water facilities. The Commission found the area surrounding the proposed subdivision to the north, west, and south is zoned Residential/Agriculture and features existing residential subdivision developments and a combination of farm/residential development with lands to the east zoned Residential, including the Groveland Townsite; and
3. the Application met the requirements of Bingham County Code Section 10-6-6(B)(1) as the proposed lots exceed the 1-acre minimum allowed in a Residential/Agriculture Zoning District with individual culinary wells, septic systems, and drainfields on each lot. The Commission found that connection to a community water or sewer system is not required under Idaho Code §42-3212 because the distance from available connections exceeds 200 feet from the proposed subdivision. Additionally, testimony was provided by the Applicant's Representative, both in the form of an engineered estimate and in verbal testimony, that established that extension of community utilities would not be economically feasible for the proposed density, which supported the Commission decision to recommend individual culinary wells, septic systems, and drainfields; and
4. adequate access to all lots will be extended from 400 W Groveland Road through an existing 50-foot-wide easement/private road that will be converted into a new County Road, to be known as Baton Rouge Lane. The new County Road is proposed to terminate in a temporary turnaround that will be removed/vacated at such time, if/when Baton Rouge Lane extends to the west; and
5. that the Subdivision will be irrigated utilizing ten (10) water shares via a new pressurized irrigation system, and that groundwater rights may be utilized if canal water is insufficient; and

6. the proposed Subdivision is considered to be consistent with the Bingham County Comprehensive Plan, as the area is designated as Residential/Agricultural, which supports the Residential/Agriculture Zoning District; and
7. the Public Hearing met the notice requirements of Idaho Code Title 67, Chapter 65, and Bingham County Code Section 10-3-6.

### III. DECISION

Based on the record, Commissioner Jolley moved to recommend approval of the Apple Grove Estates Subdivision as proposed by Property Owners and Applicants, Rob & LaRee Wray, located west of 416 W 175 N, Blackfoot, ID. Commissioner Tominaga seconded the motion. Commissioners Jolley, Tominaga, Carter, Thomson, and Winder voted in favor. The motion passed.

  
Jordan Johns, Vice Chairman/Acting Chairman  
Bingham County Planning and Zoning Commission

  
Date