

**REASONING AND DECISION OF LAW
ZONE CHANGE REQUEST FROM "A" AGRICULTURE TO "R/A"
RESIDENTIAL/AGRICULTURE SUBMITTED BY NEIL & PHYLLIS HANSEN**

SYNOPSIS

The matter of requested Zone Change submitted by Neil & Phyllis Hansen on their property from "A" Agricultural to "R/A" Residential/Agriculture on approx. 3.81 acres located at 1080 East 1400 North, Shelley, Idaho The Applicants requested a zone change to move forward with a future 2-lot Residential/Agricultural "R/A" subdivision development.

The Application was timely filed and received by the Planning & Zoning Department on December 30, 2020 and heard, via Public Hearing, by the Planning & Zoning Commission on February 10, 2021. The Commission voted unanimously to forward a recommendation of approval for zone change to the Board of Commissioners per Bingham County Code.

The Board held a Public Hearing on March 23, 2021 with Commissioners Whitney Manwaring and Mark Bair present. Pursuant to Bingham County Code Section 10-3-6(A)(11) the following testimony was heard and Codes were discussed which lead to the Boards decision:

Planning & Zoning Director Tiffany Olsen presented the Staff Report for the Hansen's Application. The Public Hearing was opened and testimony was received from Applicant, Phyllis Hansen, wherein she stated that they would like to move to this area to be close to family. Chairman Manwaring confirmed with the Applicant that there are water rights and the ditch is right across the street. It was further explained that there are irrigation rights but currently there is not access to it. The Applicant confirmed that they have met with the Irrigation District and was informed that they will need to gain access to the water across the street. Chairman Manwaring confirmed there to be no testimony in opposition nor was there neutral testimony. At the conclusion of testimony, the Public Hearing was closed and discussion of the Board ensued.

The Board included in their discussion if the request for a zone change from "A" Agriculture to "R/A" Residential/Agriculture Zoning District complies with the purpose of the Residential/Agriculture "R/A" zone definition in Bingham County Code Section 10-4-2(C). The discussion contained the following:

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 that have:

Suitability of parcel for agricultural purposes:

The Board finds that with an "A" and "R/A" Zone, the biggest thing is preserving agriculture for raising of livestock or gardening. With this particular size of lot going from 3.81 acres to possibly two (2) lots, that leaves property to raise livestock or to have a garden.

Proximity to existing areas of similar population density:

The Board had no concern and felt this Application met this requirement.

Lot size compatible with existing lot sizes in the immediate area:

The Board finds that the lot sizes are compatible with the immediate area with residential use.

Compatible with the existing uses in the immediate area:

The Board finds that the lot sizes are compatible with the existing uses in the area and the property can still be used for raising livestock or having gardens.

Protection from incompatible uses:

The Board had no concerns regarding this matter and finds there would be no incompatible uses.

Accessibility to adequate utilities:

Chairman Manwaring stated that it is next to the utilities and the sewer line.

Commissioner Bair stated that there is access to utilities and that the Eastern Idaho Regional Waste Water Authority line is right in front of the property.

Therefore the Board finds that this application is accessible to adequate utilities.

Adequate service by roadways:

The Board finds that there is adequate service by roadways.

---BINGHAM COUNTY COMPREHENSIVE PLAN ---

The specific purpose of this Plan is to promote the health, safety and general welfare of the people of the county as follows:

The Board included in their discussion if the request for a zone change from "A" Agriculture to "R/A" Residential Agriculture complies with the specific purpose of Comprehensive Plan by promoting the health, safety and general welfare of the people of the County. The discussion contained the following:

To protect property rights, property values and the use of property:

The Board finds that the request does protect property rights and values.

To ensure that adequate public facilities and services are provided to the people at reasonable cost:

The Board finds that it has service by adequate roadways and that the EIRWWA line goes in front of the property.

To ensure that the economy of the county is protected and enhanced.

The Board finds that the request ensures that the economy of the county is protected.

To ensure that the important environmental features of the county are protected and enhanced:

The Board finds that the request will ensure that the environmental features of the County are protected and enhanced.

To encourage the protection of prime agricultural, forestry and mining lands for production of food, fiber and minerals:

The Board finds that the request encourages the protection of prime agriculture and added that the acreage is too small for an agro crop production.

To encourage urban and urban-type development within or near incorporated cities:

The Board finds that this Application poses no concern.

To avoid undue concentration of population and overcrowding of land:

The Board finds that this Application poses no concern.

To ensure that the development on land is commensurate with the physical characteristics of the land:

The Board finds that this Application poses no concern.

To protect life and property in areas subject to natural hazards and disasters

The Board finds that this Application poses no concern.

To protect fish, wildlife and recreation resources:

The Board finds that this Application poses no concern.

To avoid undue water and air pollution:

The Board finds that this application poses no concern.

To allow local school districts to participate in community planning and development to address school needs and impacts on an ongoing basis:

The Board finds that the local School Districts were given the opportunity to participate and there was no comment or concerns received.

IDAHO STATE CODE § 67-6509

The Planning & Zoning Department met the requirements of Idaho Code § 67-6509 because the Public Hearings for the Commission and the Board were noticed in the official newspaper a minimum of fifteen (15) days prior to the hearings, the Public Hearings notice were posted on the premises a minimum of one (1) week prior to the Hearings, and notices were provided to all property owners within 300 feet of the proposed project prior to the Hearings.

BOARD'S DECISION

In conclusion, based upon the testimony received at the Boards Public Hearing and the individual Reasoning and Decision of Law noted above, Commissioner Bair moved to approve the recommendation made by the Planning and Zoning Commission to allow the zone change for Neil & Phyllis Hansen from "A" Agriculture to "R/A" Residential/Agriculture on approximately 3.814 acres located at 1080 East 1400 North, Shelley, Idaho. Chairman Manwaring seconded. Both Commissioners voted in favor. The motion carried.

FURTHER PROCEEDINGS

Pursuant to Idaho Code Section 67-6535(2)(b) any 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.

Upon Board decision, 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 ordinances seek judicial review as provided by Chapter 52, Title 67, Idaho Code.

DATED this 30 day of April 2021.

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


Whitney Manwaring, Chairman

Jessica Lewis, Commissioner


Mark Bair, Commissioner