

**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 BGB LLC. TO REZONE (RZ #780) APPROXIMATELY 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.**

WHEREAS, BGB LLC. made application for rezoning on November 19, 2008; and

WHEREAS, this matter came before the Latah County Zoning Commission for public hearing on December 17<sup>th</sup>, 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/Forest (A/F).
3. The applicant requests to rezone forty (40) acres from Agriculture/Forest (A/F) to Rural Residential (RR) to create four additional residential building sites with lots ranging in size from 7 acres to 15 acres. As rural homesites these lots are subject to increased assessed valuation and associated tax revenue. The remaining ninety-five (95) acres will remain in Agriculture/Forest.
4. The surrounding properties are zoned Agriculture/Forest (A/F).
5. Surrounding uses include agricultural, timber and higher and lower density residential.
6. 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.”

7. The existing use of the parcel is agriculture and it is currently in agricultural production.
8. The applicant’s submission materials included an aerial photograph map showing one hundred and nine (109) addressed structures within a 6700 foot or approximate 1 ¼ mile radius of Section 17 in which the subject property is located (Exhibit #2E).
9. The applicant’s representative, Jim Westberg, testified that the proposal will implement conservation design principles by providing low density housing while conserving farmland and the environment.
10. 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. 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 and food production capability. Testimony was also given that the additional residential properties would cause problems for adjacent agricultural operations.
11. Jim Westberg, the applicant’s representative, testified that the subject property lies south of the Nearing 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Additions and Tatkinmah Phase 1 and 2 and east of Hideaway Hills Addition which are all existing higher density rural subdivisions. He further stated that the subject property’s close proximity to this higher density housing is indicative of the area’s residential character.
12. Jim Westberg testified that the fifty-two (52) acres north of the proposed rezone area on the subject property are proposed to be donated to the Palouse Land Trust at the time of short plat approval. The Board of Directors of the Palouse Land Trust submitted written testimony formally confirming acceptance of the proposed donation of fifty-two acres of the subject property with assurances that the property will remain undeveloped, and to the extent possible, will remain in agricultural production (Exhibit #2M).
13. Jim Westberg further stated that the forty-three acres to the south of the proposed rezone area on the subject property will be designated a conservation area via a conservation easement and will be protected from further residential development. Mr. Westberg also stated that the applicant would retain drilling rights on the forty-three acres due to concerns about the wells on the four proposed lots (Exhibit #2B).
14. Jim Westberg testified that the proposed development would include covenants on the potential lots that would include residential construction to green building standards; 2,000 gallon water holding tanks on each lot regardless of well production; underground utilities; residences constructed to architectural committee standards; no open burning; no livestock or

livestock fencing; and xeriscaping requirements to reduce water usage (Exhibit#27). The proposed covenants also include the establishment of an architectural committee which will oversee conformity with building codes required by Latah County and the public health standards of the North Central District Health Department

15. The proposed four (4) lots will have private wells and septic systems.
16. John Bush, a retired geologist, submitted written testimony stating that the subject property is located over granite bedrock and that typically ground water in granite rock is located in open fractures and/or weathered zones. In his testimony he further stated that open fractures and weathered zones in granite are rarely continuous over large areas therefore in his opinion four wells per 130 acres will not impact the surrounding areas (Exhibit #56).
17. The applicant's submission materials included written testimony from John Monks, a licensed geologist in Washington and Idaho, which stated that due to the ground water storage characteristics of granitic rock the construction of four new wells in the proposed subdivision is unlikely to have a measurable impact on existing nearby wells (Exhibit #57).
18. 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 of the three possible accesses to the property (Foothill, Lewis, and Nearing Roads) the NLCHD Board of Highway District Commissioners would prefer only one of them to be used and that it be the only access to the property if rezoned (Exhibit #2J).
19. 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 subsurface septic systems for single-family dwellings on the large proposed lots. The Moscow School District submitted written testimony that they do not anticipate the proposed residential sites would result in adverse impacts upon existing service capabilities or the finances of the jurisdiction. No testimony was submitted from the Moscow Rural Fire District on potential impacts of the proposed residences on those public services.
20. Neighboring property owners testified that they had low producing wells and expressed concerns about the potential impacts to water supply from four additional residences.
21. 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, 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.

**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 about the proposed rezone's consistency with this element, as existing agricultural activities abut the site to the south and west and the property is currently and has been farmed for the last 80 years. This element encourages low density residential development to occur in a pattern which minimizes conflicts with existing land uses and public service costs. The proposed four lots will range from a minimum of 7-acres to a maximum of 15-acres which is consistent with low density residential development. In addition, the remaining 95 acres of the subject property will remain in Agriculture/Forest and will be able to remain in agricultural production. This element also seeks to encourage landscaping of new developments to protect the existing character of the surrounding area and to preserve the rural character of Latah County. This proposal is consistent with these policies as the proposed lot sizes are lower density than the existing higher density residential developments. Additionally, the proposal includes commitments to donate 52 acres to the Palouse Land Trust with an option to continue farming operations and to retain 43 acres in a conservation easement for open space and the option to continue conventional agricultural uses.

2. The Population Element of the Latah County Comprehensive Plan seeks to ensure that population growth is accommodated in an orderly pattern. There was discussion that the area in proximity to the subject property has evolved towards residential development and that the proposed development's low residential density would be consistent with accommodating growth in an orderly pattern as the proposed mix of residential, open space, and agricultural use is compatible with the character of the surrounding properties.

3. The Housing Element seeks to ensure an adequate and attractive living environment to meet the needs of residents of different ages, family sizes, lifestyles, and income levels. The proposed development will include covenants which will include requirements for energy efficiency, water storage, fire prevention and open range. These requirements are also consistent with another policy of this element which is to encourage the construction of energy efficient housing. This element also seeks to ensure public safety by requiring all residential construction to conform with building codes and public health standards. The proposed development will include the establishment of an architectural committee which will oversee conformity with building codes required by Latah County and the public health standards of the North Central District Health Department.

4. 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. The proposed development will provide four additional rural homesites which increases the assessed valuation of the subject property and associated tax revenue while leaving 95-acres in Agriculture/Forest which would allow for the continuation of existing agricultural uses.

5. 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 proposed lots will have private wells and septic systems which will not result in excessive costs to the public. The North Central District Health Department submitted written testimony stating the property could support additional subsurface septic systems for single-family dwellings on the large proposed lots. The Moscow School District submitted written testimony that they do not anticipate the proposed residential sites would result in adverse impacts upon existing service capabilities or the finances of the jurisdiction.

6. The Transportation Element seeks to promote an efficient and safe transportation system in Latah County. The 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 of the three possible accesses to the property (Foothill, Lewis, and Nearing Roads) the NLCHD Board of Highway District Commissioners would prefer only one of them to be used and that it be the only access to the property if rezoned which is consistent with the Transportation Element policy to ensure that access onto public roads will not disrupt traffic flow.

7. The School Facilities and Student Transportation Element seeks to minimize the adverse effects of new residential development on school facilities and student transportation. The Moscow School District submitted written testimony that they do not anticipate the proposed residential sites would result in adverse impacts upon existing service capabilities or the finances of the jurisdiction therefore the proposed development is consistent with this element.

8. The Natural Resource Element seeks to ensure 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 Zoning Commission received testimony concerning the poor water availability in the area and concluded that the potential for water scarcity is a characteristic of the area which is understood and acknowledged by residents. The proposed development will include covenants requiring 2,000 gallon water storage tanks and xeriscaping consistent with water conservation practices therefore it is consistent with this element.

9. 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 character of use of mixed agriculture, residential and forest.

10. The Special Areas, Hazardous Areas, Implementation, and Recreation Elements of the Comprehensive Plan were determined to be not applicable to the proposed development.

11. 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, as conditioned, is consistent with goals and policies of the Latah County Comprehensive Plan.

12. 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, as conditioned, is compatible with the surrounding area and the uses permitted in that area.

13. 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 not impose costs upon the public that exceed the benefits.

14. 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 not impose a significant burden to any public services.

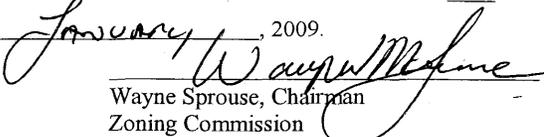
15. As required by §6.01.02(5) of the Latah County Land Use Ordinance, the Zoning Commission has reviewed the proposal and determined that the rezone is not a spot zone.

### III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Zoning Commission recommends to the Latah County Board of Commissioners approval of the application to rezone 40-acres of a 135-acre parcel of land from Agriculture/Forest (A/F) to Rural Residential (RR) with the following conditions to be set forth in a development agreement:

1. In substantial compliance with the application materials as submitted and presented.
2. In compliance with all local, state, and federal regulations.
3. There will be a maximum of four (4) lots and the minimum lot size is 7-acres.
4. The applicant will implement the proposed development's requirements for the following:
  1. Green building standards for residential structures as presented;
  2. Xeriscape landscaping as presented;
  3. No livestock permitted;
  4. No livestock fencing
5. Each lot will install a 2,000 gallon water storage tank prior to receiving a Certificate of Occupancy.
6. The lots will have individual wells and septic systems.
7. The proposed development will be in compliance with the requirements of the North Latah County Highway District as identified in Exhibit #2J and listed below:
  1. The proposed development is required to dedicate an appropriate and sufficient amount of public right-of-way for public highway purposes;
  2. The proposed development will 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.
  3. The North Latah County Highway District Board of Highway District Commissioners prefers that the proposed development use only one of the three possible accesses to the property (Foothill, Lewis, and Nearing Roads) and that it will be the only access to the property.

PASSED BY THE ZONING COMMISSION OF LATAH COUNTY THIS 21 DAY OF

January, 2009.  
  
Wayne Sprouse, Chairman  
Zoning Commission

**Aimee Shipman**

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**From:** Michelle Fuson [mfuson@latah.id.us]  
**Sent:** Monday, January 12, 2009 8:36 AM  
**To:** 'Aimee Shipman'  
**Subject:** FW: questionable process

Aimee,

I think you should come with me when I talk with the BOCC about this...

Michelle

---

**From:** Tom Stroschein [mailto:toms@moscow.com]  
**Sent:** Sunday, January 11, 2009 2:13 PM  
**To:** Michelle Fuson  
**Subject:** Fw: questionable process

Hi Michelle,

Here is an email the Commissioners received today (Sunday).

I will be to work tomorrow, lets talk about what happened at this hearing.

Looking forward getting out of my house.

Tom

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

**From:** [marilyn beckett](mailto:marilyn.beckett)  
**To:** [tstroschein@latah.id.us](mailto:tstroschein@latah.id.us) ; [jnelson@latah.id.us](mailto:jnelson@latah.id.us) ; [jbarrett@latah.id.us](mailto:jbarrett@latah.id.us)  
**Sent:** Sunday, January 11, 2009 9:43 AM  
**Subject:** questionable process

Dear Commissioners,

I recently attended a zoning hearing where the applicant was represented by an attorney. It was an unbalanced relationship with the public and the zoning board. Are county hearings going to become judicial hearings where everyone needs to have an attorney present in order to be heard?

Additionally, I observed a lack of integrity in the demeanor of Mr. Hagadorn. He misquoted the county ordinance and his behavior was not worthy of a public official. His remarks were more arrogant than substantive, and at one point blamed some of the public for expressing a valid concern. Can he be an impartial and competent member of the board if he can't stay current on policy or follow general rules for manners?

3/11/2009

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 97  
Date: March 31, 2009

What is the selection process for the county's board members? What are the current terms of office?

Thank you for your time.

Regards,

Marilyn Beckett

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"Expect nothing, and live frugally on surprise"~ Alice Walker

3/11/2009

January 29, 2009

To: Board of County Commissioners  
Latah County  
PO Box 8068  
Moscow, ID 83843

[tstroschein@latah.id.us](mailto:tstroschein@latah.id.us)  
[jnelson@latah.id.us](mailto:jnelson@latah.id.us)  
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[krickert@latah.id.us](mailto:krickert@latah.id.us)

cc: Michelle Fuson, Director  
Planning and Building Department  
Latah County  
PO Box 8068  
Moscow, ID 83843

[pb@latah.id.us](mailto:pb@latah.id.us)

William Thompson, Prosecuting Attorney  
Legal Advisor to the Board of County Commissioners  
Latah County  
PO Box 8068  
Moscow, ID 83843

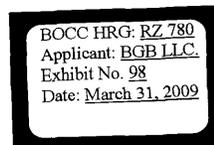
[pa@latah.id.us](mailto:pa@latah.id.us)

Re: In the matter of the Lewis Road rezone, RZ #780:  
Request for a public hearing

Dear Commissioners:

This is a request to you, the Latah Board of County Commissioners, to hold your own public hearing on the above cited rezone application. Further, in doing so, I request that you declare the hearing held on this matter on December 17, 2008 by the Latah Zoning Commission, and its conclusions and recommendations to be null and void. The reason for this request that during the hearing held by the zoning commission there were egregious violations of procedural and substantive due process, an unrevealed substantial conflict of interest by a participating and voting member of the zoning commission, and there were other matters of law and matters allegedly of fact in grave error.

3/11/2009



**1. Voting zoning commission member Jim Hagedorn improperly and illegally acted as both a fact giver and a trier of fact in contravention of long standing Idaho case law on procedural and substantive due process.**

During the hearing Hagedorn improperly and illegally gave allegedly factual testimony during the period in which the zoning commission, including Hagedorn, were deciding this matter and after public testimony was closed. Not only did Hagedorn improperly and illegally give testimony, but the rules of procedure did not allow any opportunity for rebuttal of this testimony by those finding his improper testimony erroneous.

Hagedorn gave testimony about the agricultural productivity of the land at issue. (Agricultural productivity is an element of the county comprehensive plan that must be considered when hearing rezone applications of this nature.) Hagedorn testified in effect that the property in question was not productive farmland and that its worth was so slight that

**"He wouldn't take the land if it was given to him."**

His grossly improper testimony was completely opposite to that given by the Hawleys who have farmed the land at issue for many years and certainly should be considered the prime source of fact on the land's agricultural productivity. Hagedorn not only gave improper, illegal, and false testimony but gave no personal qualifications or any other reason to believe that his improper and illegal testimony in this matter was anything but manifest prejudicial ignorance.

It is clear from a rudimentary knowledge of Idaho case law on procedural and substantive due process, that should this matter proceed to an appeal in court, this violation alone of due process by Hagedorn would render the zoning commission's hearing and its results null and void: **A trier of fact cannot also be allowed to be a giver of fact in the same matter. A judge cannot also be allowed to be a witness. A trier of fact cannot also be allowed urge other members of a quasi-judicial panel to accept his/her improper, unsubstantiated, unformed testimony in contravention to that of proper, knowledgeable, credible, and otherwise rebutted witnesses.**

This request is for a hearing on this matter imploring the board of county commissioners to hold their own hearing and to ignore the results of the zoning commission hearing. If, however, the board decides to remand this matter back to the zoning commission, it should be with the stipulation that Hagedorn not participate further in this matter in any way.

Hagedorn has shown that he is unable to understand his quasi-judicial role, and has revealed deep, unmitigated prejudice toward one side in this matter by his improper, arrogant conduct and testimony. All parties in a quasi-judicial proceeding are entitled to fundamental fairness, which Hagedorn has amply demonstrated he is unable to deliver. Should Hagedorn participate any further in this matter, such participation would very likely render the proceedings null and void should the matter go to court.

The conduct of Hagedorn in this matter also raises very serious and substantial questions about his fitness to continue to serve in any capacity on the zoning commission. It would behoove the board of county commissioners to decide whether his continued presence there might be a fundamental liability, especially for the citizens of Latah County who expect and who are entitled to fair hearings. It is clearly now a liability for the county given the lawsuits with their expense and the loss of confidence in county government his grievous improprieties might engender.

**2. Board member Steve Heck failed to reveal a king-sized conflict of interest and to recuse himself from any participation in and voting on this matter.**

Steve Heck, sitting on the zoning commission as a member of the planning commission, who participated in the discussion and decision in this matter has an ownership interest along with relatives/etc in real property, now undivided, between the property at issue and the northern outskirts of the City of Moscow. If the rezone at issue is finally approved, **a precedent will have been set for the approval of similar applications**, and then the commission would have little recourse but to approve other similar rezone applications included in the area where Heck, relatives, et al own land between the property at issue and Moscow.

Below is a chart showing some of the Heck parcels located between the property at issue and the northern city limits of Moscow. These results are based upon very charitable assumptions with respect to Heck showing the potential economic benefit to Heck, relatives, et al (all are persons/entities within the language of the conflict of interest statute cited below) as a result of **Heck's precedent setting vote** in this matter.

Partial Listing of Agricultural Land Held By A Steve Heck And/or Successors								
Related Thereby By Affinity Or Consanguinity Within The Second Degree								
With Potential Economic Benefit Analysis If Recuse Proposed Is Approved								
#	Holder	Tax ID	Acres	Minimum Potential Market Value (Assume Lots)	Current Tax Assessed Valuation (Dollars)	Approximate Current Market Value (Assume Lots) (Dollars)	Approximate Market Value If Rezoned To Split Into 60 Acres Lots (Dollars)	Increase in Value If Rezoned To Split Into 60 Acres Lots (Dollars)
1	Heck, Eding Trust	SP 480809731201A	276.38	27	288,616	1,181,200	4,862,000	2,548,000
2	John Steven Heck	SP 480809731201A	23271	3	9,817	138,000	460,000	316,183
3	Conita Heck	SP 480809731201A	88.88	8	27,533	250,000	1,200,000	880,000
4	Steven Heck	SP 480809731201A	119.27	11	41,748	437,000	1,650,000	1,172,000
5	Steven Heck	SP 480809731201A	18.88	1	6,668	72,000	160,000	78,000
6	Heck, John Steven	SP 480809731201A	88.17	8	82,186	230,000	1,200,000	820,000
	<b>Total:</b>		<b>586.95</b>	<b>58</b>	<b>488,845</b>	<b>2,458,200</b>	<b>8,770,000</b>	<b>6,221,000</b>

**Thus final approval of the rezone application at issue would very likely increase the potential value of Heck's, et al holdings, thus giving them a staggering probable potential economic benefit of over six million dollars.** Therefore, Heck had/has an economic interest in the matter. By law, he had/has a conflict of interest and was/is prohibited by law from participating and voting on

in this matter. Idaho Code:

**"67-6506. Conflict of Interest Prohibited.** A governing board creating a planning, zoning, or planning and zoning commission or joint commission shall provide that the area and interests within its jurisdiction are broadly represented on the commission. **A member or employee of a governing board, commission, or joint commission shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action.** Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. For purposes of this section the term "participation" means engaging in activities which constitute deliberations pursuant to the open meeting act. No member of a governing board or a planning and zoning commission with a conflict of interest shall participate in any aspect of the decision-making process concerning a matter involving the conflict of interest. A knowing violation of this section shall be a misdemeanor."

By law, then Heick should have revealed his conflict of interest and then recused himself. He did not.

This request is for a hearing on this matter imploring the board of county commissioners to hold their own hearing and to ignore the results of the zoning commission hearing. If, however, the board decides to remand this matter back to the zoning commission, it should be with the stipulation that Heick not participate further in this matter in any way. Should Heick participate any further in this matter, such participation would very likely render the proceedings null and void should the matter go to court.

**3. There are stark, unfathomable differences between the findings of fact given in this matter by the zoning commission and the findings by the zoning commission given in an almost identical rezone application for the property at issue heard not long ago.**

The property at issue was the subject of a recent rezone application. That application was rejected by the zoning commission and substantial findings of fact and conclusions of law were issued detailing the factual and legal reasons for the rejection.

I urge the board of county commissioners to compare the two different findings. It is not unlikely that a substantial part of the differences between these sets of findings arise from the grossly improper behavior and urgings of Hagedorn and the improper participation in the proceeding by Heick. The application at issue was approved by the zoning commission on a vote of 2 – 1. **Yes, Hagedorn and Heick were the two pro votes. Both were ineligible to vote at all –**

3/11/2009

**Hagedorn because of his grossly improper and illegal behavior and Heick because of his unrevealed mammoth conflict of interest.**

The outrageous inconsistency between the two set of findings should alone indicate to the board of county commissioners that the hearing process in this matter was horribly flawed and should be completely disregarded.

**4. The applicant continued to submit additional material to support the application after the hearing date was set thus violating the timely notice provisions of due process.**

The applicant continued to submit additional material to support the application at issue after the hearing date had been set. In fact, material was submitted by the applicant at the last possible minute allowed for anyone to make written comments.

Timely notice is an essential element of procedural due process in quasi-judicial proceedings. This means, among other things, not only notice of the time and place of the hearing, but timely notice of the information that is to be presented/used in favor of the application being considered.

Standard practice generally is for the planning administrator to require an applicant to submit **all** materials to be used in support of an application before a hearing date is set. The reason for this practice is to provide all those that may be impacted to have sufficient time to analyze the materials, to discover the impacts, and to design and to write/make appropriate comments and arguments.

In this case the applicant was allowed not only to add material after the hearing date had been set, but was allowed to submit material right up until the last minute allowed for any respondent to submit written comment. Thus, those opposed to this application were denied the opportunity to consider carefully and to make a written response to the (most likely intentionally) tardy materials submitted by the applicant. Such a proceeding is inherently unfair and violates fundamental procedural due process.

This request is for a hearing on this matter imploring the board of county commissioners to hold their own hearing and to ignore the results of the zoning commission hearing. If, however, the board decides to remand this matter back to the zoning commission, it should be with the stipulation that the applicant submit all materials to be relied upon before a hearing date is set, and further be prohibited from submitting additional materials at a later date so as to deny those opposed a fair opportunity to carefully and to critically respond.

**5. The applicant was allowed to give additional rebuttal during the hearing. Those opposed to the application were not.**

Contrary to fundamental fairness and the procedures prescribed for zoning hearings, the applicant was allowed to give additional rebuttal testimony. The

applicants were not. This is inherently unfair and deprives those opposed to the application of procedural due process. Procedurally, there should have been one rebuttal opportunity for the applicant. The fact that the applicant was given freewheeling rebuttal opportunities and those opposed were not is another indication that the zoning board was not acting in an unbiased, fair manner during this hearing.

This request is for a hearing on this matter imploring the board of county commissioners to hold their own hearing and to ignore the results of the zoning commission hearing. If, however, the board decides to remand this matter back to the zoning commission, it should be with the stipulation that procedural due process including that with respect to testimony and rebuttal be strictly followed.

**6. This rezone, if approved, would be a clear case of spot zoning.**

There is not a similar zone to the one proposed in this application for miles around the property at issue. This would be a clear case of spot zoning. Even the closest property so zoned now appears to be a problematic matter and that rezone may be reversed.

There is a good reason why there are no nearby similar zones: they are clearly against the Latah County Comprehensive Plan. I refer you in this regard again to the recently failed rezone application for this property with its substantial findings of fact and conclusions of law. These writings found, with force, that the requested rezone was not in accordance with the county comprehensive plan.

As you probably know, spot zoning is held in great disfavor by Idaho case law, should this matter ever proceed to court.

This request is for a hearing on this matter imploring the board of county commissioners to hold their own hearing and to ignore the results of the zoning commission hearing. If, however, the board decides to remand this matter back to the zoning commission, it should be with the stipulation that the commission very closely look at this application to see if it is a poorly disguised attempt at spot zoning.

**7. The zoning commission failed to take into consideration the impact on the surrounding area groundwater resources.**

By law, the zoning commission is required to decide if a rezone application is in accordance with the county comprehensive plan. The current county comprehensive plan contains the following statement in section 8:

"3. **Maintain sustainable groundwater resources** and prevent degradation of groundwater quality."

Ample evidence is in the record of this hearing showing that the areas around the proposed rezone are suffering from greatly diminished groundwater supplies.

Evidence was given of wells going dry and wells with greatly reduced output. Scientific evidence from reputable scientists is in the record showing the why and how of this decline and predicting further drastic decline of groundwater resources in the area surrounding this proposed rezone should additional development occur.

Despite the clear public policy in this regard as expressed in the county comprehensive plan and the plain facts, the zoning commission failed to seriously consider the groundwater consequences and the consequences for the existing homeowners and their property values both which depend on a predictably sufficient supply of household water. This failure is a breach of not only common sense but a breach which is failure to protect current property owners from great harm, and a breach of law as well.

Given the prejudices of the two members of the zoning commission who voted in favor of this rezone application, the failure to seriously and to factually address the groundwater issue is not surprising.

However, there may also be another factor which would discourage the fairer and more diligent members of the zoning commission from using the above criteria from the comprehensive plan.

After the board of county commissioners passed the so-called water resource overlay zone a few years ago, the district court voided it.

It is important to understand that the overlay ordinance was voided because the passing of an **ordinance by county commissioners** (legislation) exerting control of water resources for an area was in conflict with the statutory authority of the state water resources board. The mandated consideration of water resource elements as found in a comprehensive plan for zoning and permit matters was neither addressed nor affected by the decision about the legislative propriety of the overlay zone. The requirement to consider water resources elements of the county comprehensive plan remains fully in effect.

Repeat: By law, the zoning commission is required to consider all elements of the comprehensive plan when making a rezone decision. Those elements include the groundwater resource element cited above.

This request is for a hearing on this matter imploring the board of county commissioners to hold their own hearing and to ignore the results of the zoning commission hearing. If, however, the board decides to remand this matter back to the zoning commission, it should be with the stipulation that the zoning commission very carefully examines the applicability of the groundwater resource element of the comprehensive plan and the undeniable facts about groundwater resources in the area around the proposed rezone.

More could be said, but I think the above provides sufficient evidence of unconscionable breaches of law, fairness, and honesty in hearing by the zoning commission on the rezone application at issue. In this regard, I believe that this hearing process before

the zoning commission has so contaminated this whole matter that should it be remanded to the zoning commission, fair consideration of those views opposed to the application at issue would be impossible. Therefore, I urge you, the board of county commissioners, to proceed with your own hearing, completely disavowing what been the output of the zoning commission with respect to the application at issue.

I think you will find that it is obvious by the sharpness of tone and frankness of this letter that I am outraged by what happened at the zoning commission hearing on this matter.

Many of my neighbors who will be adversely impacted should the application at issue receive final approval worked many, many long hours collecting information, analyzing the potential impacts of the proposal, and preparing a presentation for the zoning commission hearing. They did this with the justifiable expectation of American and Latah County citizens that they would receive a fair hearing, and that a recommendation based on the facts and the applicable law would be fairly rendered. Instead they were confronted by a proceeding parts of which were so bereft of essential fairness that it was little more than a kangaroo court.

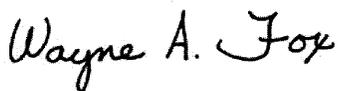
It is hard to believe that in this day and age in Latah County that a quasi-judicial hearing could run so far off the rails, not only in ignoring the facts and law, but demonstrating such fundamental unfairness and disregard of due process.

It is time for these kinds of quasi-judicial proceedings in Latah County to conform to the Rule of Law, and not the Rule of Man. Therefore, I urge you to take whatever steps necessary to insure, henceforth, that all quasi-judicial proceedings under your ultimate jurisdiction in Latah County conform to the rules of procedure and due process and insure beyond doubt that all parties to such proceedings are treated with the fundamental fairness they are legally and ethically entitled to as American and Latah County citizens.

I believe that you, the present board of county commissioners, are fair and honorable persons. Thus, I hope that you abhor gross illegality, unfairness, and dishonesty being allowed in any quasi-judicial matter under your ultimate jurisdiction, let alone in a matter where there is a large stake for many citizens and their homes.

Therefore, I hope that you will demonstrate your abhorrence of things unlawful, unfair, and dishonest by reviewing this rezone application matter carefully, and then by holding a fair proceeding, legally and ethically untainted by the results of the zoning commission hearing – a hearing where all the facts and applicable law can be fairly heard in an unbiased manner, and then a careful, unbiased decision rendered thereupon.

Thank you for your consideration.



Wayne A. Fox

3/11/2009

1009 Karen Lane  
P.O. Box 9421  
Moscow, ID 83843

(208) 882-7975  
[waf@moscow.com](mailto:waf@moscow.com)

3/11/2009

January 28, 2009

RECEIVED  
JAN 29 2009  
LATAH COUNTY

TO: Board of County Commissioners  
Latah County  
P.O. Box 8086  
Moscow, ID 83843

RE: RZ #780

Dear Commissioners:

On January 21, 2009 the Latah County Planning and Zoning Commission voted to approve "Findings of Fact and Conclusions of Law" that recommended approval of the RZ #780 application to rezone approximately 40 acres of a 135 acre parcel of farmland from Agricultural/Forest to Rural Residential. We the undersigned Latah County residents respectively request a *de novo* open hearing to consider this application for the following reasons:

1. We have serious concerns about the conduct of the December 17, 2008 Planning and Zoning Commission hearing, which in our judgment did not allow due process for opponents of the application and compromised the fairness of the proceedings. Among our concerns are:
  - a. the disproportionate allotment of time to the applicants versus that given to opponents;
  - b. the lack of opportunity by opponents for rebuttal of testimony, while applicants had several rebuttal opportunities;
  - c. following the reopening of the hearing, applicants were allowed to offer testimony, while the public had no further opportunity to respond to and/or to rebut applicants' testimony – a serious breach of procedure and due process as specified in The Latah County/Idaho Ordinance #253;
  - d. during the closed deliberation part of the hearing, Mr. Hagedorn gave overt "testimony" by stating his opinion about the low value and productivity of the farmland in question, while debating and voting on the issue at hand. (On the question of the land's productivity, Kyle Hawley had submitted testimony about soil type and respective yields, while noting that the land had been continuously and successfully farmed for eighty years or longer.) Mr. Hagedorn's behavior was a violation of procedure. Since he was acting as a judge in a quasi-judicial hearing, it was therefore inappropriate for him to give "testimony" that may have influenced the hearing's outcome.

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 99  
Date: March 31, 2009

All of the above concerns, which call into question the hearing’s essential fairness, are verifiable in the official transcript of the hearing.

- 2. The result of the December 17, 2008 hearing was neither decisive nor clear cut. On the contrary, as the hearing transcript clearly reveals there were conflicting opinions among the Commissioners on such issues as the application’s compliance with the Latah County Comprehensive Plan and with key provisions of the Latah County Land Use Ordinance #269, as well with the county’s 2006 rejection of a similar rezone application (RZ 731) located in the same 135 acre parcel of farmland. Moreover, the Commission Chairperson Mr. Sprouse called attention to the problems inherent in this proposed rezone during his thoughtful and balanced summary of testimony prior to the Commission’s vote.
- 3. We realize that, just as it was for the Planning and Zoning Commission, a decision on this application is difficult, because it inevitably involves conflicting goals and priorities for the county. For this reason, as well as those stated above, we submit that the public’s best interest would be more highly served by our elected officials making such important decisions through the process of a *de novo* open hearing. As you know, important decisions such as this one affect not only our lives but also the lives of our children and grandchildren.

Thank you for your consideration of this matter.

Respectfully,

Lauren Fins *Lauren Fins*

Dave Potter *Dave Potter*

William Bonney *William Bonney*

Sid Eder *Sid Eder*

Marilyn Beckett *Marilyn Beckett*

Renee Eder *Renee Eder*

Kyle Hawley *Kyle Hawley*

David Mendenhall *David Mendenhall*

Robert Johnson *Robert Johnson*

Linda Rasmussen *Linda Rasmussen*

Tom Besser *Thomas Besser*

Lucy Mendenhall *Lucy Mendenhall*

copy: Michelle Fuson, Director  
Planning and Building Department  
Latah County

RECEIVED  
MAR 11 2009  
LATAH COUNTY

March 11, 2009

Patrick Cummings  
P.O. Box 8454  
3020 Cameron Rd.  
Moscow, ID 83843

Dear County Commissioners,

I support Rezone 780 because it is being developed with respect and consideration to the community and our comprehensive plan, but most of all, because it fills a need to home buyers. 10 acres and close to town is hard to find. The commitment to have green space dedicated to the land bank is also very positive. I don't see any downside with this project as I read it and I hope you will support it.

Sincerely,

Patrick Cummings

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 100  
Date: March 31, 2009

# Topographical Views of Proposed Rezone Area

Submitted by Dave Potter

MAR 11 2009  
LATAH COUNTY

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 101  
Date: March 31, 2009

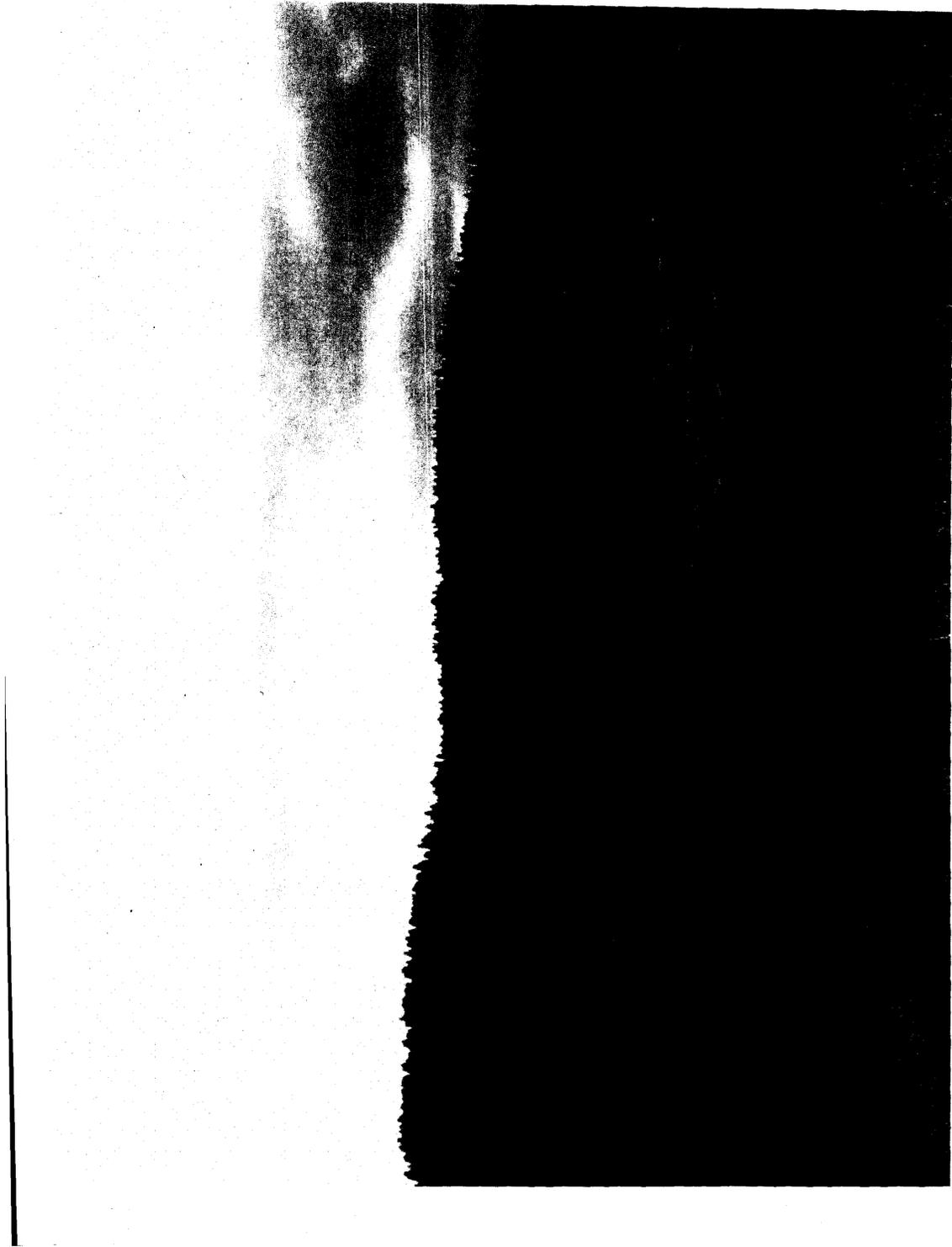


CHOCOLATO TALLERIO L. 60116

Google

Image © 2008 by Google

© 2008 Le Monde



**Aimee Shipman**

**From:** Michelle Fuson [mfuson@latah.id.us]  
**Sent:** Thursday, March 12, 2009 8:57 AM  
**To:** 'Aimee Shipman'  
**Subject:** FW: Rezone Application #780 - applicant comments

RECEIVED  
 MAR 12 2009  
 LATAH COUNTY

**From:** Tom Stroschein [mailto:tstroschein@latah.id.us]  
**Sent:** Wednesday, March 11, 2009 10:00 AM  
**To:** 'Michelle Fuson'  
**Subject:** FW: Rezone Application #780 - applicant comments

**From:** Craig and Kathy Knott [mailto:cdknott@potlatch.com]  
**Sent:** Tuesday, March 10, 2009 7:38 PM  
**To:** tstroschein@latah.id.us; jbarrett@latah.id.us; jnelson@latah.id.us  
**Cc:** mfuson@latah.id.us  
**Subject:** Rezone Application #780 - applicant comments

I apologize if you receive this twice - I received an error msg. after the first submission and wanted to be sure it made it to you. - Craig Knott

March 10, 2009

Latah County Commissioners  
 Tom Stroschein, Jennifer Barrett & Jack Nelson  
 Latah County, Idaho  
 Moscow, ID 83843

Dear Commissioners:

My wife and I make up 1/5 of the LLC applying for Rezone #780 and I would like to introduce ourselves as well as say a few words on this project.

We raise our two children on the 10 acres we own five miles east of Viola at 1127 Flannigan Creek Road. Our Viola home is within the Moscow School District. My wife and I are both graduates of Potlatch High School and the University of Idaho. We are both among the 4<sup>th</sup> generation of our respective families to reside in Latah County. I have been employed by a bank in Moscow for 18 years and my wife is a school teacher in Moscow. I have known the other applicants for many years – some since childhood. We all feel strongly that this project will be a benefit to Latah County.

I hope you will find our application to be creative, thoughtful, sensible, and considerate to those near the property as well as all citizens of Latah County. I drive by this property twice a day, every day, and sometimes more. The last thing any of us want to see on this property is a high-density of homes. Obviously as an applicant, I could be called biased, but I think 4 homes total on 135 acres is a very prudent and reasonable number. I feel quite strongly that if we were to put this land in the hands of less-sensitive and/or more aggressive owners i

*in the future*

3/12/2009

BOCC HRG: RZ 780  
 Applicant: BGB LLC  
 Exhibit No. 102  
 Date: March 31, 2009

under the right circumstances, that a much higher-density plan could be approved and it would not be unrealistic that 20+ homes could someday cover this landscape. None of us want that and that is exactly why we are willing to donate and set-aside the land we are with this proposal. I am disappointed that some have questioned our sincerity regarding this, but that is their right. The best way to prove our intent is with the proposal we have submitted along with an acceptance letter from the Palouse Land Trust.

In conclusion, we know there will be opposition to this as well as support. Some will emotionally oppose absolutely anything if it is in their back yard. I understand that as a rural resident but I also believe that 4 homes on 135 acres, already surrounded by homes, is as low-density as it is going to get. This is the very point of why our group tried working *with* some adjacent neighbors initially and had positive initial response. It is also why we have created the proposal we are submitting before you. It may be stated that this could set some sort of precedent: I disagree. I feel that our system of checks & balances puts each application before you to review. If some view a precedent is set either way, I believe that any owners giving up 70% of their ground, especially of this size for 4 homes, is a very positive precedent being set and very beneficial to Latah County and its residents.

Sincerely,

Craig & Kathy Knott  
BGB LLC

3/12/2009

**Aimee Shipman**

**From:** Michelle Fuson [mfuson@latah.id.us]  
**Sent:** Thursday, March 12, 2009 9:47 AM  
**To:** 'Aimee Shipman'  
**Subject:** FW: Rezone #780

RECEIVED  
MAR 12 2009  
LATAH COUNTY

---

**From:** Steve Busch [mailto:steve.busch@buschdist.com]  
**Sent:** Thursday, March 12, 2009 9:35 AM  
**To:** tstroschein@latah.id.us; jnelson@latah.id.us; jbarrett@latah.id.us  
**Cc:** 'Craig and Kathy Knott'; Michelle Fuson  
**Subject:** Rezone #780

Commissioners Stroschein, Nelson and Barrett:

I write in support of the subject rezone request. I have reviewed the application and the power point presentation provided by the applicant. I also familiar with this region of the County as I have acquaintances that live in the immediate area.

The proposed rezone strikes the right balance between allowing development in a more intense way while preserving the rural character we all value in Latah County. The proposed conservation reserve area and land donation to the Palouse Land Trust demonstrate a sensitivity to the surrounding residents. I urge you to vote to approve this rezone.

Steve Busch  
2279 Arborcrest Road  
Moscow, ID 83843

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 103  
Date: March 31, 2009

3/12/2009

# University of Idaho

March 6, 2009

Latah County Board of Commissioners  
c/o Ms. Aimee Shipman  
Planning and Building Department  
Latah County  
PO Box 8068  
Moscow, Idaho 83843

Department of Geological Sciences

PO Box 443022

Moscow, Idaho 83844 3022

Phone: 208-885-6192

Fax: 208-885-5724

RECEIVED

MAR 10 2009

LATAH COUNTY

Dear County Commissioners,

At the request of Dr. Sid Eder, I have reviewed a facsimile of a letter report from John Monks, P.G., to Michael Hoffmann of Terramark Incorporated, titled "Hydrogeology of Proposed Subdivision Area" and dated November 8, 2006, which has been entered in support of the rezoning of property on Foothill Road (RZ#780).

In November 2006 I reviewed the same report by Mr. Monks in connection with a similar rezone to that currently under consideration by the Latah County Board of Commissioners. I noted at that time that Mr. Monks' review of the hydrogeology of granitic terrains was accurate; however, the conclusions drawn by Mr. Monks, i.e., that:

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. [Monks, 2006]

are speculative, and not founded on site-specific data. Mr. Monks states in his report that:

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... [Monks, 2006]

The controls on the permeability of granites noted by Mr. Monks make it very difficult to predict the impact of one well upon another in the absence of site-specific testing. The high degree of uncertainty associated with the effects of pumping on nearby wells in fractured rock terrains is widely known within the hydrogeological community. Without site-specific studies it is, in my opinion, impossible to make definitive statements regarding the potential for new wells to interfere with those wells already existing in the area.

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 104  
Date: March 31, 2009

I hope that you find this information helpful in evaluating the proposed rezoning. If you have questions, or would like clarification on the points I have raised, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Fairley". The signature is fluid and cursive, with the first name "Jerry" and last name "Fairley" clearly distinguishable.

Dr. Jerry P Fairley  
Associate Professor (Hydrogeology)

#### Statement of Qualifications

Jerry Fairley holds a Ph.D. (Earth Resources Engineering) from the University of California, Berkeley, a M.S. (Geology) from the University of Nevada, Las Vegas, and a B.S. (Geology) from the State University of New York (SUNY Cortland). Dr. Fairley has worked for a number of environmental and geotechnical consulting companies, including Converse Consultants SW, ATL Ltd., and Woodward-Clyde FS, where he was a Senior Staff Hydrologist. Dr. Fairley was the Chief Hydrologist for Site Characterization (interim) on the USDOE's Yucca Mountain Project, and worked five years as a groundwater modeler for the Earth Sciences Division of Lawrence Berkeley National Laboratory. Currently Dr. Fairley is an Associate Professor of Hydrogeology at the University of Idaho Department of Geological Sciences, where he has been a member of the faculty since 2000.

March 16, 2009

Latah County Commissioners  
P. O. Box 8068  
Moscow, Idaho 83843

RECEIVED

MAR 16 2009

LATAH COUNTY

Dear Commissioners,

I would like to express my support and enthusiasm for rezone 780. I have been able to see some of the negative letters given to you and Planning and Building, I do not agree with the negative feedback.

As I have stated before, my grandfather Guy J. Nearing, developed Nearing additions in the 1970's. This area has clearly turned into a rural residential setting and the addition of four home sites will be a good fit for the area. My brother Eric Kiblen, mother, Karen McGarvey, and father Tod Kiblen all live in close proximity to the subject parcel and are in full support of the rezone 780. My grandfather and grandmother Bud and Verla Mae Nearing are also in support.

I feel the applicants have met the rezone criteria and hope that you support the rezone along with me and my family.

Thanks for your time and support.

Dave Kiblen

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 105  
Date: March 31, 2009

**Shipman, Aimee**

**From:** Troy Sprenke [tsprenke@latah.id.us]  
**To:** Shipman, Aimee  
**Cc:**  
**Subject:** FW: RZ 780  
**Attachments:**

**Sent:** Mon 3/16/2009 8:11 AM

RECEIVED  
MAR 16 2009  
LATAH COUNTY

---

**From:** Richard Jacobs [mailto:rajacobsk@clearwire.net]  
**Sent:** Sunday, March 15, 2009 9:58 AM  
**To:** pb@latah.id.us  
**Cc:** sid@uidaho.edu  
**Subject:** RZ 780

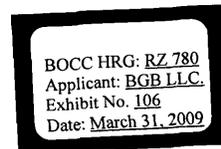
3-16-09

Dear County Commissioner:

We wish to add our voice to the chorus of those in opposition to RZ 780. As recession grips our country and the real estate bubble unwinds rezoning cheerleaders explain the necessity to take agricultural land out of production in order to replace it with vaguely outlined green housing. Should this scenario unfold what becomes of the adjacent agricultural operations? Will proposals of aerial spray zones and burning prohibitions then apply? As a participant in the Moscow City Aerial Spray commission, I can assure you of vociferous and bitter dissention between these conflicting interests. It appears to us a domino effect may occur, threatening contiguous farms with the burden of uneconomical requirements and expensive law suits. The comprehensive plan has provided a firewall between rivals with differing agendas and thus legislation wisely framed.

Sincerely,

Richard A. Jacobs  
Kathleen Jacobs



RECEIVED

MAR 13 2009

Latah county commisioners:

You have a proposal coming before you this month that involves more development outside the city area. I did not attend the P&Z meeting but did buy the disc and listen several times. As you know, I am against these type of rezones that do no more than enrich the developers. Please don't discard this letter before you consider the fact that I have nothing to gain nor any grudges to exploit.

LATAH COUNTY  
COMMISSIONERS

We have so few resources in this county that I believe they should be protected at all costs. I am a forth generation farmer and concerned about the way that the comprehensive plan and the land use plan are being implemented and exploited for the benefit of the few and at the cost of the many.

I believe that we are nothing more than stewards of the land that we so mistakenly believe we own. We only have the opportunity to leave a better world than what was given us. We will be judged by our childrens children as to how good of job we did and how much we cared about their future. You have the chance to lessen our footprint and preserve what they so richly deserve. The next generations were not asked to be put on this planet and surely shouldn't be expected to clean up our messes. In the past two hundred years the human race has done more irreversible damage than all of the other species or natural disasters combined. It only goes to prove that our species is not only able but also willing to destroy the very habitat they we rely on to survive. We plant concrete and asphalt where once crops used to grow and feed millions of families over the past hundred plus years in this county.

Every time you approve a new house or development in a farming area we farmers have experienced problems. You okayed Mrs. Munson and Cindy Miller to build homes next to my farm. Mrs Munson made it almost impossible to farm until I got a court order. Mrs Miller tried to close down access roads because she didn't want people driving by next to her house. After several phone calls attorneys and county law enforcement I was finally able to use my own property again.

To the point at hand, these spot rezones put an undo burden on county services. I have experienced no sheriff patrols in the last couple of years, the road is in terrible shape and snow plowed seldomly and not before my wife has to be at work. I'm not blaming the highway district, I'm blaming the P&Z and commisioners for putting them in a position of being run to thin. They cannot do the job necessary to cover everything entrusted to them because you have made it impossible with the funds available. You are asking the county tax payers to help enrich these developers.

These developers take advantage of existing rules to get what they wanted to started. Case in point the Cameron estate asked to have a rezone approved many years ago and turned down not only by this commision but also in court. After using amendments to lot locations they got exactly what they originally proposed and now makes the county obligated to clear the road in the winter that has never been cleared of snow before. They have now built one special piece of machinery for that one quarter mile and had to hire one driver just for that parcel. The developers know how to work the system and take advantage of any mistakes left to interpretation.

These developers are trying to convince you that this is somehow going to be GREEN. They say that pumping water into a holding tank somehow doesn't take water from the area. GREEN building is defined as leaving no footprint. You use recycled material for the building and outlying area. You recover and reuse water, compost all waste as not to use the landfill, use plantlife indigenious and sustainable, meaning no irrigation nor artificial fertilizers. These homes must not be dependent on outside electrical power but produce enough for their use and provide excess back to the grid.

I understand how expensive this can be but if these developers are truly dedicated to the longevity and sustainability of this county and they do not want to strain the county services they should be held to these standards. These homes should be removeable with no footprint left behind.

Our generation as will every one in the future and the past will be judged by the decisions that our leaders {you} make that not only effect the present but also future generations. We should learn from history that sometimes the decisions are not popular but necessary to protect the county entrusted to you to make the right choice.

These spot developments are not good for the county nor are they good for the farming community of which we have depended on for well over a hundred years to help support our services. Some day in our heir's lives will suffer the consequences of choices made today, if they are done without considering the probable results and damage to our environment.

BOCC HRG: RZ 780  
Applicant: BGB LLC.  
Exhibit No. 107  
Date: March 31, 2009

Even though the P&Z recommended passing I hope you consider that mister Hawley has farmed this property at a profit or he wouldn't be wasting his time and would be totally in favor of the rezone. None of us farmers are stupid enough to ~~throw~~<sup>throw (sorrow)</sup> away money on acreage that is not productive and profitable.

Please consider the consequences of rezoning every application that comes before you.

Sincerely  
Michael Snow  
3650 Cameron Road  
Moscow, Ida 83843



208-882-4709

Planning and Building Department  
Latah County Board of County Commissioners  
P.O. Box 8068

RECEIVED  
MAR 16 2009  
LATAH COUNTY

ATTN: Ms. Aimee Shipman

RE: RZ #780

9 March 2009

Dear Commissioners:

We are writing in opposition to the application to rezone approximately 40 acres of farmland from Ag/Forest to Rural Residential to create a four home-site subdivision (RZ #780).

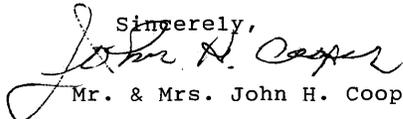
This is productive farmland and has been farmed continuously for over eighty years. One of the primary goals of the Latah County Comprehensive Land Use Plan (Ordinance #269) is the preservation of the area's farmland and farming economy and maintenance of sustainable groundwater resources.

To this end, the Plan prohibits spot zoning which is an arbitrary departure from the Comprehensive Plan. On 6 December 2006, the BOCC rejected a similar rezone application for a four home-site subdivision on the same parcel of farmland

An unwise approval of RZ #780 would violate the intent of the Comprehensive Plan and set a dangerous precedent for further spot zoning as well as taking productive farmland permanently out of operation. This is a clear case of "once gone, forever gone."

We strongly urge the Board of County Commissioners to reject the RZ #780 application as grossly inconsistent with the Latah County Comprehensive Land Use Plan.

Sincerely,

  
Mr. & Mrs. John H. Cooper

John H. Cooper  
1050 Joyce Rd.  
Moscow, ID 83843

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 108  
Date: March 31, 2009

University of Idaho  
College of Science

Geography Department

McClure Hall 203  
PO Box 443021  
Moscow, Idaho 83844-3021

Phone: 208-885-6216

Fax: 208-885-2855

geog@uidaho.edu

www.scihome.uidaho.edu/geography

March 14, 2009

Board of County Commissioners  
Latah County  
P.O. Box 8068  
Moscow, ID 83843

RECEIVED

MAR 16 2009

LATAH COUNTY

Dear Commissioners,

I am writing in regard to the rezone # 780. I am one of the authors of a recent paperback, *Future Visions of a Sustainable Palouse*, (FVOSP). My interest in this rezone is related to the precedent it would set especially in light of some of the observations in FVOSP. It would be difficult, if not legally impossible, to prevent other conversions from agricultural to residential if the spot zoning of this application is approved.

The approval of this application would deny the freedom of present and future residents of Latah County to decide what kind of environment and landscape they want to create both for themselves and future generations. The often repeated argument that development is inevitable and unstoppable is only true if real estate developers are allowed to build how and where they want. This takes away the freedom from residents to plan and create the type of landscape and housing they would like to see in the county.

The development is being proposed as being "green," or the best that could be expected. My review indicates this is not the case. Please refer to pages 34 and 35 of FVOSP to see an example of a "Whole Building Diagram of Integrated Sustainable Features." Some of these include the use of earth berms, water conservation techniques such as water runoff collection systems, on-site power sources such as photovoltaic panels, solar hot water heating, natural ventilation via cooling towers, and a variety of other energy efficient design techniques. No such techniques are defined or specified in the proposal.

There are a variety of ways in which agricultural lands can be preserved and housing development can simultaneously take place. Unfortunately, Rezone # 780 is not one of those opportunities. I suggest the commissioners turn down this request and investigate real alternatives that could be incorporated into the County Comprehensive Plan. Until such time I suggest the commissioners not deviate from the current plan and open up a Pandoras box where they will lose the ability to create a sustainable future for farmers and residents alike.

Sincerely yours,



Gundars Rudzitis  
Professor of Geography and Environmental Science

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 109  
Date: March 31, 2009

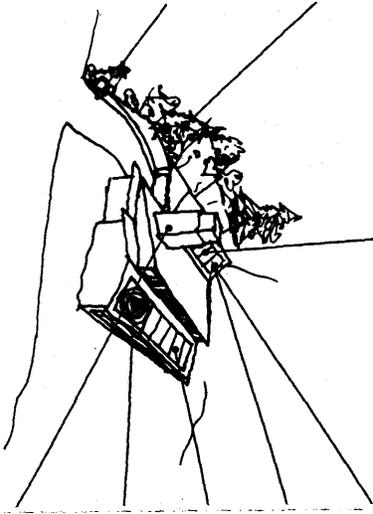
# Whole Building Diagram of Integrated Sustainable Features

NATURAL DAYLIGHTING provides the primary lighting source that will require very little in the way of supplemental lights.

**PLANT EVERGREENS ON THE NORTH SIDE OF A BUILDING** to act as a buffer from cold north winds in the winter.

**EARTH BERM ON THE NORTH SIDE OF BUILDING** allows the sun to penetrate to the land on the north side of the building while acting as solar mass and super insulation on the coldest side of the structure.

**WATER CONSERVATION TECHNIQUES** like collecting runoff water into a water barrel or cistern provides a source for irrigation. Grey water collection for irrigation and sending to bioswale holding site for recharge of the aquifer.



**USING LANDSCAPE DESIGN** to create outdoor rooms and spaces extend a building's walls physically and visually make it appear larger than it really is, allowing for a smaller building footprint overall.

**CLEARESTORY WINDOWS** provide natural ventilation allowing hot air to escape. They also provide non-glaring daylighting to lower electric light usage.

**LOW E COATING** on glazing (glass)—particularly the clearestory windows—allows plenty of light to shine through while preventing heat loss.

**ON-SITE POWER SOURCE** using photovoltaic (pv) panels on a south-oriented roof.

**SOLAR HOT WATER HEATING** via a roof-mounted tubing can channel hot water through a radiant floor heating system to heat the building at the same time.

**NATURAL VENTILATION:** cooling towers (aka thermal or stack chimneys) located at the highest point on a building allow hot air to vent up and out. The convection process stacks the air in layers inside the building with the coolest air to the bottom floor level. As the hottest air is vented off it creates a siphon effect that draws more cool air from below into the building to cool it.

**PASSIVE SOLAR TECHNIQUES AND ENERGY EFFICIENT DESIGN** allow this building to be super energy efficient, meaning it takes very little in outside energy sources to heat, cool, or operate it. It maintains a fairly stable environment that is designed for human comfort. Super insulation in addition to the proper orientation, ventilation, and berming on the north side will keep this home warm in winter and cool in the summer. The energy efficient landscaping planted with native species and xeriscaping with plants that thrive on less water will use less water overall, will be irrigated by captured storm runoff and grey water before it percolates back into the earth to recharge the local aquifer.

*DBF Farms located in Latah County for over 100 years*

RECEIVED  
MAR 10 2009  
LATAH COUNTY

Steve and Diane Fiscus  
132 Center Chatcolet Road  
Plummer, ID 83851

Latah County Commissioners  
P.O. Box 8068  
Moscow, ID 83843

March 6, 2009

Dear Commissioners,

I have reviewed the request for Rezone #780, in Latah County, and I have a few comments I would like to share with you. First of all, I own property in northern Latah County that is not in close proximity to the subject property involved in Rezone #780. However, the issue in front of you is consistent with Latah County's Comprehensive Plan and the plan I have for my property in the future. Consequently, I am very interested to, ultimately, find out what your decision is regarding this rezone request.

My purpose for writing this letter is to indicate what the tax consequences will be for the taxing districts and the potential property owners. In the application the requesting party indicates that there would be an increase to the county's tax base with this development. Although that is true there are some facts that need to be expressed. First of all, as I'm sure you are aware, this would not mean any additional revenue to the taxing districts with one exception, that would be the change of use value (from ag to rural residential) and any new construction value. These components would allow the taxing districts additional budget authority. In future years any increase in value would be part of the overall valuation of the taxing district which would redistribute the tax burden to all property owners within the district.

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 110  
Date: March 31, 2009

Please take my comments under advisement while you are deliberating over this issue. Although you will hear many comments from other individuals, most of them very emotional at times, I am confident that you will arrive at the decision that is the fairest and most consistent for your constituents.

Thank you for taking time out of your day and allowing me the opportunity to express my views.

Respectfully,

A handwritten signature in black ink, appearing to read "Steve Fiscus". The signature is fluid and cursive, with a large initial "S" and "F".

Steve Fiscus

**Aimee Shipman**

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**From:** shelleyfrei [shelleyf@clearwire.net]  
**Sent:** Monday, March 16, 2009 10:59 AM  
**To:** ashipman@latah.id.us  
**Subject:** Rezone application #780

March 15, 2009

To: Board of Latah County Commissioners:

RE: RZ #780

I live north of the proposed rezone application on Tolo Trail. I have lived at my address for 17 years. I am apposed to the rezone application for the following reasons:

- 1) The current 135 acres is currently and has been used for productive agriculture for many years. If this farm land is divided and allowed to be developed, it will forever be lost to any type of production. This would set a precedence for future developments that current zoning ordinances have tried to prevent. This property has been referred to our association as "similar type property". There is absolutely no comparrison. The proposed rezone is completey productive farm land and our association is completely forrested and not productive. If division of this property were allowed, this would be considered spot zoning which is against planning and zoning plans.
- 2) The sugar coated proposal of donating 52 acres to the Palouse Land Trust (to date without signed contracts) with restriction for residential development sounds delightful. However, I am also concerned about the additional 43 acres that could be accessed by both Lewis Road and Foothill Road that is "designated" (not donated) as conservation. I don't feel very comfortable with the offer that it would remain in a permanent conservation as the above 52 acres is proposed. Basically, I don't buy this sugar coated offer without feeling there is a hidden agenda for future development.
- 3) The area is well known for having poor developing wells. There has never been a specific water study on this complaint that I am aware of but it is definitely a large concern for many of the local property owners. I know of at least 2 property owners bordering the rezone property that have had failed wells. It's a fact, you draw water from the bottom of tub and the water level will drop even further decreasing available water. If you don't have water you don't have much. The burden is being left with the current property owners to prove if the additional water

3/16/2009

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 111  
Date: March 31, 2009

usage depleats the water levels.

4) The five developers that purchased the 135 acres purchased it at a very good price essentially after the previous owner attempted to do a similar rezone and failed. They still purchased the property with the intentions to rezone and develop the property which I would categorize as a very risky move.

I hope that the board seriously considers my concerns with this zoning change request and doesn't pass the development on an economic short site. Thank you for your time.

Sincerely,

Shelley Frei  
1031 Tolo Trail  
Moscow, ID 83843

3/16/2009

RECEIVED  
MAR 10 2009  
LATAH COUNTY

Jonathan Yoder, Ph.D.  
1200 North E Street  
Palouse, WA 99161  
E-mail: jonyoder@palouse.com

March 10, 2009

Board of County Commissioners  
Latah County  
P.O. Box 8068  
Moscow, ID 83843

Dear Commissioners,

this letter is in reference to RZ #780, an application to rezone approximately 40 acres of 135 acres of farmland from Ag/Forest to Rural Residential to create a four home-site subdivision. I am an Economist on the Faculty in the School of Economic Sciences at Washington State University. I am writing as a concerned citizen, and not in my capacity as WSU employee.

I would urge you to reject the rezone application RZ #780 for several reasons.

First, preservation of farmland and our area's farming economy are primary goals of the Latah County Comprehensive Land Use Plan. My understanding is that a of the primary arguments for The land in question is productive farmland and has been in production for about 80 years. The loss of this agricultural productivity into the future is only part of the costs of rezoning for development. The agricultural farmland in this area, especially that adjacent to a scenic area such as Moscow Mountain provide value to the citizens of Latah County that are not fully capture in land prices (non-market value, but economic value nonetheless). The full opportunity costs of this rezoning for development would include both the foregone agricultural productivity as well as the non-market scenic, recreational, and other potential benefits from keeping the land under agriculture.

Second, it is my understanding that the existing limited residential development in the forested area directly North and Northwest of the proposed rezone area predates existing ordinances and the Comprehensive Land Use

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 112  
Date: March 31, 2009

Plan, and would likely not be allowed under current ordinances. The fact that there are existing residences nearby should not be taken as precedent in support of the current development, and this current rezoning application itself should not be allowed to set precedence for further development.

Third, the BOCC rejected a similar rezone application that proposed a four home-site subdivision on the same parcel of farmland on December 6, 2006. In contrast to the development discussed above, this appears to be a legitimate precedent to guide the determination on the current request.

Fourth, RZ 780 does not comply with Latah County Land Use Ordinance #269 which prohibits spot zoning: "the zoning of a small land area for a use that differs measurably from the zoned land uses surrounding the area, usually giving privileges not generally extended to properties similarly located in the area and generally is an arbitrary departure from the Comprehensive Plan . . . ."

I understand that there is value in development (that is why residential property often out-prices agricultural property, especially near municipalities. However, zoning ordinances, and the enforcement of them, often makes economic sense as a means to promote reasonable land use arrangements to better serve multiple land uses in this rich and diverse part of the country.

This seems clearly to be a case in which the rezoning application should be denied.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Yoder".

Jonathan Yoder, Ph.D.

**Aimee Shipman**

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**From:** Sid Eder [side@uidaho.edu]  
**Sent:** Wednesday, March 11, 2009 1:28 AM  
**To:** Aimee Shipman  
**Subject:** Jonathan Yoder written testimony

Hi Aimee, Professor Yoder requested that you attach a short correction/addendum to his 3/10/09 letter sent to the BOCC. The two minor corrections, both in the third paragraph, are as follows:

- 1) third line should read "... is that the primary arguments ..."
2. eighth line should read "... of Latah County that are not fully captured ..."

As I explained on the telephone, he mistakenly sent a draft rather than the final product and is not available to send a revision, as he's departed on a business trip.

Thanks for your assistance.

Sid Eder

3/12/2009



**IDAHO TRANSPORTATION DEPARTMENT**

P.O. Box 837  
Lewiston, ID 83501-0837

(208) 799-5090  
itd.idaho.gov

March 4, 2009

BGB, L.L.C.  
315 South Almon  
Moscow, ID 83843

Re: Moscow Mountain Passing Lane  
Project No. A011(031); Key No. 11031

Ladies and Gentlemen:

This letter is in response to Mr. Brad Lewis' request for information about the Idaho Transportation Department's (ITD) US-95 Moscow Mountain Passing Lane project.

The referenced project will provide a northbound passing lane on US-95 on the southern slope of Moscow Mountain, from Milepost 349.716 to Milepost 351.054. The project will begin just south of the Lewis Road intersection and will incorporate a right turn lane for Lewis Road. The project plans have been submitted to our Headquarters office in Boise for advertisement, and we anticipate the project will be put out for bid within the next 30 days as part of Idaho's stimulus package.

You may visit the "Doing Business with ITD" on the ITD website at [www.itd.idaho.gov](http://www.itd.idaho.gov) to check the status of the project. If we may be of further assistance, please contact me or our Project Development Engineer, Curtis Arnzen, at (208) 799-5090.

Sincerely,

DAVID P. COUCH, P.E.  
District Traffic Engineer

DPC:jw/Z:\ADMIN\OM\WRDFILES\ADM\11031 BGB.docx

cc: Latah County Commissioners ✓

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 113  
Date: March 31, 2009

## Aimee Shipman

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**From:** Besser, Tom [tbesser@vetmed.wsu.edu]  
**Sent:** Monday, March 16, 2009 5:11 PM  
**To:** Aimee Shipman  
**Subject:** FW: BOCC testimony

**Attachments:** Document.pdf



Document.pdf (582  
KB)

Dear Aimee-

I am following up my previous e-mail with this one, as I just realized that the previous message didn't include much information about who we are. I am Tom Besser and my wife is Kathy Potter, and we have resided at 3443 Foothill Rd since 1986. As we are currently traveling overseas, we won't be able to testify at the upcoming meeting, but we wish to register our opinions about the rezone proposal with the attached letter.

Please contact me if additional information is needed or would be helpful.

Thank-you!

Tom Besser

Thomas Besser  
Professor, Veterinary Microbiology  
Washington State University  
07/2008 - 06/2009 Massey University  
Ph: 64-6-350-5701 x81190

—Original Message—

**From:** TBesser@vetmed.wsu.edu [mailto:TBesser@vetmed.wsu.edu]  
**Sent:** Tuesday, March 17, 2009 1:05 PM  
**To:** ashipman@latah.id.us  
**Cc:** Besser, Tom  
**Subject:** BOCC testimony

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 114  
Date: March 31, 2009

March 16, 2009

Dear Commissioners:

We strongly urge you to reject the rezone request RZ#780 proposed by BGB LLC as contrary to the county Comprehensive Plan, incompatible with surrounding zoning of comparable lands, lacking net public benefit, and as a spot zone.

We are adjacent landowners and we own in addition a 10 acre parcel that had previously been part of the same parcel proposed for rezoning here. Based on the yields produced on that 10 acre parcel (which remains in agricultural production), we can attest that this parcel is productive farmland. In our opinion, the current Comprehensive Plan rightly emphasizes the preservation of agricultural lands in Latah County and this rezone proposal does not and should be denied.

The proposed rezone is not in accordance with the Latah County Comprehensive Plan, which emphasizes preserving agricultural and forest land uses: The proposed re-zone will remove 40 acres of productive farmland from agricultural use. The proposal argues that some of the 40 acres could still be used for gardens or orchards if the rezone is approved, but that doesn't change the fact that the main effect of the rezone will be to remove this land from production. The conversion of other parts of the parcel to Palouse Land trust or 'conservation area' status is irrelevant since the parcel can more directly be retained as farmland simply by rejecting this rezone proposal.

The proposed rezone is incompatible with land use of comparable lands in the surrounding area: In their proposal, BGB LLC cite the relatively large numbers of rural residential parcels that are adjacent to the parcel they propose for rezone to suggest their rezone request would be a compatible use. However, they fail to mention that these adjacent parcels (Nearing 1-3 and Tatkimah I-II) utilized lands unsuitable for farming due to soil type or other characteristics, and that had never been farmed. Truly comparable lands in the surrounding area remain in productive agriculture and this rezone, if approved, is incompatible.

The proposed rezone fails to provide public benefit that exceeds any costs imposed upon the public: The sole public benefit claimed in the proposal is that it will increase the parcel property value and therefore the county tax base. This is patently silly, as the tiny increment to the tax base is negligible whereas the public cost of undermining of the county's efforts to preserve its agricultural heritage through fair and consistent application of the Comprehensive Plan is significant and considerable.

The proposed rezone is a spot zone: The definition of a spot zone used by Latah County is "*the zoning of a small land area for a use that differs measurably from the zoned land uses surrounding the area, usually giving privileges not generally extended to properties similarly located in the area and generally is an arbitrary departure from the Comprehensive Plan, the other adjacent zoning, the other adjacent land uses, and the other adjacent eligible parcel sizes; typically, a spot zone is for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole.*" This proposed rezone meets pretty much every criterion of a spot zone in this definition. It proposes a zoned use that differs measurably from the surrounding area (comparable lands surrounding the area are farmed, not turned into

real estate developments). It would grant privileges not generally extended to properties similarly located in the area (since other productive farmlands located in the area will not be similarly developed). It represents an arbitrary departure from the Comprehensive Plan (which emphasizes preservation of agriculture), and as such is an arbitrary departure from other adjacent zoning, the other adjacent land uses, and other adjacent eligible parcel sizes. This proposal is designed to favor or benefit a particular individual or group (the developers themselves) and the community as a whole would be insulted by the disingenuous 'trickle-down' theory based on increased property values as suggested in the proposal. In their proposal, the developers again mention the rural residential properties to the north and east of the affected parcel but neglect to mention that the lands occupied by those residences are unsuitable for farming or that the predominant land use of properties to the south and west of the affected parcel is agriculture. The approval of this housing development on this agricultural land would therefore be a spot zone and this rezone request should be denied on that basis.

Overall, this proposal is remarkably similar to the previous development request (Terramark-Michael Hoffman RZ#731 for four rural residences on the exact same parcel) that was rightly denied by the Latah County Planning and Zoning Commission on all the grounds mentioned here.

Sincerely,

Handwritten signatures of Tom Besser and Kathy Potter in cursive script.

Tom Besser and Kathy Potter

Elliot, 3281 Foothill Road, Moscow, ID 83843  
208 883 4494  
elliot@mosow.com

March 15<sup>th</sup>, 2009

Latah County Commissioners  
Latah County Courthouse  
522 South Adams  
Moscow, ID 83843

**RECEIVED**

**MAR 17 2009**

Dear Sirs:

Proposed Rezone of 40 of 135 acres at the intersection of Lewis and Foothill Roads  
Rezone Application No. 780

**LATAH COUNTY  
COMMISSIONERS**

This is the second time in recent years that a rezone has been requested for this property. The last time, in 2006, the application was rejected. This was, in my opinion, the correct decision based on the various articles in the County Comprehensive plan. I have carefully studied the new application, and the associated correspondence, to date. It is readily apparent that numerous letters of support have been written from individuals who do not live near the site, and likely know little about the site, the concerns I will raise, and the details of the comprehensive plan.

I have three main concerns that are either not addressed in the application, or are addressed, and raise areas of concern. These three areas are an inadequate plan for the water supply, the lack of any concern for surface water quality, and a plan that claims to retain much of the site as agricultural land, but has so subdivided the parcel into irregular pieces as to make farming awkward at best, to impossible, with modern farming equipment.

Here are the details of my concerns about the proposed water supply:

1. I am a registered professional engineer, and have studied the well yields in this area in some detail in preparation for the Naylor Water Rights Application in 2005.
2. I have checked the yields of 21 wells in the area of the proposed zoning change, in Sections 17 to the north and 21 to the south of the site. The IDWR records show that of these 21 wells, one was dry, 5 yielded less than 1 gal/min, 7 were between 1.5 and 5 gal/min, 4 were between 6 and 10 gal/min, and only 4 yielded more than ten gal/min.
3. Four of the 21 owners had to drill two wells in this area, and one owner drilled 3 wells before getting an acceptable yield.
4. The well statistics included only the successful wells, and made no mention of neighboring wells that went dry following the drilling of a new well.
5. The well logs record that all of these wells were in granite. In granite, water is stored in fissures and cracks, and not in the mass of rock. Therefore, the chances of drilling into a fissure or crack is low, as demonstrated by the above distribution of well yields. Also, if a well does intersect a crack that was already tapped into by a previous owner, there is a high likelihood that the new well could dewater the previous one, particularly if it is downhill. The proposed rezoning is in fact, downhill from many of the 21 wells noted in point 2. Prior to this application, I have heard from two property owners in this area that they have had such an experience when a new well was drilled downhill from their well. There are likely others who have had similar experiences.
6. Unless the developers can provide sound evidence of an adequate water source, not in granite, to support such a development, it must be rejected, as it will adversely impact water resources, and the value of existing properties.

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 115  
Date: March 31, 2009

With respect to the surface water quality:

7. I am a registered professional engineer, and a leading international authority on soil erosion processes and prediction.
8. The site is situated in the headwaters of Paradise Creek, the first 303d listed watershed in the state of Idaho.
9. Paradise Creek was identified as having impaired water quality due mainly to sediment.
10. Farmers within the watershed have expended considerable resources to improve farming practices to reduce upland erosion.
11. The proposed site is steep, and no concern, plan, or mitigation has been proposed to prevent erosion during construction of the access road, or construction of 4 large houses plus out buildings.
12. Roads are an ongoing, chronic source of sediment, and no consideration has been given to locating the road to minimize erosion, nor to managing the road to minimize sediment generation.
13. The suggestion of planting orchards, etc, could entail the use of pesticides common in fruit production, and no consideration has been given to offsite impacts of introducing new chemicals into this sensitive watershed.

With respect to farming practices:

14. I am a registered professional engineer, and have assisted in farm machinery selection and management in the U.S. and abroad.
15. The proposed rezone is to change a single 135-acre agricultural parcel to a hodge-podge of small fields totaling 52 acres.
16. The amount of lost production in corners, field edges, and point rows will be significant, as will the lost machinery productivity in trying to negotiate large farming machinery in small areas.
17. No mention is made about who will manage the conservation area. Such areas must be carefully managed or they can become sources of noxious weeds. Such management generally includes establishing the desired vegetation (grasses, shrubs and trees) mowing and spot spraying. Without ongoing management, a weed patch impacting fields and home gardens, including the proposed sites, could be considerable. With no one assuming responsibility for this conservation area, it is unlikely to be managed.

In addition to the above concerns, it is my personal opinion that the proposal does not meet the comprehensive plan with the loss of farm land and the tendency to have spot development.

I am not opposed to all rezoning requests to allow additional rural residences. In this case, however, with a large number of existing wells immediately uphill from the proposed rezoning site, with all wells in granite, with no surface water quality plan, with the change of a single 135-acre agricultural field into a patchwork of small parcels, and with no plan to manage the conservation area, the proposal must be rejected for inadequate planning. This is in addition to the fact that the proposal is not in line with other elements of the comprehensive plan concerning the conservation of farmland, and the prevention of spot development.

Sincerely



William J. Elliot, PE, PhD



1025 Tolo Trail  
Moscow, ID 83843  
March, 18 2009

RECEIVED  
MAR 17 2009  
LATAH COUNTY

Dear Commissioners:

We strongly urge you to reject the rezone request RZ#780 proposed by BGB LLC as contrary to the county Comprehensive Plan. The Comprehensive Plan supports "orderly growth" and emphasizes the preservation of agricultural and forest land uses. The proposed rezone, if approved, would set a precedent for disorderly urban sprawl throughout the agricultural land from Paradise Ridge to Moscow Mountain.

The developers proposing this rezone have characterized their development as a "Conservation Subdivision". A brief web search for "conservation subdivision" demonstrates that the proposed rezone reflects only the most superficial aspects of conservation subdivision design as a smokescreen for typical urban sprawl.

The fundamental basis of conservation subdivision design is that it "strategically concentrates home construction on the development site in order to protect sensitive and valuable open space, habitat and other environmental resources." (Quotes from Smart Communities Network" Land Use Planning Introduction)

While the proposed rezone states the intention to set aside land for conservation purposes, a closer look at actual conservation subdivisions and the principles of sustainable development will show that the true meaning and intention is much different than that of this rezone.

Further it is important to recognize that even good conservation subdivisions are "not an antidote to sprawl (commonly defined as low density, land consumptive, leap-frog development). 'Cluster Sprawl' or 'green sprawl' can be a by-product of unchecked unplanned conservation development." (Quotes from The Conservation Subdivision Design Project: Booklet for Developing a Local Bylaw)

"The way we plan the physical layout, or land use, of our communities is fundamental to sustainability. Two main features of our land use practices over the past several decades have converged to generate haphazard, inefficient, and unsustainable urban sprawl:

Zoning ordinances that isolate employment locations, shopping and services, and housing locations from each other;

Low-density growth planning aimed at creating automobile access to increasing expanses of land.

Community sustainability requires a transition from poorly-managed sprawl to land use planning practices that create and maintain efficient infrastructure, ensure close-knit neighborhoods and sense of community, and preserve natural systems."

([www.smartcommunities.ncat.org](http://www.smartcommunities.ncat.org))

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 116  
Date: March 31, 2009

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Real “conservation subdivisions” do set aside half to three-quarters of the land as permanent open space. However they also are organized to develop a feeling of community or neighborhood, ensure good access to employment, shopping and services, and minimize impact of roads and other infrastructure demands. This is possible because these are much higher density developments than the BBG LLC proposal. The following are highly respected examples: Prairie Crossing (Illinois) has 359 housing units on 677 acres with easy rail access for commuting, Farmview (Pennsylvania) places 332 houses on 213 acres, and The Preserve (Wisconsin) has 41 lots on 240 acres.

Here I am not recommending a bigger development, only showing that the benefits of “conservation subdivisions” really come from an appropriate ratio of homes to land consumed and by placement of the development near existing employment locations, shopping and services. The Latah County Comprehensive Plan wisely “encourages growth in existing cities or areas likely to be annexed by existing cities.” True conservation subdivisions in such locations would be appropriate to meet the county’s housing needs.

Should the proposed BGB LLC development be looked at as a model for further development in Latah County? (Many of the letters of support to the Planning and Zoning Commission tout it as such.) This proposal calls for four houses to be widely spaced along a high ridge of farmland in the center of a 135 acre parcel. Each house will be plainly visible for miles and while within easy view of each other, will be physically isolated, requiring long access roads over fairly steep and erosive hillsides. The location of the development will require at least five mile commutes to school, work and shopping.

I urge the Board of County Commissioners to envision the space between Moscow and Moscow Mountain as being developed in this way. Four homes spread out across each plot of 135 acres, with houses mostly placed on hill tops and ridges. That is 18 to 19 houses per square mile. Could agriculture be sustained in that environment? There are many examples of this type of development across the U.S., but we need look only as far as the Rathdrum Prairie as an example of this type of sprawl.

The errors of the past should not be precedent for current practices or future planning. The Nearing and Tatkinmah developments are nearby to the proposed rezone, they too are isolated from employment, shopping and services, but they were developed before the current Comprehensive Plan and they are not set in productive agricultural land. Indeed the Tatkinmah development has continued to employ sustainable forestry practices to harvest substantial amounts of lumber.

We have moved into an era in which sustainability must be a primary consideration in all planning and development. I hope that in this letter I have demonstrated that the proposed development is not a model of sustainable growth and that it is a misrepresentation of the “conservation subdivision” model of design. In fact this proposal is not significantly different from the previous development request (Terramark-

Michael Hoffman RZ#731 for four rural residences on the exact same parcel). That proposal was properly denied by the Latah County Planning and Zoning Commission.

There are many other reasons to reject the proposed rezone. I believe the following requires its rejection: Section 6.01.02 states that Zoning Commission may recommend Board approval of a rezone application if the Commission finds that the proposed rezone conforms to each of 5 criteria. Please note that the word may gives the commission the option, not the requirement to recommend a rezone. Most importantly, under criterion 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." This language does not place the burden of proof on surrounding land owners to show detriment or incompatible use. The surrounding property owners are not requesting an exception to the status quo. The terminology shall unlike may is not optional. The proposed rezone presents a credible risk to existing water resources and to the agricultural use of adjoining land. Unless the developer can adequately prove that there will be no detriment, the proposal must be rejected.

We would like to thank the Board for your consideration of these matters.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is for Robert S. Johnson, and the signature on the right is for Linda Rasmussen. Both signatures are written in a cursive, flowing style.

Robert S. Johnson and Linda Rasmussen

March 15, 2009

Kyle Hawley  
1052 Lewis Rd  
Moscow, Id 83843

RECEIVED

MAR 17 2009

Re: RZ 780 Lewis/Foothill Roads

LATAH COUNTY

To: Latah County Commissioners

My wife Lisa and I have lived at this location since 1974. We have farmed in Latah County 1978. Our land borders the 135 acres owned by the applicants on two sides (approximately ¼ mile for each side). We oppose the proposed rezone for the following reasons:

1. Our home depends on a natural spring fed cistern type well. We believe that the drilling of wells and the water use associated with the proposed homes will put our water supply at great risk. We also have three other natural springs on our property that supply water to two ponds. One pond supplies water for livestock and for the irrigation of our lawn and garden. Both ponds are used by wildlife and recreation, and most likely will someday be used for fire suppression. One spring is undeveloped. We believe that the drilling of four or more wells (the wells will most likely all be up slope from our water sources) will very likely serve as a zone of interception severely impacting these natural springs.
2. We believe that the Application is in direct conflict with the first objective of the Latah County Comprehensive Plan. ...The objective is for: the preservation of agricultural and forest land uses to ensure the continued viability of agriculture and forest based economy in rural Latah County. We believe that this zone change would be in direct conflict with the spirit on the Comprehensive Plan and would ignore the will of the majority of the citizens of Latah County.
3. We believe the application does not meet the five rezone criteria of the Latah County Land Use Ordinance as stated in section 6.01.02. They read as follows:
  - A. The rezone is in accordance with the goals and policies of the Comprehensive Plan. ...It is not. It does not meet the first objective as stated above.
  - B. The rezone, and the uses it permits, shall not be detrimental to or incompatible with the surrounding area, and the uses

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 117  
Date: March 31, 2009

permitted in that area. ... The rezone uses are detrimental and incompatible with the agricultural uses. Dust, noise, spraying of pesticides, etc. associated with agricultural practices often conflict with residential dweller's expectations. Houses built in the middle of an agricultural landscape exasperate these conflicts as well as often limit the farmer's crop and agricultural management choices and reduce field efficiencies.

- C. The rezone must provide some public benefit that exceeds any costs imposed upon the public. ... What public benefit does the rezone bring that out weighs the risk to water quantity and water quality (wells/groundwater interaction; and concentrated flows off the buildings and roads onto fields and into county road drainages) and the conflicts and incompatibility with surrounding agricultural uses? There are currently more than one hundred parcels of land for sale in Latah County. Many opportunities exist for people to build homes on parcels of land. The only benefit is monetary, for the applicants.
  - D. The rezone shall not impose a significant burden to any public services. ... More people in the rural sector equates to more services required. (Road maintenance, police services, fire protection etc.) One could try to argue that that a few homes are not a significant burden however, every new home adds to the accumulative effect of an ever increasing demand for more public services.
  - E. The rezone shall not be a spot zone. ... The rezone is a spot zone. The proposed zone change is completely surrounded by an actively farmed agricultural landscape and the agriculture/forestry zone.
4. The application states that the land to be rezoned is comprised of less productive agricultural land. This is not correct. The land consists of two soils; they are classified as Southwick, and Larkin. The two soils are very common agricultural soils in Latah County. I farm several hundred acres of these soils. These soils produce profitable crops for many farmers of the eastern portion of the Palouse prairie. I certainly would agree with the Comprehensive Plan's classification of these soils as productive. (Section 8.01.02 of the Latah County Land Use Ordinance). The specific rezone proposal is for a broad rolling ridge line that probably yields comparable to the average yield of the remainder of the field. The fact that the land has been continuously farmed for at least eighty years (probably 125 years) proves that the land is productive and profitable.

5. The applicant/developer purchased the land knowing that it had just been rejected for the same type of zone change proposal as what they are currently asking for.
6. The applicant tries to “green” the proposal by stating that a portion of the remaining land will be transferred into a conservation use and the other remaining land will ‘most likely’ remain in an agricultural use with the exception of wells and roads. ... The land is already protected in a “green” use (agricultural production) via the existing agriculture/forestry zone. The applicant is in reality asking for a portion of the land to be “unprotected”.
7. If the zone change is approved this will set a precedent establishing that the Comprehensive Plan is conveniently manipulated (zones changed) so that agricultural land throughout Latah County can be easily be taken out of production and the land used for housing..
8. The passage of the zone change, as it sets the above mentioned precedent, would not only invite more development which increases farmer/residential conflicts, and increased public service costs, but would directly cause land values to rise. The higher land values result in the inability of young farmers (and future generations of farmers) to purchase agricultural land and also for existing farmers to purchase land from landlords or from those that inherit agricultural lands.
9. Most of us agricultural producers in Latah County have invested in conservation management tools and techniques to conserve our soils for the future; to produce food for future generations. Why do we promote land stewardship but at the same time allow farmland destruction for houses? How do we (as this current living generation) justify destroying farmland for the sake of a few privileged people. What will be the price paid by future generations for our shortsightedness?
10. This generation and future generations of people need every acre of farmland if we are to be less dependent on foreign oil and more reliant on farmland to provide food, fiber, and fuel.

Thank you for your consideration.

Handwritten signatures of Kyle Hawley and Lisa Hawley in cursive script.

Kyle Hawley & Lisa Hawley

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MAR 18 2009

Diane R. Albright  
1120 Nearing Road  
Moscow, Idaho 83843

March 17, 2009

Latah Board of County Commissioners  
BOCC  
P. O. Box 8068  
Moscow, Idaho 83843

Dear Commissioners:

This letter is in **OPPOSITION TO RZ# 780**. I oppose RZ # 780 for the following reasons.

This rezone would represent a "spot zone" and would thereby go against the Latah County Comprehensive Plan. The commission has the obligation to see that developments such as the one proposed in RZ # 780 do not usurp our irreplaceable farmland. Opening the door to "spot zone" RZ # 780 would basically give a nod to similar developments that pose a threat to our agricultural land. An inventory of properties available for development seems to indicate that there is land already approved for development that should be utilized before encroachment upon productive farmland. Every day it seems like another big house is sprouting on the hills of the Palouse. Soon the dry land farms of the Palouse that have long been a staple of our economy will be gone forever unless we make a stand against the kind of "spot zoning" that can make farming impossible. Civilizations have failed because they have paved over their productive land.

**WATER and the lack thereof.** The area of the proposed rezone is known for its low water production. Even fairly deep wells can come up dry or produce such a low flow that maintaining enough water for the daily needs of an average household can be very difficult. My personal well is 328 feet. It was drilled in 1972 and produced a gallon and a half a minute. I have a 1000 gallon holding tank in my basement and pray each day that there will continue to be water in that tank. Over the years, conservation of water has been a way of life. Neighbors who started out with productive wells have had to drill second wells, some wells in the neighborhood have been dry. A 410-foot well on a lot next to mine can pump for only fifteen minutes before the Coyote protective system turns the pump off. **In the "Finding of Fact" document from the Latah County Zoning Commission, item number 13, the applicants state, " the applicant would retain drilling rights on the forty-three acres due to concerns about the wells on the four proposed lots..."** The applicants themselves recognize that water in the proposed rezone will be a problem. How can we condone another development when there may not be

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 118  
Date: March 31, 2009

water to support that development? How can we condone the drilling of more wells if it will put wells already low in production in extreme jeopardy? **The proper use of this land is "dry-land" farming.**

**In 2006, a similar plan was denied. What has changed?**

The proposal indicates that fifty-two (52) acres north of the rezone are "proposed to be donated to the Palouse Land Trust at the time of short plat approval." **This is a proposal and does not seem to be written in stone as an absolute given. The phrase, "to the extent possible" raised a red flag for me.** If the Palouse Land Trust does not accept this property, will it too be developed?

The proposal itself has all kinds of airy-fairy statements about orchards, gardens, no fences, 2000 gallon holding tanks, eco-friendly construction, etc. Obviously whoever wrote the proposal has not tried to keep an orchard or garden without water nor spent time trying to deal with the critters who graze on those hills and invade every garden or orchard that goes into the ground. Nor have they experienced the many dry seasons when Moscow Mountain has presented such a fire danger that no amount of water could save ones dwelling from the ravages of fire. Think about Flanagan Creek and how a lack of water there led to disaster. Have the developers ever had to think twice before flushing the toilet or doing a load of laundry, or watched the grass in the yard die because water could not be spared to keep it alive.

The proposal constantly refers to the developments that surround this proposed rezone. This is a poor comparison to make. The land in this proposal is productive agricultural land. The other developments are primarily in the non-productive forestland that is too steep and too rocky to be cultivated. The Nearing Additions have been around since the early 1970s. The Latah County Comprehensive Plan of today did not exist when these developments were passed. Because they exist is not a reason to allow RZ # 780 to pass.

Thank you for your consideration of this urgent matter. **Please oppose RZ # 780.**

Sincerely,



Diane R. Albright

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MAR 18 2009

LATAH COUNTY

To: Latah County Board of Commissioners  
Attn: Aimee Shipman  
Date: 3/17/2009  
Subject: RZ87

"Welcome to "BGB, LLC Country Estates". As always with these applications, much is indicated, but not well defined, thus leaving many gray areas for question.

A number of questions arise when reading the application.

1. Are any of applicants intending to build on the site?
2. Are all four lots for sale?
3. Under "Public Benefits, item 4, "The proposed rezone will provide additional opportunities for buyers looking for rural home sites in a rural setting".

The word "additional" bothers me. At a future point in time could the 43 acre conservation allotment be available for sale.

All so, if the Land Trust verbal agreement is never completed, would these 52 acres be for sale.

Good intentions, but little in defined statements.

I do not feel the rezone request for "Cluster Housing", meets the requirements of the zoning rules.

The application tends to indicate under the "Covenants, Conditions and Restrictions" that the 2000 gallon tank requirement might be a requirement of the Comprehensive Plan. We wonder why the need for a large storage facility.

It is known that immediately adjacent on the southwest corner of the proposed development, there are four springs emanating from granite, servicing a farm, 2 springs service 2 stock ponds and two springs service 2 homes with barely adequate water.

The applicant has provided a chart indicating 62 homes on the mountain with the flow rates as provided from records of the Idaho Department of Water Resources. The Median Flow rate indicates that across the 62 homes the average flow rate is about 3 gallons per minute or about 185 gallons per hour. To fill a 2000 gallon tank at the 185 gallon rate it would take 10 hours or more to fill the tank, provided the granite aquifer could sustain that volume of pumping. There are four, 2000 gallon tanks to fill and replenish at various points in time. It is possible or probable that that one or more of the small aquifers emanating in granite would be compromised or depleted permanently. To protect the existing homes and the 4 springs, no building should be allowed at the site of the application RZ870.

Viable farm land is our second most valuable national asset after water. The loss of 135 acres is not large. However, assume the farm produces 50 bushels of wheat per acre, or 6750 bushels total, How many loafs of bread would this make to feed the City of Moscow?

Viable farm land must be protected from undo development and particularly from cluster development.

Question! Will four Moscow style two and a half story homes plus four 2000 gallon water tanks be an attractive addition to the gentle scene of the south slope of Moscow Mountain.

Because of undoubted water problems, cluster development, and loss of farm land, I would request that the Board of Commissioners deny the BZ870 request for rezone.

Allan N. Carson  
1321 O'Donnell Road  
Moscow, Idaho 83843

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 119  
Date: March 31, 2009

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MAR 18 2009

**Troy Sprenke**

LATAH COUNTY

**From:** Linda Spady [lspady@moscow.com]  
**Sent:** Wednesday, March 18, 2009 10:16 AM  
**To:** tstroschein@latah.id.us; jnelson@latah.id.us; jbarrett@latah.id.us; pb@latah.id.us; ashipman@latah.id.us  
**Subject:** RZ #780

Dear Board of County Commissioners, Michelle Fuson, and Aimee Shipman,  
18, 2009

March

This email is in regards to RZ # 780 concerning rezoning on Foothill Road.

I have two very serious concerns regarding this proposal:

1. The rezoning would not comply with Latah County Land Use Ordinance #269, which wisely prohibits spot zoning. This land is rich Palouse farmland which needs to continue to meet one of the most basic needs of humans-quality, nutritious food. There are other lands which are not so productive that can be used for housing.
  2. There is a serious water shortage issue in this area. We had a well go dry right after moving in here. A few years later, we had to hydro fracture our well because our output was extremely low. Numerous neighbors have had serious problems with water. The land in question is dry-land farming and would not add to this problem.
- There are other lesser concerns about congestion, etc.

Please vote against this proposal.

Sincerely,  
Linda Spady  
3472 Foot Hill Rd.  
Moscow, ID 83843

3/18/2009

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 120  
Date: March 31, 2009

March 18, 2009

Latah County Commissioners  
Latah County Courthouse, Room 3B  
Moscow, ID 83843

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MAR 18 2009  
LATAH COUNTY

Dear Commissioners,

I am writing in regards to your consideration of RZ780. I am opposed to the request on the following grounds:

1 – Current planning and zoning laws were enacted to protect agricultural lands from being developed. If this request is approved, farm land will be taken out of production. Although the total amount of farm land lost due to this request is small, it will set a precedent. Further requests for rezoning will be the logical consequence.

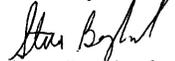
2- If this request is granted, the potential for conflicts between rural homeowners and production agriculture will increase. I have farmed north and east of Moscow for the last 26 years. In that time frame considerable “urbanization” has occurred in this area. The result of these new neighbors has hindered my ability to farm.

Most people who move to the country do not want to contend with the noise, dust, and/or smell consistent with agriculture. Because of this I have had to make significant changes in my farming operation. Some changes include the following:

- A) On many of my fields, I no longer can utilize aerial applicators to apply fertilizer and herbicides
- B) On many fields, I cannot work early in the morning or late at night due to noise and/or dust considerations. This can be especially burdensome during times when delays occur due to adverse weather
- C) I even had a request one year from a homeowner who asked me to please not harvest my crop in the field adjacent to his home because of the dust that comes off the combine.

Lastly, this parcel of land was purchased by investors after a similar rezoning request on the same parcel of ground had been denied. I believe to overturn the original denial would not benefit the public in general. Indeed, the only ones to benefit would be the investors wanting to make a quick buck. I urge you to turn down this request.

Sincerely,



Steve Berglund  
3906 Darby Rd.  
Moscow, ID 83843  
208-882-4005 ( home)  
208-596-2116 (cell)

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 121  
Date: March 31, 2009

**Aimee Shipman**

---

**From:** Phil Garner [ppg@wsu.edu]  
**Sent:** Wednesday, March 18, 2009 3:35 PM  
**To:** ashipman@latah.id.us  
**Subject:** Application RZ #780

Dear Commissioners,

I understand that there will be a special meeting to discuss application RZ #780. As a resident of Moscow Mountain, I want to go on record AGAINST the proposed rezone. The basis for my opinion is the county's rejection of the previous application to rezone this property (RZ #731). In my opinion, the current application does not overcome your previously stated objections. Therefore, it should also 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](mailto:ppg@wsu.edu)  
<http://garner.chem.wsu.edu/>

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 122  
Date: March 31, 2009

3/18/2009

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MAR 19 2009

LATAH C

Latah County Commissioners  
Latah County Courthouse  
Moscow, Idaho

Regarding Rezone Application 780:

Dear Commissioners,

We support the Latah County comprehensive plan and believe that county residents should expect the commissioners to uphold it, short of some pressing reason to the contrary.

This application urges a rezone that appears to violate most, if not all, Plan elements, sets a precedent for further breakup of productive land, may threaten the water supply of established homes, and evidences no compelling need for four more rural homesites in the county.

We urge denial of the rezone request.

Sincerely,

*Leonard Hetsler*  
*Jane Hetsler*

Leonard and Jane Hetsler  
1020 Joyce Road  
Moscow

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 123  
Date: March 31, 2009

**Aimee Shipman**

---

**From:** Philip Rosenberg [rosenberg@wsu.edu]  
**Sent:** Thursday, March 19, 2009 10:23 AM  
**To:** ashipman@latah.id.us  
**Subject:** Rezone application #780

RECEIVED

MAR 19 2009

LATAH COUNTY

Dear Commissioners,

I would like to express my opposition to Rezone Application #780. It is my understanding that preservation of farmland and the counties farming economy are the stated objectives of the Latah County Comprehensive Land Use Plan, It is clear that RZ #780 would permanently destroy productive farmland and thus, violate the Comprehensive Plan. I believe that a similar rezone plan on the same parcel of land was rejected as recently as December, 2006.

Furthermore, RZ # 780 proposes spot zoning which appears to violate Latah County Land Use Ordinance #269 which prohibits spot zoning.

Furthermore, as a geologist, I am aware that ground water recharge could become a problem if a precedent is set by approval of this rezone application.

Therefore, I strongly urge the Latah Board of County Commissioners to reject of proposed rezoning along Foothill Road (RZ #780).

Sincerely,

Philip E. Rosenberg  
1058 Tolo Trail  
Moscow, Idaho 83843

BOCC HRG: RZ 780  
Applicant: BGB LLC  
Exhibit No. 124  
Date: March 31, 2009