

REASONINGS AND DECISION
DONALD & LORETTA ANDERSON ZONE CHANGE FROM “A” TO “R/A”.

In the matter of a request for a zone change from “A” (Agriculture) to “R/A” (Residential/Agriculture) by Donald and Loretta Anderson for a property located at approximately 264 South 625 West, Blackfoot on approximately 37.8 acres of land. This request was originally heard by the Planning and Zoning Commission (“Commission”) on August 12, 2020. Following discussion, Commissioner McKinnon moved to recommend denial of the zone change requested by Donald & Loretta Anderson from “A” Agricultural to “R/A” Residential/Agriculture on Approximately 37.8 acres located at approximately 264 S. 625 W., as described in the Application materials as supplemented with additional information in the staff report, in accordance with requirements of Bingham County Code Title 10 “Zoning Regulations” and subject to all applicable laws and regulations. The basis for Commissioner McKinnon’s motion was the Chapter 10 Zoning Regulations and protection of agriculture land. Commissioner Carroll seconded the motion. Commissioner Aullman stated he based his vote to deny the recommendation for a rezone on Bingham County Code Section 10-15-6 due to the delivery of road/maintenance public services being divided in this area, as the shared road/maintenance responsibilities are with the Shoshone Bannock Tribes as a portion of Riverton Road is within the boundaries of the Shoshone Bannock Tribal Reservation, which causes the subdivision to be misplaced at the requested location. Commission members McKinnon, Carroll, Aullman, Croft, Tanner and Adams vote in favor to recommend to the Board of Commissioners a denial of the rezone request and the motion carried.

The Board of County Commissioners (“Board”) met to discuss the matter in a Public Hearing on September 28, 2020, with Chairman Manwaring, Commissioner Bair and Commissioner Lewis present. The hearing was held pursuant to the Idaho Code Open Meeting Laws, the Idaho Land Use Planning Act, and relevant Bingham County Ordinances, specifically Section 10-4-2 (F) of Bingham County Codified Ordinance. The Board reviewed the testimony given, the discussion of the “Commission”, and the information found in the record, as well as allowed for additional testimony and deliberated on those issues in the light of the applicable governing law.

Following discussion, Commissioner Bair made a motion to not follow the recommendation made by the Planning and Zoning Commission to deny the Zone Change and moved to approve the application for zone change. Commissioner Lewis seconded that motion to not follow the recommendation by the Planning and Zoning Board for denial and approve the application of Donald and Loretta Anderson, on the zone change from Agriculture to Residential Agriculture for the property located at 264 South 625 West, Blackfoot, Idaho. Commissioner Manwaring voted in opposition and voted to deny the Zone Change. A written decision was then issued by the signing of this document memorializing the Reasoning and Decisions as indicated below.

Reasoning and Decisions

1. The Board finds that the application met the requirements of Bingham County Code Section 10-4-2(C) as the purpose of the R/A Zone is for low density single family dwellings with lot sizes sufficient for potential individual sewer and water facilities and considered the following:
 - a. Suitability of parcel for agricultural purposes.
 - i. Testimony was presented that this property is smaller in size making it less than desirable and difficult to farm.
 - b. Proximity to existing areas of similar population density.
 - i. Testimony and maps were presented showing that the area is surrounded by multiple residential homes, in parcel sizes ranging between one (1) acre and five (5) acres which include the Toveywood Estates and Riverton Heights Subdivisions, which are less than one (1) mile to the North East of the proposed site. Parcel sizes of one (1) acre to five (5) acres is the lot size criteria for a subdivision located in an R/A zoning district. Further, Bingham County is suffering from a housing shortage; lots in this acreage size are in high demand.
 - c. Lot size compatible with existing lot sizes in the immediate area.
 - i. Testimony and maps were presented that showed one (1) to five (5) acre residential parcels were in the immediate area and directly next to the proposed site.
 - d. Compatible with the existing uses in the immediate area.
 - i. Testimony presented indicated concern from neighbors that farming activities would be impacted, however the R/A designation would not interfere so much as to warrant a denial as farming activities affect most R/A zones in Bingham County and those areas still allow for those agricultural purposes to exist next to similar R/A density. In his dissent, Commissioner Manwaring argued that this criteria was not met in that there were no R/A zones contiguous to the parcel and areas closer to the city centers were more appropriate for an R/A density.
 - e. Protection from incompatible uses.
 - i. Again, testimony was presented indicating concern from neighbors that the farming activities would be impacted, however it was determined that the R/A designation would not interfere so much as to warrant a denial as there are farming activities across Bingham County situated next to residential developments/properties. The Board reviewed the R/A zoning criteria as set forth in the Bingham County Code and the Bingham County Comprehensive to verify compatibility.

- f. Accessibility to adequate utilities.
 - i. Electricity is available to the proposed site. Sewer and water was not reasonably available due to the distance from the closest connection. As Bingham County Code allows for individual well and septic in an R/A zone for parcels in one (1) acre or greater in size, there existed no issues regarding adequate utilities servicing the proposed site.
 - g. Adequate service by roadways.
 - i. Testimony was presented to the Planning and Zoning Commission that Riverton Road was not adequate to handle additional traffic resulting from low-density residential development. However, in the Public Hearing before the Board of County Commissioners, Bingham County Public Works Director, Dusty Whited, testified that Riverton Road has recently received scheduled maintenance and the traffic counts conducted by the County indicated that the road could handle additional low-density residential developments in the area. No testimony or documentation was submitted or presented by the Shoshone Bannock Tribes concerning the other end of Riverton Road, outside of the jurisdiction of Bingham County, and on tribal lands. Testimony was presented that the Shoshone Bannock Tribes were not notified of the requested zone change. However, the Fort Hall Land Use Council was listed on the Government Agency notice and Planning and Development Director, Tiffany Olsen, testified the notice was sent via U.S Mail and a response from the Shoshone Bannock Tribes had not been received by the Planning and Zoning Department. In his dissent, Commissioner Manwaring argued that this criteria was not met because Riverton Road had too many tight corners to service that much density in the area safely and would impact farming activities.
2. The Board finds that the Application met the requirements in Bingham County Code 10-15-2(D) as an Application was filed by the property owner of the area proposed to be changed and the procedures of Title 10 Chapter 15 of Bingham County Code were followed
 3. The Board finds the Application met the requirements of Bingham County Code 10-15-3 as the contents of the Application were deemed complete;
 4. The Board finds that the Application is in accordance with the policies of the Comprehensive Plan as set forth in Bingham County Code 10-15-4(B) as the Comprehensive Plan has this parcel planned as a Residential/Residential Agriculture area thereby supporting the request for a rezone. Discussion was held that the policy in the Comprehensive Plan protecting Agricultural Property was of utmost importance and the Policy of Protecting Property Rights was of equal or greater importance. As this property was not prime agricultural property (according to the Applicants testimony), the property rights of an individual should be protected. The Board reiterated the Bingham County Comprehensive Plan is not an Ordinance or a law. The Plan serves as a guide for making land use changes, preparation of implementing ordinances (zoning, platting), preparation of budget programs and the rate, timing and location of future growth. The purpose of this Plan is to promote the orderly

development of the county; to conserve and stabilize the value of property; and otherwise promote the public health, safety and general welfare of the county.

The Board finds that the Application met the requirements of Idaho Code §67-6512 as notice was provided regarding the Planning & Zoning Commission and the Boards Public Hearings were noticed in the official newspaper a minimum of fifteen (15) days prior to the hearing, the Public Hearing notices were posted on the premises a minimum of one (1) week prior to the Hearings, and notice was provided to all property owners within three hundred (300) feet of the proposed project prior to the Hearings.

Conclusion

In conclusion, based upon the individual Reasoning and Decision noted above: Commissioner Bair moved to approve the zone change from "A" Agriculture to "R/A" Residential/Agriculture. Commissioner Lewis seconded. Chairman Manwaring voted in opposition to the proposed zone change.

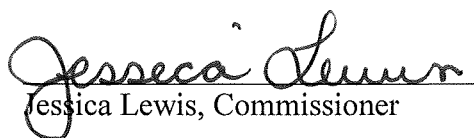
The parties have 28 days to appeal this written decision for Judicial Review pursuant to Idaho Code §67-6535 (2)(b), and/or to request a takings analysis pursuant to Idaho Code §67-8003, Protection of Private Property. Any applicant or affected person seeking judicial review of this decision must first seek reconsideration of the final decision within fourteen (14) days of this written decision. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards pursuant to Idaho Code §67-6535 (2)(b) and Bingham County Code.

DATED this 7 day of October, 2020.

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


Whitney Manwaring, Chairman


Mark R. Bair, Commissioner


Jessica Lewis, Commissioner