

**NOTICE OF PUBLIC HEARING
BEFORE THE BOARD OF LATAH COUNTY COMMISSIONERS**

**Tuesday, March 31, 2009
5:00 p.m.**

The Board of Latah County Commissioners will hold a public hearing on Tuesday, March 31, 2009, in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

5:00 p.m. – **RZ #780** –A request by BGB LLC. to rezone 40-acres of a 135-acre parcel from Agriculture/Forest (A/F) to Rural Residential (RR). The property is located on Foothill Road, ¼ mile north of the intersection of Foothill Road and Lewis Road, Moscow, in Sections 16 and 17, Township 40 North, Range 5 West, B.M., in Latah County, and referenced as Assessor's Parcel Numbers RP40N05W177230A and RP40N05W165616A.

All interested parties are encouraged to attend the hearing. Accommodations for individuals who qualify under the Americans with Disabilities Act are available upon request. Notice is required in the Planning Office three working days prior to the hearing in order to acquire accommodations.

These hearings will be held pursuant to the Latah County Hearing Procedures Ordinance and under authority of the Idaho Local Planning Act, Latah County Comprehensive Plan, and the Latah County Land Use Ordinance. The Board of County Commissioners reserves the right to limit the length of testimony.

Written exhibits will be accepted at the Latah County Planning and Building Department no later than 5:00 p.m. on **Friday, March 20th**, 2009. Written exhibits will not be accepted after that time. Written comments, submissions, exhibits, videos, recorded audio, DVDs, PowerPoint presentations, slide shows, photographs, e-mails, and regular mail/submittals are all considered written exhibits. All PowerPoint and/or electronic presentations (excluding videos/movies) must also be submitted in printed form.

The applicant will be limited to one (1) hour for testimony/presentations and thirty (30) minutes for rebuttal. Regular testimony will be limited to seven (7) minutes per person.

Additional information on these requests, including full copies of the proposals, is available from the Planning Department at the Latah County Courthouse, Moscow, Idaho. Phone (208) 883-7220. Written comments will be accepted at the above office prior to the submission deadline.

Aimee Shipman
Associate Planner

(This is a public service announcement)

LATAH BOARD OF COUNTY COMMISSIONERS' EXHIBIT LIST

Public Hearing: Rezone from Agriculture/Forest to Rural Residential **Date:** March 31, 2009 **Time:** 5:00 PM

Applicant: BGB LLC

File #: RZ #780

EXHIBITS:

- Exhibit #1.** Staff Report
 - Exhibit #2.** Criteria Worksheet
 - Exhibit #3.** Latah County Comprehensive Plan and Vicinity Map
 - Exhibit #4.** Zoning Map
 - Exhibit #5.** Aerial Photo and Adjacent Property Owners Map
 - Exhibit #6.** U.S.G.S. 7.5 Minute Topographic Map
 - Exhibit #7.** Photos of Subject Property
 - Exhibit #8.** Latah County Zoning Commission Findings of Fact and Conclusions of Law for RZ 731
 - Exhibit #9.** Application Form (Submitted by Applicant)
 - Exhibit #10.** Applicant's Narrative (Submitted by Applicant)
 - Exhibit #11.** Aerial Photo Map with Proposed Rezone and Conservation Areas (Submitted by Applicant)
 - Exhibit #12.** Aerial Photo Map with Proposed Lots and Conservation Areas (Submitted by Applicant)
 - Exhibit #13.** Parcel Map with Proposed Rezone Area (Submitted by Applicant)
 - Exhibit #14.** Aerial Photo Map with Addressed Structures with a 6700 foot radius of Section 17 (Submitted by Applicant)
 - Exhibit #15.** Latah County Comprehensive Plan Land Use Map (Submitted by Applicant)
 - Exhibit #16.** Vicinity Map (Submitted by Applicant)
 - Exhibit #17.** Assessor's Plat Map (Submitted by Applicant)
 - Exhibit #18.** Latah County Short Plat Acknowledgement Form for School District (Submitted by Applicant)
 - Exhibit #19.** Letter from North Latah County Highway District to Brad Lewis dated July 29, 2008 (Submitted by Applicant)
 - Exhibit #20.** Letter from North Central District Health Department to Jarrod Nichols dated November 26, 2008 (Submitted by Applicant)
 - Exhibit #21.** Latah County Short Plat Acknowledgement Form for Sheriff (Submitted by Applicant)
 - Exhibit #22.** Letter to Brad Lewis from Palouse Land Trust (Submitted by Applicant)
 - Exhibit #23.** Email to Planning and Building Department from Kevin Clary received December 1, 2008
 - Exhibit #24.** Email to Planning and Building Department from Tom Besser and Kathleen Potter received November 29, 2008
 - Exhibit #25.** Letter to Latah County Zoning Commission from Emily Hurley received December 4, 2008
 - Exhibit #26.** Letter to Latah County Zoning Commission from Gary Tribble received December 5, 2008
 - Exhibit #27.** Letter to Planning and Building Department from Russell Spangler received December 5, 2008
 - Exhibit #28.** Letter to Planning and Building Department from Wes Carscallen received December 5, 2008
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 - Exhibit #31.** Email to Planning and Building Department from Sam Dial via Craig Knott received December 8, 2008
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- Exhibit #35.** Letter to Latah County Zoning Commission from Ben McLuen received December 8, 2008
- Exhibit #36.** Letter to Latah County Zoning Commission from Lani Lemmon received December 8, 2008
- Exhibit #37.** Email to Planning and Building Department from Brad Broenneke via Craig Knott received December 10, 2008
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- Exhibit #43.** Letter to Latah County Zoning Commission from David Germer received December 11, 2008
- Exhibit #44.** Email to Planning and Building Department from Sid Eder received December 11, 2008
- Exhibit #45.** Letter to Latah County Zoning Commission Concerning RZ 731 from William Elliott received October 26, 2006 (Requested by Sid Eder)
- Exhibit #46.** Letter to Latah County Zoning Commission Concerning RZ 731 from Kevin Brackney received October 30, 2006 (Requested by Sid Eder)
- Exhibit #47.** Copy of Powerpoint Presentation (Submitted by Applicant)
- Exhibit #48.** Email to Planning and Building Department from Sid Eder received December 11, 2008
- Exhibit #49.** Letter and Attachments to Latah County Zoning Commission Concerning RZ 731 from Dr. George Grader received October 31, 2006 (Requested by Sid Eder)
- Exhibit #50.** Email to Planning and Building Department from Kevin Driskill via Craig Knott received December 11, 2008
- Exhibit #51.** Letter to Latah County Zoning Commission from David Mendenhall received December 11, 2008
- Exhibit #52.** Letter to Latah County Zoning Commission from Cliff and Lynette Byers received December 11, 2008
- Exhibit #53.** Letter to Latah County Zoning Commission from Scott and Kelly Hall received December 11, 2008
- Exhibit #54.** Email to Planning and Building Department from Chanc Hiatt via Craig Knott received December 11, 2008
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- Exhibit #66.** Email to Planning and Building Department from Rick Whitmore received December 12, 2008
- Exhibit #67.** Email to Planning and Building Department from George Grader received December 12, 2008
- Exhibit #68.** Email to Latah County Zoning Commission from Kyle Hawley received December 12, 2008
- Exhibit #69.** Letter to Latah County Zoning Commission from Marilyn Beckett received December 12, 2008
- Exhibit #70.** Photo of Subject Property and Cropland Acreage Map Submitted by Marilyn Beckett
- Exhibit #71.** Letter to Latah County Zoning Commission from Lauren Fins received December 12, 2008
- Exhibit #72.** Email to Planning and Building Department from Richard and Kathleen Jacobs received December 15, 2008
- Exhibit #73.** Email to Planning and Building Department from Tod Kiblen forwarded via Jarrod Nichols received December 15, 2008
- Exhibit #74.** Email to Planning and Building Department from Karen McGarvey forwarded via Jarrod Nichols received December 15, 2008
- Exhibit #75.** Letter from Ted Wright of McPherson and Wright Drilling received December 15, 2008
- Exhibit #76.** Letter from John Bush received December 15, 2008
- Exhibit #77.** Letter to Michael Hoffman from John Monks dated November 8, 2006
- Exhibit #78.** Letter to Planning and Building Department from Jeff DeMeerleer received December 15, 2008
- Exhibit #79.** Letter to Latah County Zoning Commission from Marilyn Beckett received December 15, 2008
- Exhibit #80.** Email to Planning and Building Department from Terri Guenther forwarded via Craig Knott received December 15, 2008
- Exhibit #81.** Board of County Commissioners Findings of Fact and Conclusions of Law for Rezone #RZ754 (Submitted by Staff)
- Exhibit #82.** Email to Planning and Building Department from Philip Garner received December 16, 2008
- Exhibit #83.** Email to Planning and Building Department from Larry Leppelman forwarded via Jarrod Nichols received December 16, 2008
- Exhibit #84.** Letter to Latah County Zoning Commission from Ray Matson received December 16, 2008
- Exhibit #85.** Letter to Latah County Zoning Commission from John Mills received December 16, 2008
- Exhibit #86.** Email to Planning and Building Department from Linda Spady received December 16, 2008
- Exhibit #87.** Email to Planning and Building Department from Rick Minard forwarded by Craig Knott received December 17, 2008
- Exhibit #88.** Email to Planning and Building Department from Eric Busch forwarded by Jarrod Nichols received December 17, 2008
- Exhibit #89.** Vicinity Map with Rural Residential Zoning on Foothill Road (Submitted by Staff)
- Exhibit #90.** Staff Introduction for Latah County Zoning Commission Hearing for RZ 780 on December 17, 2008
- Exhibit #91.** Email to Planning and Building Department from Guy and Vera Nearing forwarded by Jarrod Nichols received February 20, 2009
- Exhibit #92.** Email to Planning and Building Department from Bill Caldwell received February 20, 2009
- Exhibit #93.** Email to Planning and Building Department from Robert Wrigley and Kim Barnes received March 3, 2009
- Exhibit #94.** Letter to Planning and Building Department from David and Lucy Mendenhall received March 6, 2009
- Exhibit #95.** Email to Planning and Building Department from Kevin Clary received March 6, 2009

BGB LLC.
REZONE APPLICATION #780
STAFF REPORT

SUMMARY OF APPLICATION:

A request by BGB LLC. to rezone 40-acres of a 135-acre parcel of land from Agriculture/Forest (A/F) to Rural Residential (RR). The property is located on Foothill Road, ¼ mile north of the intersection of Foothill Road and Lewis Road, Moscow, in Sections 16 and 17, Township 40 North, Range 5 West, B.M., in Latah County, and referenced as Assessor's Parcel Numbers RP40N05W177230A and RP40N05W165616A.

Site Characteristics:

Size of Parcel: 40-acres of a 135-acre parcel
Soils: Larkin silt loams, 12 – 35% slopes;
Southwick Silt Loam, 12 – 25% slopes;
Latahco-Thatuna silt loams, 0 – 5% slopes;
(Latah County Soil Survey Sheet #22)
Floodplain: Zone "C" (FIRM Panel #160086 0230B)

Land Use and Regulations:

Comprehensive Plan Designation: Rural
Existing Zoning: Agriculture/Forest (A/F)
Existing Uses: Agriculture
Neighboring Zoning: Agriculture/Forest (A/F)
Neighboring Uses: Agriculture, Residential

Infrastructure/Services:

Water: Proposed private wells
Sewer: Proposed private septic
Access: Foothill Road, North Latah County Highway District
Schools: Moscow School District
Fire Protection: Moscow Rural Fire District
Law Enforcement: Latah County Sheriff

EXHIBITS:

Exhibit #1. Staff Report
Exhibit #1A. Criteria Worksheet
Exhibit #1B. Latah County Comprehensive Plan and Vicinity Map
Exhibit #1C. Zoning Map
Exhibit #1D. Aerial Photo and Adjacent Property Owners Map
Exhibit #1E. U.S.G.S. 7.5 Minute Topographic Map
Exhibit #1F. Photos of Subject Property
Exhibit #1G. Latah County Zoning Commission Findings of Fact and Conclusions of Law for RZ 731
Exhibit #2. Application Form (Submitted by Applicant)
Exhibit #2A. Applicant's Narrative (Submitted by Applicant)
Exhibit #2B. Aerial Photo Map with Proposed Rezone and Conservation Areas (Submitted by Applicant)

RZ 780

STAFF REPORT

BOCC HRG: RZ 780
Applicant: BGB LLC.
Exhibit No. 1
Date: March 31, 2009

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 1
Date: 12/17/2008

- Exhibit #2C.** Aerial Photo Map with Proposed Lots and Conservation Areas (Submitted by Applicant)
- Exhibit #2D.** Parcel Map with Proposed Rezone Area (Submitted by Applicant)
- Exhibit #2E.** Aerial Photo Map with Addressed Structures with a 6700 foot radius of Section 17 (Submitted by Applicant)
- Exhibit #2F.** Latah County Comprehensive Plan Land Use Map (Submitted by Applicant)
- Exhibit #2G.** Vicinity Map (Submitted by Applicant)
- Exhibit #2H.** Assessor's Plat Map (Submitted by Applicant)
- Exhibit #2I.** Latah County Short Plat Acknowledgement Form for School District (Submitted by Applicant)
- Exhibit #2J.** Letter from North Latah County Highway District to Brad Lewis dated July 29, 2008 (Submitted by Applicant)
- Exhibit #2K.** Letter from North Central District Health Department to Jarrod Nichols dated November 26, 2008 (Submitted by Applicant)
- Exhibit #2L.** Latah County Short Plat Acknowledgement Form for Sheriff (Submitted by Applicant)
- Exhibit #2M.** Letter to Brad Lewis from Palouse Land Trust (Submitted by Applicant)
- Exhibit #3.** Email to Planning and Building Department from Kevin Clary received December 1, 2008
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- Exhibit #70.** Staff Introduction for Latah County Zoning Commission Hearing for RZ 780 on December 17, 2008

NOTE: Exhibits not included in the staff packet are available for review in the Planning Office, and will be entered into the record during the public hearing.

APPLICABLE STATUTE, ORDINANCE, AND COMPREHENSIVE PLAN SECTIONS:

Local Planning Act: Idaho Code 67-6511

Latah County Land Use Ordinance:

Section 3.01 Agriculture/Forestry Zone

Section 3.02 Rural Residential Zone

Article 6 Zoning Map Amendments

Latah County Comprehensive Plan

CRITERIA WORKSHEET

Note: This criteria worksheet does not represent staff analysis of information provided by the applicant supporters, or opponents; however, staff has identified policies which may be applicable to this particular request. Information submitted to the Planning Department prior to the mailing of the staff packet has been organized herein in relation to the applicable criteria for approval or denial. This worksheet is intended only to help identify if all relevant criteria have been addressed with supporting factual information and to provide a juxtaposition of any conflicting testimony that has been presented.

Type of Request:

Rezone

Description of Application:

A request by BGB LLC to rezone 40-acres of a 135-acre parcel of land from Agriculture/Forest (A/F) to Rural Residential (RR). The property is located on Foothill Road, ¼ mile north of the intersection of Foothill Road and Lewis Road, Moscow, in Sections 16 and 17, Township 40 North, Range 5 West, B.M., in Latah County, and referenced as Assessor's Parcel Numbers RP40N05W177230A and RP40N05W165616A.

Facts of application and the information submitted:

1) Section 6.01.01 requires that an application for a rezone be made by the owner of the affected property or the owner's authorized agent.

The application was signed and initially submitted by Brad Lewis, a representative of the applicant, BGB LLC, to the Planning and Building Department on July 30, 2008. It was determined technically complete by Planning and Building staff on November 19, 2008.

2) Section 6.01.02 states that the Zoning Commission may recommend Board approval of a rezone application if the Commission finds that the proposed rezone conforms to each of the following criteria:

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

BOCC HRG: RZ 780
Applicant: BGB LLC
Exhibit No. 2
Date: March 31, 2009

LCZC Hrg: RZ780
Applicant: BGB LLC
Exhibit #: 1A
Date: 12/17/2008

The Zoning Commission may recommend approval for rezone proposals that do not initially meet criteria 1-5, if the applicant can provide substantial mitigation through a written development agreement as provided by 6.01.03.4 of this ordinance. The Zoning Commission may also recommend approval for applications not meeting the criteria listed above, if the Commission finds that the rezone is essential to the public health, safety, or welfare.

3) Section 6.01.03.4 states the Zoning Commission may recommend, as a condition of approval, that the Board of Latah County Commissioners require the owner or developer to make a written Development Agreement concerning the use or development of the subject parcel as provided by 67-6511A, Idaho Code. The creation, form, recording, modification, enforcement, and termination of conditional commitments are governed as follows:

- A. The Board of Latah County Commissioners may require the developer to make a written commitment regarding the specific use and development of the subject property. If required by the Board, these commitments or conditions shall be considered part of the basis for approval.
- B. The terms of the written agreement shall be specified in the Board's written decision. If the Board adopts the decision of the Zoning Commission, it shall also adopt the Zoning Commission's recommended conditions for approval. The conditions imposed shall be limited to requirements necessary to ensure that the application meets the criteria of 6.01.02.
- C. Prior to adoption of the zoning map amendment, the agreement shall be submitted to the Board as a written development agreement that enumerates and describes the conditions for approval. This agreement must include the following
 1. The responsibility of current and subsequent property owners to comply with the terms and conditions.
 2. The statement that failure to meet those terms will result in enforcement proceeding against the applicant and/or reversions of the property to its former designation.
 3. The statement that this agreement shall be deemed written consent that upon determination by the County that the conditions of approval are not being met, the property be reverted to its original zoning designation and all uses not consistent with that designating shall be considered a violation of this ordinance
 4. Notarized signatures of the applicant and the property owner(s).
 5. Notarized signature of the chairperson of the Board of Latah County Commissioners. The Board shall only authorize the Chairman to sign the document if it is determined that the document meets the terms specified for the written agreement as well as the requirements specified in this paragraph.

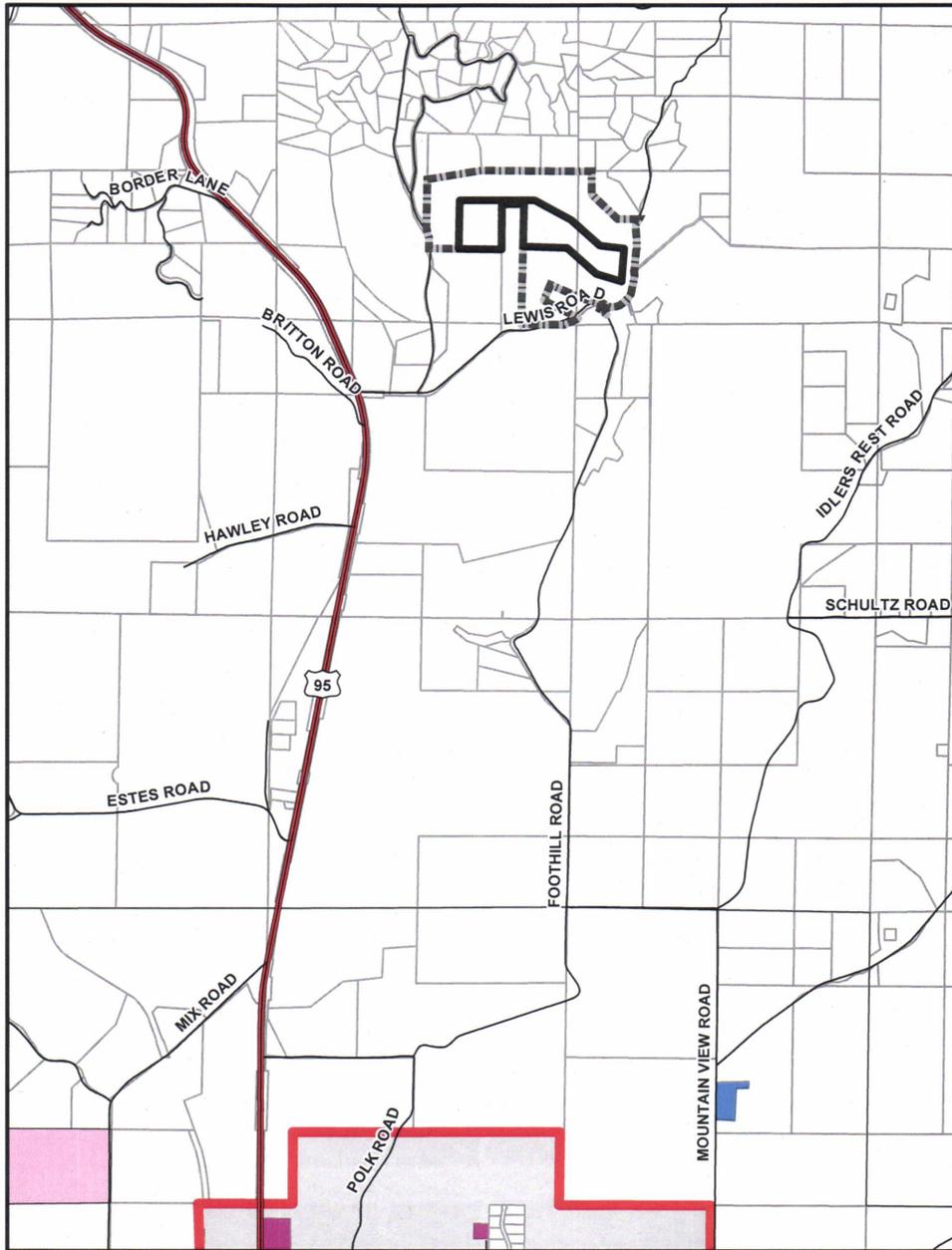
- D. Once signed by all parties, the applicant shall have the document recorded in the Latah County Recorder's Office. The Board of Latah County Commissioners shall not adopt the zoning map amendment until the document has been recorded by the applicant. Once recorded, the Board shall adopt, by ordinance, an amendment to the zoning map. This amendment shall reference the development agreement and shall provide that the zoning map be designated in a manner that indicates that the new zoning designation had been assigned specific conditions.
- E. The agreement shall remain in effect until formally modified or terminated by the Board of Latah County Commissioners, or the property is rezoned. The agreement may be terminated or modified by the Board with the written permission of the current property. Prior to termination or modification, at least one public hearing shall be conducted in accordance with the notice and procedural provision for a rezone application. Nothing in this Section shall prevent the Board from rezoning a property subject to these agreements after four years from the date of approval, or under the restriction set forth in Title 67, Chapter 65, Idaho Code.

Additional Information

In 2002, Richard Whitmore applied for a land division (LD02-036) on a 308-acre parcel owned by Claudine Lewis. The land division created a 5.91-acre buildable parcel and left an approximately 302-acre remainder buildable parcel. The new parcel was conveyed to Richard Whitmore. In 2004, the remainder property was transferred to Richard Whitmore and Lynette Jordan through the estate of Ms. Lewis. Lynette Jordan then quitclaimed her 1/2 interest to Mr. Whitmore. The portion of the property that was located south of Lewis Road in sections 20 & 21 was then deeded to Charlene Connelly thru the estate of Ms. Lewis, which created a new existing parcel. The building permit for the parcel north of Lewis Road that was owned by Mr. Whitmore was transferred to a 10-acre parcel and deeded to Thomas Besser and Kathleen Potter. This left Mr. Whitmore with an unbuildable parcel of 135 acres. This 135-acre parcel, that is the subject of this rezone, is not eligible for any other land divisions.

Additionally, in 2006 this 135-acre parcel was the subject of a similar rezone request (RZ 731). At that time the Latah County Zoning Commission recommended denial of the rezone application based upon lack of consistency with the goals and policies of the Comprehensive Plan; incompatibility with the surrounding area and the uses permitted in that area; likely imposition of costs on the public that exceed the benefits; imposition of significant burden on public services; and the determination that the rezone would constitute a spot zone.

RZ # 780 Zoning Map



Legend

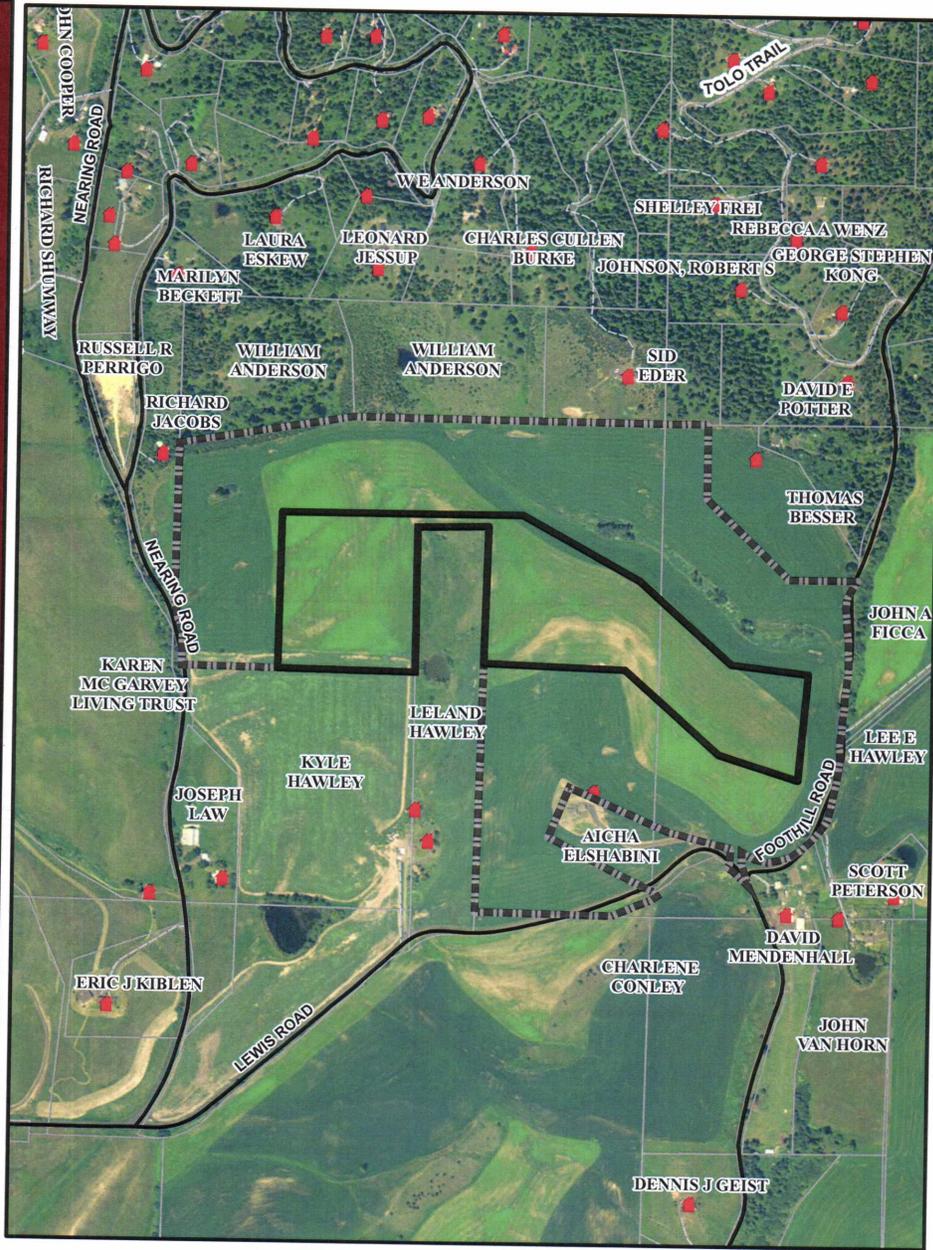
- modifications selection 2
- modifications selection
- Moscow Area of Impact Boundary
- Rural Residential - Minimum 3
- Rural Residential - Minimum 1
- Agriculture / Forestry (Moscow Area of City Impact)
- Agriculture / Forest
- Parcels
- Suburban Residential (Moscow Area of City Impact)



BOCC HRG: RZ 780
 Applicant: BGB LLC.
 Exhibit No. 4
 Date: March 31, 2009

LCZC Hrg: RZ780
 Applicant: BGB LLC.
 Exhibit #: 1C
 Date: 12/17/2008

RZ #780 Adjacent Property Owners



Legend

-  Proposed Rezone area
-  Subject Rezone Parcel
-  Location of Structures
-  Parcels



BOCC HRG: RZ 780 Applicant: BGB LLC Exhibit No. 5 Date: March 31, 2009	LCZC Hrg: RZ780 Applicant: BGB LLC. Exhibit #: 1D Date: 12/17/2008
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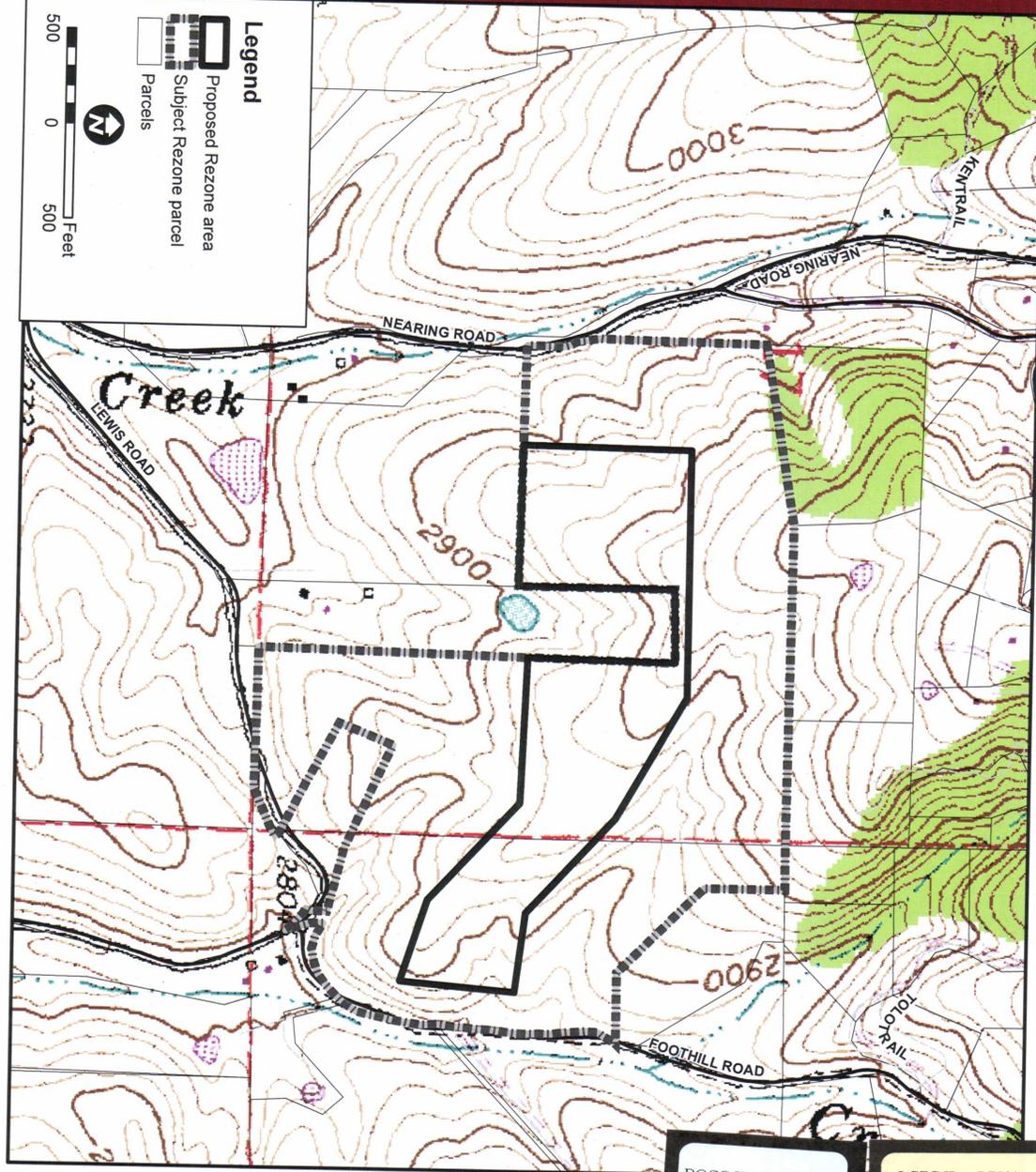


RZ #780 7.5 Minute Quad Topographic Map

Legend

- Proposed Rezone area
- Subject Rezone parcel
- Parcels

500 0 500 Feet



BOCC HRG: RZ 780
 Applicant: BGB LLC
 Exhibit No. 6
 Date: March 31, 2009

LCZC Hrg: RZ780
 Applicant: BGB LLC.
 Exhibit #: 1E
 Date: 12/17/2008

PHOTOS OF SUBJECT PROPERTY



BOCC HRG: RZ 780
Applicant: BGB LLC.
Exhibit No. 7
Date: March 31, 2009

LCZC Hrg: RZ780
Applicant: BGB LLC.
Exhibit #: 1F
Date: 12/17/2008



**BEFORE THE ZONING COMMISSION
COUNTY OF LATAH, STATE OF IDAHO**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING A PETITION BY TERRAMARK-MICHAEL HOFFMAN TO REZONE (RZ #731) APPROXIMATELY 36-ACRES OF A 135-ACRE PARCEL OF LAND FROM AGRICULTURE/FORESTRY (A/F) TO RURAL RESIDENTIAL (RR). THE PROPERTY IS LOCATED ON FOOTHILL ROAD, ¼ MILE NORTH OF THE INTERSECTION OF FOOTHILL ROAD AND LEWIS ROAD, MOSCOW, IN SECTIONS 16 AND 17, TOWNSHIP 40 NORTH, RANGE 5 WEST, B.M., IN LATAH COUNTY, AND REFERENCED AS ASSESSOR'S PARCEL NUMBERS RP40N05W177220A AND RP40N05W165606A.

WHEREAS, Michael Hoffman made application for rezoning on September 22, 2006; and

WHEREAS, this matter came before the Latah County Zoning Commission for public hearing on November 1st and was continued until November 15th, 2006; and

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

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

I. FINDINGS OF FACT

1. The subject parcel is 135 acres.
2. The subject parcel is zoned Agriculture/Forestry (A/F).
3. The applicant requests to rezone thirty-six (36) acres from Agriculture/Forestry (A/F) to Rural Residential (RR) to create four additional residential building sites.
4. The surrounding properties are zoned Agriculture/Forestry (A/F).
5. The subject parcel is designated "Rural" on the Comprehensive Plan Land Use Map. The Comprehensive Plan states, "This area should be protected from conversion to more concentrated residential, commercial, or industrial development; however, sites within this area may be suitable for consideration for further low density residential development."
6. Surrounding uses include agricultural, timber and residential.

7. The existing use of the parcel is agriculture. Neighboring property owners testified that the property has been farmed continuously for 80 years.
8. The North Latah County Highway District (NLCHD) submitted written testimony that the proposal, if approved, would be required to dedicate an appropriate and sufficient amount of public right-of-way for public highway purposes, be made responsible to pay for and/or construct, as the District may determine, any access and/or public highway improvements occasioned by the Applicant's development of the rezoned property. The letter also states that the NLCHD would prefer one proposed access onto Foothill Road (Exhibit #11).
9. The Idaho Department of Transportation (IDT) submitted written testimony that they would call upon NLCHD for left and/or right turn lanes to accommodate the increased traffic from the local road approach at the intersection of Lewis Road and Highway 95 North (Exhibit #26).
10. The applicant submitted written testimony from the Latah County Sheriff's Department stating that they do not anticipate a significant impact or cost to the public for providing services to the proposed residential sites. The North Central District Health Department submitted written testimony stating the property could support additional subsurface septic systems for single-family dwellings on 5- to 6-acre parcels. No testimony was submitted from the Moscow Rural Fire District or Moscow School District on potential impacts of the proposed residences on those public services.
11. There was testimony that there are several smaller, non-adjacent properties further to the north of the proposed rezone.
12. Neighboring property owners testified the primary objective of the Latah County Comprehensive Plan is to protect lands designated for agricultural uses from development and they testified regarding the conflicts of this proposal with said policy. Specifically, they testified the rezone would be a spot zone, and they stated the proposal would remove agricultural land from production and would convert agricultural land into residential land.
13. Neighboring property owners testified that the residential properties to north of the proposed rezone were not previously in agricultural production because of topographic constraints and presence of less productive soil. Additionally, they testified that the topography of the land directly north of the proposed rezone is drastically more steep and rocky, and is comprised of timber land, which is not conducive for agriculture.
14. Neighboring property owners testified that the granting of this proposal would encourage other land owners in the vicinity to rezone their properties, which are currently in agricultural production, to a higher-density residential zoning. They testified that approval of this application would set a precedent allowing neighboring property owners to rezone their properties, and that this is wholly inconsistent with the Comprehensive Plan which seeks to encourage growth in existing cities or areas likely to be annexed into existing cities.

15. Neighboring property owners testified the proposed development is a departure from the current pattern of residential development adjacent to the north boundary of this property. The proposed development is for four new home sites, each with a minimum of five acres. There is currently only one residence located on the parcels directly to the north of the proposed development. The properties that abut the proposed rezone to the north are greater than 17-acres in size and are owned by two owners, Sid Eder and William Anderson. Sid Eder owns a 17-acre parcel, which is comprised of three tax parcels, and has one residence on the property. William Anderson owns a 54-acre parcel comprised on five tax parcels with one residence on the property.
16. The applicants' property is located within the "Rural" designation on the Comprehensive Plan Land Use Map. Testimony was given that the incremental development of this area, which has been farmed continuously for 80 years, promotes a scattered pattern of growth that is inconsistent with the goal of protecting this area from conversion to more concentrated residential, commercial or industrial development.
17. Neighboring property owners testified that the addition of more residences would negatively affect existing uses, cause roadway damage due to the increased traffic off of Highway 95 North onto Lewis Road and onto Foothill Road, and cause more accidents on the corner of Highway 95 and Lewis Road.
18. Neighboring property owners testified that the proposed rezone would be a departure from the current zoning designation of adjacent properties, which are zoned Agriculture/Forestry, the allowed land uses, other adjacent land uses which are predominately agricultural uses, and the other adjacent parcel sizes which are larger than those new parcels in the proposed rezone.
19. Testimony was given that the additional residential properties would cause problems for adjacent agricultural operations. It was stated that the occupants of the new residences close to agricultural production areas commonly complain about noise, dust, smoke and pesticide use, all of which are common in this area and common in the current zoning designation for this and adjacent properties.
20. Testimony was given that the property is currently in agricultural production and that all of the soil on the property is comprised of highly productive dry-land soils. Neighboring property owners testified that once agricultural land is taken out of production and homes are placed on the property it is not possible to return the land to agricultural production. Additionally, they testified that taking land out of agricultural production and converting it to housing would have a detrimental effect on the area's agrarian economy.
21. Testimony was given that this proposal would be considered a spot zone due to the inconsistency with adjacent parcel sizes and the allowed uses, and the fact that the physical characteristics of this property make it uniquely different from non-adjacent property located further north that has smaller parcel sizes.

**BASED ON THE ABOVE FINDINGS OF FACT, THE ZONING COMMISSION ENTERS
THE FOLLOWING:**

II. CONCLUSIONS OF LAW

1. The Community Design Element of the Latah County Comprehensive Plan seeks to ensure a pattern of planned growth which results in the orderly and attractive development of Latah County. There was discussion that the proposed rezone is not consistent with this element, as the rezone conflicts with existing agricultural activities that abut the site to the south and west and that the property is currently and has been farmed for the last 80 years.
2. The Population Element of the Latah County Comprehensive Plan seeks to ensure that population growth is accommodated in an orderly pattern. The non-adjacent area with residences to the north of the proposed development were described as being a better fit for residences due to the topographic change in character from the agricultural lands to the south and west. Additionally, the property is currently in productive agriculture and the proposed development would take the land out of production. This element of the Comprehensive Plan also seeks to encourage growth in existing cities or areas likely to be annexed into existing cities. The proposed development is not near any incorporated area or existing public services and therefore has no chance of being annexed.
3. The Economic Development Element seeks to promote economic diversification, foster agriculture and forestry, as well as provide for land uses appropriate to local and regional economic needs. There was discussion that the proposal conflicts with this element as the site is almost entirely bounded by agricultural land currently in production.
4. The goal of the Public Services, Facilities and Utilities Element of the Latah County Comprehensive Plan is to provide an orderly pattern of development which will ensure adequate public facilities and services without excessive costs. The applicant received written testimony from the Latah County Sheriff's Department stating that the proposed rezone will not result in excessive costs in providing services to the site. The North Central District Health Department submitted written testimony stating the property could support additional subsurface septic systems for single-family dwellings on 5- to 6-acre parcels. The Idaho Department of Transportation (IDT) submitted written testimony that they would call upon NLCHD for the necessary highway improvements (left and/or right turn lanes) at Highway 95 and Lewis Road to accommodate the increased traffic from the local road approach which could result in excessive costs to the public.
5. The Transportation Element seeks to promote an efficient and safe transportation system in Latah County. Written testimony from the NLCHD stated that they would require the Applicant to dedicate an appropriate and sufficient amount of public right-of-way for public highway purposes, be made responsible to pay for and/or construct, as the District may determine, any access and/or public highway improvements occasioned by the Applicant's development of the rezoned property. The Idaho Department of Transportation (IDT) submitted written testimony that they would call upon NLCHD for the necessary highway improvements (left and/or right turn

lanes) at Highway 95 and Lewis Road to accommodate the increased traffic from the local road approach which could result in excessive costs to the public.

6. The Housing Element seeks to encourage the development of a variety of housing type so land suitable for development. The proposed development is located 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.

7. The School Facilities and Student Transportation, Special Areas, Hazardous Areas, Implementation, and Recreation Elements of the Comprehensive Plan were determined to be not applicable to the proposed development.

8. The Comprehensive Plan seeks to preserve agricultural and forest lands to ensure the continued viability of agriculture and forest based economy. The proposed development of four new residential sites on this property would take agricultural land in production out of production, which is not in accordance with the objectives of the Comprehensive Plan.

9. The Comprehensive Plan seeks to cluster housing of higher density residential uses in and around areas with adequate public services. The proposed development is scattered away from any existing public services and/or any cites and is on productive agricultural land, which is not in accordance with the objectives of the Comprehensive Plan.

10. As required by §6.01.02(1) of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal as it relates to the Latah County Comprehensive Plan. The Zoning Commission concludes that this application is not consistent with goals and policies of the Latah County Comprehensive Plan.

11. As required by §6.01.02(2) of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone is not compatible with the surrounding area and the uses permitted in that area.

12. As required by §6.01.02(3) of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone will impose some costs upon the public that exceed the benefits.

13. As required by §6.01.02(4) of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone will impose a significant burden to any public services.

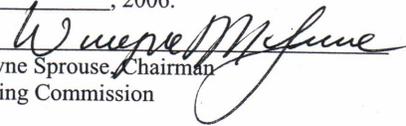
14. As required by §6.01.02(5) of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone is a spot zone.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Zoning Commission recommends to the Latah County Board of Commissioners denial of the application to rezone the subject property from Agriculture/Forestry (A/F) to Rural Residential (RR).

PASSED BY THE ZONING COMMISSION OF LATAH COUNTY THIS 6 DAY OF

Dec., 2006.


Wayne Sprouse, Chairman
Zoning Commission