

RECEIVED
DEC 12 2008
LATAH COUNTY

1009 Tolo Trail
Moscow, ID 83843
December 12, 2008

RE: Rezone Application #780

Dear Latah County Planning and Zoning Commission:

I am writing this letter in opposition to the proposed rezoning described in Rezone Application #780. My opposition is based on many factors, but I am going to focus in this letter on my concern about the potential loss of more of our productive farmlands on the Palouse.

Our Palouse farms produce food that is consumed not only locally, but around the nation and around the world. By year 2050, the U.S. population is predicted to reach 420 million people (we're at 305 million now). That's an increase of about 38%. If we're going to feed that many more people, we can only do so if we have farmlands available to produce the food. We must protect our productive soils...our farmlands. Allowing productive farmlands to be rezoned for development on the Palouse will provide short-term gains for a few investors, but ultimately removes these acres from productivity...a long-term loss we can little afford as a community, a county and a nation.

A long-term focus on the preservation of agricultural lands is evident in the Latah County Comprehensive Plan and the criteria used in the County Ordinance to evaluate proposed zoning changes. Specifically, it says that a rezone shall be

1. in accordance with the goals and policies of the Comprehensive Plan
2. shall not be detrimental to or incompatible with the surrounding area, and the uses permitted in that area
3. must provide some public benefit that exceeds any costs imposed upon the public
4. shall not impose a significant burden to any public services
5. shall not be a spot zone

In December 2006, the Planning and Zoning Commission, faced with a nearly identical proposal for the same parcel of land (RZ application #731), found against that proposed rezone, largely because the proposal did not measure up to the criteria cited above. Among the many conclusions of law for that application is a statement (#6) that the "proposed development is located [on] land that has been in productive agriculture for the last 80 years and the proposed development would take the land out of production and is therefore not suitable for development." I see no significant difference in the current application that would alter such a conclusion.

As with the previous application, application #780 requests a rezone for only a portion of the parcel, 40 acres. But these acres are currently farmed and completely surrounded by additional



acres that are currently farmed. Testimony from Mr. Kyle Hawley (which you have on hand) states that the rezone is incompatible with agricultural uses, citing "dust, noise, spraying of pesticides, etc." Because of such incompatibility, one likely scenario to come out of such a rezone would be the loss of production from the entire 135 acres, not just the 40 acres...a significant loss, indeed.

The rezone application includes aerial photos of the landscape and a figure indicating the locations of houses in developments near the proposed rezone acres. If one overlays the one on the other, it is immediately apparent that the proposed rezone is completely on currently productive farmlands, whereas most of the existing homes are located in the forested area. They are not comparable lands and should not be treated as such.

There are many other reasons to oppose this rezone, including increased turning traffic off of and onto Highway 95 (posing increased risks of accidents), and increased road maintenance costs on Lewis and Foothill Roads. The area of the proposed rezone is highly used by wildlife species. Deer frequently congregate on these lands. Hawks, coyotes and moose are frequently seen these lands as well as an occasional bear. The establishment of houses and the increased noise and traffic they will bring will increase the fragmentation of our landscape to the detriment of these wildlife species.

A shocking statistic is that we lose two acres of farmland every minute of every day in this country (some of it the best farmland we have). This loss depletes one of our nation's most critical resources. With our nation's population continuing to increase, and the world's population continuing to increase, it is ever more critical to protect this resource for future generations.

At the risk of repetition, I urge you to find against this proposed rezone. Such a finding would be an inspiring use of the precautionary principle and a consistent application of the guiding principles spelled out in the county's Comprehensive Plan.

Thank you for taking my comments into consideration.

Sincerely,

Lauren Fins
1009 Tolo Trail
Moscow, ID 83843

Aimee Shipman

From: Richard Jacobs [rajacobsk@clearwire.net]
Sent: Sunday, December 14, 2008 10:47 AM
To: ashipman@latah.id.us
Cc: sid@uidaho.edu
Subject: proposal RZ780

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Dear Commissioners:

Once again an attempt to inveigle spot rezoning of productive agricultural land has encored following rejection in 2006. We oppose application #RZ780 based upon the following considerations:

1. Paucity of reliable water resources:
We already have had our well fail, and neighbors require holding tanks because of tepid recharge rates. Visions of orchards and high water use does not comport with the experience of those who reside in this region of thin water supply.
2. Application #780 appears to contradict the letter and spirit of the comprehension plan. Spot rezoning in effect would rob our county of another portion of productive farm land. This was documented in the previously rejected proposal in 2006.
3. The proposed application would disrupt wildlife populations. Bear, moose, deer, quail and wild turkey among others would be victim of this development.

Thank you for your kind consideration of this matter.

Sincerely,

Richard Jacobs, M.D.
Kathleen Jacobs

12/15/2008

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 52
Date: 12/17/2008

Aimee Shipman

From: Jarrod Nichols [JNichols@LatahRealty.com]
Sent: Monday, December 15, 2008 7:39 AM
To: Aimee Shipman
Subject: Fw: rezone 780

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DEC 15 2008
LATAH COUNTY

----- Original Message -----

From: Tod Kiblen
To: JNichols@latahrealty.com
Sent: Friday, December 12, 2008 9:16 PM
Subject: rezone 780

November 12, 2008

Latah County Zoning Commission
522 S. Adams
Moscow, ID 83843

Re: Rezone 780

Dear Zoning Commission:

It has been brought to my attention that Jarrod Nichols et al are in the process of rezoning rural property close to my home. I have enjoyed the luxury of living in the county without nearby neighbors for over 34 years and I also appreciate that others also have the right to do the same. I do favor smart growth and I feel that 4 homesites in the middle of 135 acres would not overpopulate the surrounding area. Currently rural land is taxed at a low value and doesn't generate very much tax money for Latah County. 4 new homes could generate \$12,000.00 to \$20,000.00 in taxes annually and Latah County would have very little in expenses. Latah County is always looking for ways to save money or generate more of it. Please give a thumbs up for rezone 780.

Thank you.

Very truly yours,

Tod Kiblen
4626 Hwy 95 N.
Moscow, ID 83843

12/15/2008

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 53
Date: 12/17/2008

Aimee Shipman

From: Jarrod Nichols [JNichols@LatahRealty.com]
Sent: Monday, December 15, 2008 10:32 AM
To: Aimee Shipman
Subject: Fw: Rezone Letter

RECEIVED
DEC 15 2008
LATAH COUNTY

----- Original Message -----

From: [mcgarvey](#)
To: [Jarrod Nichols](#)
Sent: Monday, December 15, 2008 10:27 AM
Subject: Rezone Letter

December 15, 2008

Latah County Zoning Commission:

I own 80 acres on Nearing Road, close to the proposed 135 acre parcel on Foothill Road. I am in favor of rezoning 40 acres of the 135 acre parcel of land from Agriculture/Forest to Rural Residential. This property is 1/4 mile north of the intersection of Foothill Road and Lewis Road, Moscow (Sections 16 & 17, Township 40N, Range 5, WBM, in Latah County.

Sincerely,
Karen (Nearing) McGarvey
Anchorage, AK

12/15/2008

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 54
Date: 12/17/2008



McPherson & Wright Drilling Water Wells

2246 Burrell Ave • Lewiston ID 83501 • (208) 743-7295

December 1, 2007

To whom it may concern,

Subject: Wells on 130 acres, Latah County

I have drilled hundreds of domestic wells in Latah and Whitman counties. Many of those wells are located in the Moscow Mountain area which includes the 130 acres under consideration. In that area the bedrock is granite and it is not uncommon for wells to have less than 5 gallons / minute. It is also not uncommon on 20 acres or less to drill two low productive wells >1 gallon/minute and one 75 gallons / minute.

It has been the practice by most drillers in the area to move to a second location in granite on one property. This practice is common because wells over 500 to 1000 feet apart rarely show interconnection in granite.

In my opinion I would question drilling two wells in granite in areas less than 5 acres. However, four wells in 130 acres will not affect each other nor surrounding areas.

Ted Wright

McPherson and Wright Drilling

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 55
Date: 12/17/2008

November 27, 2007

To whom it might concern,

Subject: Wells on 130 acres in Latah County

The 130 acres under consideration for domestic wells is located over granite bedrock. Typically ground water in granite rock is located in open fractures and/ or weathered zones. Solid granite stores very little water because the mineral grains are tightly interlocked. Open fractures and weathered zones in granite are rarely continuous over large areas.

Data from the numerous wells in granite in the Moscow Mountain area show a wide range of production rates produced by the conditions stated above.

The nature of the bedrock plus associated ground water in the Moscow Mountain area produces a positive and a negative situation. The negative is that there are some nonproductive wells and numerous low-yield wells. The positive is that interconnection over long distances is unlikely. Therefore, a well in granite that is productive and even overused, rarely affect low yield wells as long as they are not located to close to each other.

I'm a retired Geologist and have been giving advice on basalt and granite wells in the Moscow -Pullman area since 1967. I don't know what the "magic" number of acres per well in the granite. However, I strongly believe that 10-15 acres per well and 500-1,000 feet between wells is above the requirements to ensure the lack of interconnection. In my opinion 4 wells per 130 acres in granite bedrock will not impact surrounding areas.



John Bush

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 56
Date: 12/17/2008

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NOV 08 2006

LATAH COUNTY



November 8, 2006

Michael Hoffmann, PLS
 Terramark Incorporated
 213 S. Main St.
 Moscow, ID 83843

RE: Hydrogeology of Proposed Subdivision Area

Dear Mr. Hoffmann:

Terramark Incorporated of 213 South Main Street in Moscow, Idaho is requesting a rezone of approximately 36 acres in Sections 16 and 17 of Township 40 north, Range 5 west, in Latah County. The rezone, if granted, would allow for subdivision of the 36 acres into four lots. Nearby property owners have testified in opposition to the rezone, based on concerns regarding water supply to their wells. Some nearby property owners have reported that production from their wells has decreased over time.

This letter describes the hydrogeology of the subdivision area and addresses the concerns of nearby well owners regarding potential de-watering of their wells due to water resource development at the proposed subdivision. *In my opinion, it is unlikely that the development of four new wells in the proposed subdivision will have a measurable impact on existing wells in the area.*

Hydrogeology of Subdivision area

The proposed subdivision area is located near the base of Moscow Mountain, approximately 5 miles north of Moscow, Idaho. The subdivision area lies between Paradise Creek and Missouri Flat Creek. Bedrock in the area is mapped as undifferentiated Idaho Batholith (Bush et al., 1998; Rember and Bennett, 1979). These igneous intrusive rocks are referred to as "granite" on well driller's reports from wells drilled in the area. The bedrock is overlain by unconsolidated deposits that vary in thickness from 5 to 180 feet. Near-surface fractured rock forms the aquifer that homes in the area withdraw water from.

Granitic rocks such as those that occur at Moscow Mountain possess very little primary porosity and have limited capacity to store ground water. The mineral grains that comprise the rocks are interlocked, with very little pore space between the grains. Ground water in granitic rocks primarily occurs in and moves through secondary openings such as fractured and weathered zones in the rock (Trainer, 1988).

Weathering increases the water storage capacity of granitic rocks by creating a porous regolith that overlies un-weathered rock. Secondary openings resulting from jointing and fracturing increase the porosity and permeability of granitic rocks. The permeability imparted by weathering, jointing and fracturing generally decreases with depth. The ability of granitic rocks to produce water is dependent on the hydraulic characteristics of joints and fractures and the nature of the fracture network. The hydraulic characteristics that control water movement through fractures are aperture

LCZC Hrg: RZ780
 Applicant: BGB LLC.
 Exhibit #: 57
 Date: 12/17/2008

LCZC Hrg: RZ731
 Applicant: Terramark-
 Michael Hoffman
 Exhibit #: 33
 Date: 11/15/2006

● Page 2

November 8, 2006

(opening size) and roughness of the fractures. Fracture network characteristics that control water production are abundance and extent of fractures and joints, and the geometry of their occurrence.

The secondary permeability imparted by weathering, joints and fractures in the subdivision area is not evenly distributed. This fact is supported by the wide ranges of production and well depth reported in well driller's reports from the area. Production ranges from thirty to less than one gallon per minute and well depth from 129 feet to 710 feet.

Decreased production from water wells can be caused by mechanical problems with the well and/or by a decrease in the quantity of water available to the well (Driscoll, 1989). Production decreases can be caused by plugging of the openings that allow water to enter the well, either by sediments, mineral precipitation, bacterial growths, or combinations of all three. This plugging of the well can occur in the perforations in the liner or in the fractures in the rock. Production lost to mechanical plugging of wells can often be recovered through well rehabilitation measures.

Decreased production from wells can also be caused by decreased amounts of water available to the well. If the fracture network the well withdraws water from is of limited extent, the rate of water withdrawal may exceed the rate of recharge, and the amount of water available to withdraw from the fracture decreases over time. Essentially, the fracture dries up.

Pumping water from a well causes drawdown in the well and lowers the water table near the well. The amount of drawdown that occurs depends on the discharge from the well and the hydraulic characteristics of the aquifer the well is withdrawing water from. In low producing wells that withdraw water from low permeability fracture networks with limited extent, the drawdown caused by pumping is large but not widespread. In higher producing wells that are completed in more permeable fracture networks that extend over wider areas, the drawdown caused by pumping is smaller and is distributed over a larger area.

Conclusions

The construction of four new wells in the proposed subdivision is unlikely to have a measurable impact on existing nearby wells. It is more likely that decreases in production that have been reported by nearby well owners have been caused by mechanical plugging of well openings or well locations that intercepted fracture networks of limited extent with hydraulic characteristics that limit the ability of the well to produce water, rather than construction of additional wells in the area. It is unlikely that the drawdown caused by four new wells in the proposed subdivision will have a measurable effect on nearby wells.

● Page 3

November 8, 2006

Statement of Qualifications

John Monks received a Bachelor of Science degree in Geology in May of 1986 and a Master of Science degree in Hydrology in 1994, both from the University of Idaho in Moscow, Idaho. Mr. Monks is a Registered Professional Geologist (#916) in Idaho, and a Licensed Geologist/Hydrogeologist in Washington (#1891). Mr. Monks currently serves as Vice Chairman of the Idaho Board of Registration for Professional Geologists. Mr. Monks has twenty years of professional experience as a geologist and hydrogeologist. As owner and principal of Monks Hydro-Geoscience, Mr. Monks has considerable experience in characterizing the hydrogeology of and developing water resources in granitic and metamorphic rocks.

Sincerely,

**References Cited:**

- Bush, John H. and Andrew P. Provant, 1998, Bedrock Geologic Map of the Viola Quadrangle, Latah County, Idaho, and Whitman County, Washington. GEOLOGIC MAP 24, Idaho Geological Survey, Moscow, Idaho.
- Driscoll, Fletcher G., 1989, Groundwater and Wells, 2nd Edition. Johnson Filtration Systems, Inc. St. Paul, Minnesota.
- Rember, William C. and Earl H. Bennett, 1979, Geologic Map of the Pullman Quadrangle, Idaho. Geologic Map Series, Idaho Bureau of Mines and Geology, Moscow, Idaho.
- Trainer, F. W., 1987, Hydrogeology of the plutonic and metamorphic rocks, in Back, W., Rosenhein, J. S. and Seaber, P. R., eds., Hydrogeology: Boulder, Colorado, Geological Society of America, The Geology of North America, v. O-2.

To whom it may concern,

My name is Jeff DeMeerleer. I am a long time citizen of Latah County. I am writing this letter to support the proposed rezone on Lewis Rd. I feel this land and area are a prime candidate for the rezone #780.

Jeff DeMeerleer

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 58
Date: 12/17/2008

14 Dec 2008

Dear Zoning Board/Commissioners,

Last week I wrote a letter to the Board stating my strong advocacy for Agriculture on the Palouse. I spoke to the intrinsic, scenic, natural resource, utilitarian, and economic values of our Agricultural ground, all of which are supported by the tenets of the Comprehensive Plan, and would suffer degradation by the approval of this rezone.

I would like to impress upon the Board a few additional points in the interest of Agriculture. I am framing my comments around the agricultural aspect (note "forest" reference is in parentheses).

#1—Section 12 / "Land Use Element" states that this element is presented in the Comp Plan Map, and is representative of "the goals and policies of the Comp Plan" and "has been prepared to reflect the principles of protecting productive agricultural (and forested) areas and to identify suitable areas for future residential, commercial, or industrial development."

The designations of the map are:

1)**Productive** 2)**Rural** 3)Residential/Commercial/Industrial, & 4)Areas of Impact
My comments are in regard to the first two designations.

Definition for 1) "Productive" reads, ""this area is generally composed of **the most productive** agricultural (and forest) lands in the County. **This area should be protected from residential, commercial and industrial uses** which are not directly related to agriculture (or forestry), and **which may intrude upon existing use of the land for normal agricultural** (or forest) **practices.**"

Definition for 2)"Rural" (which is how this land is designated) --- "this area is generally composed of less agricultural (and forest) lands and contains low density residential development not directly related to agriculture. **This area should be protected from conversion to more concentrated residential, commercial or industrial development....**"

Combining the criteria from these two definitions seems appropriate for the subject area—highly productive soils in a segment acreage. Whether viewed separately, or melded together, the criteria signifying protection of agricultural land from development, in this case, clearly indicate the denial of the rezone.

#2---Section 14 / "Property Rights Element" --- The applicants assert that approval of the rezone will "ensure that Latah County's land use policies, regulations, and conditions **do not unreasonably impact the owner's economic interest in the effected parcel.**" It is known that the current owners of this land obtained it at Ag Land price. Therefore, it is not an unreasonable economic impact for them to receive Ag profits from this land.

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 59
Date: 12/17/2008

Also, the Comp Plan states, “ (#6) “Eliminate regulations or actions which would serve the purpose as directly prohibiting a land use, **unless the regulation or action clearly advances an articulated and legitimate public purpose.**”

1)Adoption of the rezone would ultimately prohibit agricultural land use.

2)The protection of Ag Land is well articulated in the Comp Plan.

3)There is no more legitimate public purpose than sustaining food and water resources.

Finally,

#3---The rezone proposal states “There are no identified special areas or sites of **historic**, archeological, architectural, geological, biological, or scenic significance on the subject property” as applies to **Section 9**—“**Special Areas Element**” of the Comprehensive Plan to recognize and preserve such sites.

In response to this, I would like to quote from **pg. 13 of the Comp Plan, under “Historical Perspective”**,

“The south and southwestern parts of the county, which are included in the Palouse region, have large farms, some of which have been in **one family for generations.**”

And,

“The rich soil of the Palouse hills is **legendary**. Farming, which began with diversified crops, is now mainly confined to wheat, dry pea and lentil crops (although now we should add garbanzo beans). Genesee and **Moscow** are two **centers of these rich farmlands.**”

We have an obligation to abide in these soils, and to support the continuation of the family and historical legacy they represent.

Sincerely,

Marilyn Beckett
Moscow

Aimee Shipman

From: CRAIG.KNOTT@usbank.com
Sent: Monday, December 15, 2008 3:49 PM
To: ashipman@latah.id.us
Subject: Rezone #780

Aimee - here is another letter (below) from Terri Guenther at Re-Max Connections real estate. - Craig

----- Forwarded by Craig D Knowlton on 12/15/2008 03:47 PM -----

"Terri Guenther" <tguenther@remax.net>
To: <tstroschein@latah.id.us>, <jnelson@latah.id.us>, <jbarrett@latah.id.us>
cc
12/15/2008 03:31 PM
Subject

Please respond to
<tguenther@remax.net>

To: Latah County Commissioners & Zoning Commission:

I am in support of the 40 acre re-zone off Lewis/Foothill Road, Moscow, ID from Ag/F to Rural Residential to create 4 home-sites.

Sincerely,

Terri Guenther

Terri Guenther, GRI



RE/MAX Connections
325 W. Third Street
Moscow, ID 83843
208-883-9700 office
208-301-2374 cell
866-509-3249 fax
tguenther@remax.net
www.homesinmoscow.com

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 60
Date: 12/17/2008

12/15/2008

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING A PETITION BY LEN MCCOY TO REZONE (RZ #754) 3.31-ACRES OF A 31.74-ACRE PARCEL OF LAND FROM AGRICULTURE/FOREST (A/F) TO RURAL RESIDENTIAL (RR). THE PROPERTY IS LOCATED EAST OF HIGHWAY 95 APPROXIMATELY FOUR (4) MILES NORTH OF THE CITY OF MOSCOW, IN SECTION 18, TOWNSHIP 40 NORTH, RANGE 5 WEST, B.M., IN LATAH COUNTY, AND REFERENCED AS ASSESSOR'S PARCEL NUMBER RP40N05W181968A.

WHEREAS, Len McCoy made application for rezoning on July 20, 2007; and

WHEREAS, this matter came before the Latah County Zoning Commission for public hearing on September 5th; and

WHEREAS, this matter came before the Latah County Board of Commissioners for decision on whether to accept the Zoning Commission's Findings of Fact and Conclusions of Law, or hold their own public hearing on said application on October 24th, 2007; and

WHEREAS, the Latah County Board of Commissioners elected to hold a public hearing; the public hearing was held December 10th, 2007 and continued to January 7th, 2008; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents,

THE BOARD OF LATAH COUNTY COMMISSIONERS, STATE OF IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:

I. FINDINGS OF FACT

1. The subject parcel is 31.74 acres. The applicant is requesting to rezone a 3.31-acre parcel to Rural Residential.
2. The subject parcel is zoned Agriculture/Forest (A/F). The surrounding properties are zoned Agriculture/Forest (A/F).
3. The existing uses of the parcel are residential and agriculture in that a portion of the subject property is currently in CRP. The surrounding uses include agriculture, forestry, and residential.
4. The subject parcel and neighboring parcels are designated "Rural" on the Latah County Comprehensive Plan map.

5. As set forth in Latah County Ordinance #269, the proposed rezone would no longer allow full-scale commercial agricultural operations and would only allow orchards, commercial fruit and vegetable gardening, plant nurseries and related horticultural operations, not including any processing or year round sales facilities related to the primary use of the property and animal husbandry not to exceed 10 animal units. It would also allow for a short-plat subdivision which would create eligibility for one additional residential building permit on the subject property which is the intent of the owner.
6. The Agriculture/Forest Zone allows a limited number of residential building permits. The subject property is the product of a land division on a 45-acre parcel within the Agriculture/Forest zone.
7. The applicant submitted written and oral testimony discussing a soil types map and a description of soil types in the area of the rezone application, stating that the proposed rezone area on the subject property consists of less productive soils and is therefore suitable for conversion from agriculture to development (Exhibit #22, Exhibit #32).
8. Mr. Charles Graham, representative for the applicant, submitted oral testimony that the soils in the proposed rezone area are well drained and less steeply sloped although the subject property does have steeply sloped areas. Mr. Graham also testified that there is no evidence of slope failures in the proposed rezone area.
9. The applicant testified that the proposed rezone area on the subject property abuts two higher density residential developments known as the Nearing Addition and Hideaway Hills which exist within the Agriculture/Forest zone. The applicant also submitted written and oral testimony that between forty-five and fifty homes currently exist within a one-mile radius of the subject property, including those within the adjacent Nearing Addition and Hideaway Hills (Exhibit# 12). It was shown that the average lot size of these parcels is between five (5) and seven (7) acres and that they are not conducting activities typical for the Agriculture/Forest zone.
10. Mr. Ed Button, Fire Chief for the Moscow Rural Fire District, submitted written testimony in support of the subject rezone request which stated that provided the proposed development complies with the 2003 International Urban-Wildland Interface Code requirements for fire department access roads (20 ft-width minimum), fire apparatus turn-around accommodation, and all-weather road surface (graveled road); the proposed property development would not have a negative impact upon the services provided by the Moscow Rural Fire District (Exhibit #21).
11. The subject property is accessed from a location on U.S. Highway 95 North. The Idaho Transportation Department conditionally approved an amendment to the applicant's current access permit to upgrade it to five single-family residences from one two-family residence, based on sight distance and ITD spacing criteria (Exhibit #26, 35). ITD did not take county zoning criteria into account in its decision (Exhibit #35).
12. Both the Zoning Commission and the Board of County Commissioners expressed concern that the area of the access road is unsafe due to the steep, hilly topography and the speed of travelling vehicles (Exhibit #5, 6, 9, 17). The Board found that concerns with the steepness of that stretch of road, the volume of traffic travelling upon, entering and exiting the road, and seasonal adverse road conditions

created safety requirements beyond the conditions placed upon the access permit by ITD. The Board found that Section 8.02.01.5 of Latah County Land Use Ordinance #269 requires that access onto Highway 95 requires a public road, because the ordinance does not permit a private driveway from a subdivision to enter directly onto state highways maintained by ITD, for safety reasons. The Board further found that a public road would provide improved signage and higher construction standards, which would address some safety concerns. The Board found that a public road would be eligible for funding which could be used to pay for improvements to the intersection, further reducing safety concerns. The Board further discussed traffic safety issues at the potential intersection of a new road and Highway 95. They felt there were still potential safety concerns of people pulling out and causing collisions.

13. The applicant testified that Mr. Graham, his legal representation, had drawn up a legal document which proportionally distributes driveway maintenance thereby enabling the five permitted residences to share driveway maintenance costs. The applicant further stated that if a property owner currently owns a property with a well but no home that individual will not have to help maintain the driveway until there is a dwelling on the property.
14. A neighboring property owner testified that he felt an additional residence would be advantageous for splitting driveway maintenance and snow removal costs.
15. Neighboring property owners testified that the area is known for deep, low producing wells but that people who choose to live in that area are aware of the water scarcity issues and manage to get by with the assistance of holding tanks and conservation measures.
16. A neighboring property owner whose property touches on the north end of the subject property testified that he had expressed objections at the Zoning Commission hearing for the proposed rezone based upon concerns about water and that he had mentioned a potential relationship between a new well which had been dug nearby and the loss of a neighbor's water in their well for one week.
17. The Commissioners discussed that the proposal would create the only parcel zoned rural residential within the general area, however they did not view this as a concern given the large number of smaller parcels adjacent to the subject property and that the character and use of the proposed rezone area and subsequent development would be consistent with the character and use of these adjacent smaller parcels.
18. It was discussed that the additional risks for wildfire related to the low well production in the area, the lack of water storage, and the number of smaller, forested residential properties adjacent to the subject property which were brought up by the Zoning Commission members during the hearing had been addressed by the written testimony of Ed Button in support of the proposed rezone (Exhibit #21).

**BASED ON THE FOREGOING FINDINGS, THE ZONING COMMISSION OF LATAH COUNTY
HEREBY MAKES THE FOLLOWING CONCLUSIONS:**

II. CONCLUSIONS OF LAW

1. The Community Design Element of the Comprehensive Plan seeks to ensure a pattern of planned growth which results in the orderly and attractive development of Latah County. Policy #5 encourages "low density residential development to occur in a pattern which minimizes both conflicts with existing land uses and public service costs." The existing use of the subject property is residential and CRP. The surrounding existing uses are primarily residential as the smaller parcel sizes characterizing the area limit prospects for agricultural and forestry production on adjacent parcels. The proposed rezone is consistent with this element, as the rezone to a higher residential density would be consistent with the size and character of use of parcels in the area.
2. The Population Element of the Comprehensive Plan seeks to ensure that population growth is accommodated in an orderly pattern and to limit higher density residential development to areas easily served by infrastructure and public services. The proposed development is consistent with adjacent residential densities.
3. The Housing element of the Comprehensive Plan seeks to encourage the development of a variety of housing types on land suitable for development. The proposed rezone and development is located on land that is currently in CRP however oral and written testimony was provided that the proposed rezone area is comprised of less productive soils and is therefore suitable for development and consistent with the Housing Element of the Comprehensive Plan.
4. The Economic Development element of the Comprehensive Plan seeks to protect agriculture and forestry lands from scattered development. Because this development is in an unproductive area, it will not be taking potentially productive agricultural or forest lands out of production, which makes this proposal consistent with this element.
5. The goal of the Public Services, Facilities and Utilities Element of the Comprehensive Plan is to provide an orderly pattern of development which will ensure adequate public facilities and services without excessive costs. No testimony was received that the required public services would involve excessive costs to the public. However, testimony was received concerning the poor water availability in the area and the Commissioners concluded that the potential for water scarcity is a characteristic of the area which is understood and acknowledged by residents. Testimony was given that residents in the area may be able to tolerate low well production with the assistance of holding tanks and conservation measures thereby mitigating potential costs of additional residential development to adjacent property owners. Additional testimony received from the Idaho Transportation Department and the Moscow Rural Fire District demonstrated that the proposed rezone and subsequent development are consistent with this element and that they would not involve excessive costs to the public for fire protection services or transportation. Moreover, a requirement for the proposed development to include a public road accessing Highway 95 will provide a public benefit by improving the existing infrastructure of the area.
6. The School Facilities and Student Transportation element of the Comprehensive Plan was determined to be not applicable to the proposed rezone.
7. The Transportation Element of the Comprehensive Plan seeks to promote an efficient and safe transportation system in Latah County. More specifically, policy #1 requires that access onto public roads will not disrupt traffic flow and that access is adequate for emergency response vehicles and

policy #2 of this element requires that the number of access points to state and federal highways be limited. The Commissioners discussed several public safety concerns associated with the road and the subject property's access point which intersects with US Highway 95. In order for the proposed rezone and subsequent development to be consistent with this element the Commissioners concluded that the Idaho Transportation Department's access approval for five residences was necessary but not sufficient and that requirements for the applicant to provide a public road accessing Highway 95 which must be accepted into the North Latah County Highway District's public road system and that the North Latah Highway District address safety concerns at the intersection will address most of their public safety concerns and rendered this proposal consistent with this element. Additionally, requiring a public road prior to allowing a subdivision will bring the development into compliance with Section 8.02.01.5 of Latah County Land Use Ordinance #269.

8. The Natural Resources element of the Comprehensive plan requires that there is sound stewardship of the County's natural resources. There were no natural resource concerns with this development, except for potential groundwater issues, which Policy #3 requires that the County maintain sustainable groundwater resources and prevent the degradation of groundwater quality. The Commissioners received testimony concerning the poor water availability in the area and the Commissioners concluded that the potential for water scarcity is a characteristic of the area which is understood and acknowledged by residents. Testimony was given that residents in the area may be able to tolerate low well production with the assistance of holding tanks and conservation measures thereby mitigating potential costs of additional residential development to adjacent property owners. The Board concludes that without additional scientific information on the water in this area, and with the possibility that the individuals living there could have storage to make up for poor water supplies, that the proposal was consistent with this element.
9. The goal of the Special Areas element of the Comprehensive Plan is to recognize and preserve special areas and sites of historic, archeological, architectural, geological, biological, or scenic significance. No special areas were identified as being at the location where this rezone was proposed.
10. The Hazardous Areas element of the Comprehensive Plan seeks to protect life and property from natural hazards. Policy #1 ensures the appropriate regulation of development in hazardous areas such as unstable slopes. The USGS 7.5 minute topographic map shows the subject property has steeply sloped areas however the applicant's representative testified that the soils in the proposed rezone area are well drained, less steeply sloped and that there was no evidence of slope failure. Therefore this proposal is consistent with this element's intent to minimize higher residential density in hazardous areas. Additionally, Policy #2 ensures that appropriate measures are used to minimize loss of property due to wildfire in rural developments. The Commissioners concluded that this proposal was consistent with Policy #2 due to the Moscow Rural Fire Department's testimony that the proposal would not burden its ability to provide fire protection services in the area.
11. The Recreation element of the Comprehensive Plan does not have any applicable goals or policies for the subject application.
12. The site is located within the Rural land use designation of the Comprehensive Plan Land Use Map. The proposed density is consistent with the land use element in that the rezone would allow a low density development in an area that is suitable for further low density residential development given the

surrounding parcel sizes and character of use in addition to the proposed rezone area's less productive soils.

13. The Board finds that county staff has made the efforts required to comply with the Implementation element of the Comprehensive Plan. The citizen participation was clear and advertised and staff provided a complete packet of information on the subject application and all exhibits received.
14. The Property Rights Element of the Comprehensive Plan seeks to protect property owners from policies and regulations that unconstitutionally violate private property rights. There was no testimony received regarding this element.
15. As required by §6.01.02(1) of the Latah County Land Use Ordinance, the Board of Latah County Commissioners has reviewed the proposal as it relates to the Latah County Comprehensive Plan. The Board of Latah County Commissioners concludes that this application, if conditioned to address traffic safety, is consistent, as a whole, with the goals and policies of the Latah County Comprehensive Plan.
16. As required by §6.01.02(2) of the Latah County Land Use Ordinance, the Board of Latah County Commissioners has reviewed the proposal and determined that the rezone is compatible with the surrounding area and the uses permitted in that area.
17. As required by §6.01.02(3) of the Latah County Land Use Ordinance, the Board of Latah County Commissioners has reviewed the proposal and determined that the rezone would not impose costs on the general public or to public services that exceed the benefits resulting from the proposed rezone.
18. As required by §6.01.02(4) of the Latah County Land Use Ordinance, the Board of Latah County Commissioners has reviewed the proposal and determined the rezone will not impose a significant burden to any public services.
19. As required by §6.01.02(5) of the Latah County Land Use Ordinance, the Board of Latah County Commissioners has reviewed the proposal and determined that the rezone is not a spot zone.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Latah County Board of Commissioners approves the application to rezone 3.31-acres of a 31.74-acre parcel from Agriculture/Forest (A/F) to Rural Residential (RR) with the following conditions to be set forth in a development agreement:

1. A public road must be provided that accesses the state Highway (US Highway 95) that the North Latah County Highway District has to accept into their public road system, which will be utilized by the lot this subdivision creates, prior to a short plat being allowed.
2. The North Latah County Highway District should address the safety concerns of the intersection of the new public road and Highway 95.
3. The rezoned property and any subsequent development will be in substantial compliance with the application as presented and the materials as submitted.

4. The rezoned property and any subsequent development will be in compliance with Federal, State and local regulations.

IV. REQUIRED LEGAL NOTICES

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

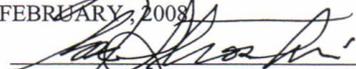
This decision is effective on the date passed and signed by the Latah County Board of Commissioners. This is a final action. An affected person aggrieved by this decision may, within twenty-eight (28) days after the effective date, seek judicial review as provided by Chapter 52, Title 67, Idaho Code.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight (28) days from the date of this decision as provided by Chapter 80, Title 67, Idaho Code.

PASSED BY THE BOARD OF COMMISSIONERS OF LATAH COUNTY THIS 13TH DAY OF

FEBRUARY 2008



Tom Strötschein, Chairman
Board of Latah County Commissioners

Aimee Shipman

From: Phil Garner [ppg@wsu.edu]
Sent: Tuesday, December 16, 2008 9:09 AM
To: ashipman@latah.id.us
Subject: Rezone Application RZ #780

Dear Zoning Commission,

As a resident of Moscow Mountain, I want to go on record AGAINST the proposed rezone. A rationale for OPPOSITION to this rezone has been clearly elucidated in a letter that my neighbor Marilyn Beckett has sent to you. I agree with her assessment. I have also read your rejection of the previous application to rezone this property (RZ #731). In my opinion, the current application does not overcome your previously stated objections and, therefore, should be rejected as a spot zone.

Sincerely yours,

Philip Garner
1069 Nearing Road
Moscow, ID 83843

--

Philip Paul Garner
Professor of Chemistry
Washington State University
Pullman, WA 99164-4630

phone: (509) 335-7620
fax: (509) 335-8867
email: ppg@wsu.edu
<http://garner.chem.wsu.edu/>

12/16/2008



Aimee Shipman

From: Jarrod Nichols [jnichols@latahrealty.com]
Sent: Tuesday, December 16, 2008 9:48 AM
To: Aimee Shipman
Subject: Fw: Letter of Support

----- Original Message -----

From: [Larry Leppelman](#)
To: [Jarrod at Latah Realty](#)
Sent: Tuesday, December 16, 2008 9:37 AM
Subject: Fw: Letter of Support

Dec. 16, 2008

Latah County Zoning Commission,

I am a long time resident of Latah County and currently live in a country setting. I feel rezone #780 is a great proposal and should be supported by the county. It's clear this area is a rural residential neighborhood and 4 home sites on 135 acres will not differ measurably from the many homes that surround it.

Sincerely,

Larry Leppelman
1040 Browns Lane
Pottlatch, ID 83855

FREE Emoticons for your email! [Click Here!](#)



12/16/2008

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 63
Date: 12/17/2008

December 13, 2008

Latah County Zoning Commission
522 S. Adams St.
Moscow, ID 83843

RE: Rezone #780

LATAH COUNTY
DEC 16 2008
RECEIVED

I am in support of the 40 acre rezone from Agricultural/Forest to Rural Residential north of Moscow. The owners have a well thought out plan that is in favor of the neighboring homeowners, the residents of Latah County and the new owners as well. They are designating a large parcel for nature conservations which allows for the current landscape to remain as well as offering a buffer between current and developed residences. I believe that rezone #780 will be a great addition to Moscow and the surrounding area.

Sincerely,

RAY MATSON

Ray Matson

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 64
Date: 12/17/2008

December 13, 2008

Latah County Zoning Commission
522 S. Adams St.
Moscow, ID 83843

RECEIVED

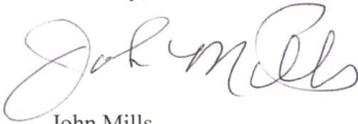
DEC 16 2008

LATAH CO

RE: Rezone #780

I am writing this letter in my support of rezone #780. I believe that developing the 40 acre Agricultural/Forest area to Rural Residential will be a positive addition to the north end of Moscow. The owners designated parcel for nature conservation will provide ample ground to conserve the historic rolling hills as well as create distance between homes to maintain the ambiance to the Palouse. The owners of this property have the best interests of the Latah County, the community, and the neighboring homeowners at heart and have put much thought into the planning of the development of this property.

Sincerely,



John Mills

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 65
Date: 12/17/2008

Aimee Shipman

From: Linda Spady [lspady@moscow.com]
Sent: Thursday, December 18, 2008 9:25 AM
To: ashipman@latah.id.us
Subject: Rezone application #780

Hello Ms. Shipman,
I am a resident at the dead-end of Foot Hill Rd. and want to comment on application #780 for rezoning of property that is in the Lewis Rd/Foot Hill Rd. area.
I believe it is best to leave that property as the quality producing farmland that it is and not tax the well water in this area or increase congestion. We have had to put two wells in and had to hydro fracture our second well not long ago due to decrease in water flow. Many people out here have had similar problems. Thanks you for considering this email.
Sincerely, Linda Spady

12/16/2008



Aimee Shipman

From: CRAIG.KNOTT@usbank.com
Sent: Wednesday, December 17, 2008 8:44 AM
To: ashipman@latah.id.us
Subject: letter of reference RP40N05W177230 RP40N05W165616

Aimee - a late arrival support letter for Rezone #780. This is from Rick Minard of Moscow Building Supply. -
Craig

----- Forwarded by Craig D Knott@USB on 12/17/2008 08:41 AM -----

"Rick Minard" <theminards@roadrunner.com> To <craig.knott@usbank.com>
cc
12/17/2008 08:09 AM Subject letter of reference RP40N05W177230 RP40N05W165616

In my line of work, I have people that are tired of paying so much for a city lot that is so small and expensive. I understand there may be a parcel north of town that may be able to be rezoned and chopped into 4 larger lots that would be affordable. My take on this would be that it may give people a nice option for \$\$ and value for a sizable lot. It's close to town and it sounds like it would be a very nice looking site(s). I also understand that the remaining land would be donated to as conservation land.

Yes, I'm in the building industry, but I think this rezone would make sense as potential homebuyers look for values in the future.

Regards

Rick Minard
Moscow Building Supply

U.S. BANCORP made the following annotations

Electronic Privacy Notice. This e-mail, and any attachments, contains information that is, or may be, covered by electronic communications privacy laws, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing this information in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.

12/17/2008



Aimee Shipman

From: Jarrod Nichols [JNichols@LatahRealty.com]
Sent: Wednesday, December 17, 2008 8:56 AM
To: Aimee Shipman
Subject: Fw: Letter of Support

"Eric Busch" <eric.busch@buschdist.com>

To <CRAIG.KNOTT@usbank.com>

cc

12/16/2008 05:25 PM

Subject FW: Letter of Support

To: Latah County Commissioners and Zoning Commission
522 S. Adams
Moscow, ID 83843

I am in support of the 40 acre rezone off Lewis/Foothill Rd. from AG/F to Rural Residential to create 4 home sites.

Eric Busch

12/17/2008

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 68
Date: 12/17/2008