

## BOARD OF BINGHAM COUNTY COMMISSIONERS

### REASON & DECISION

In regards to: The Planning & Zoning Commission's recommendation to approve the request for Zoning Amendment of two parcels consisting of approximately 4.62 acres, located South of 701 E. 1400 N, Shelley, Idaho, from "A" Agriculture to "R/A" Residential/Agriculture.

Property Owners: Bracken and Katie Abrams

Board of County Commissioners Public Hearing Date: July 10, 2024

The record provided to the Board is comprised of the following:

1. Exhibits to the Board Public Hearing Staff Report:
  - CC-1: Staff Report- Board of County Commissioners
  - CC-2: Proof of Publication- Bingham News Chronicle- Board of County Commissioners
  - CC-3: Shelley Government Agency Notice List & Notice- Lindsey Dalley, Commission Clerk
  - CC-4: Property Owners Notice List & Notice- Lindsey Dalley, Commission Clerk
  - CC-5: Notice of Posting- Jacob Martin- Planning & Development Inspector
2. Exhibits to the Planning & Zoning Commission Staff Report:
  - S-1: Staff Report- Planning & Zoning Commission
  - A-1: Application for Zone Change
  - A-2:10-15-3- Contents of Application
  - A-3:10-4-2- Purpose of Zones
  - A-4: Quit Claim Deed
  - S-2: Aerial Map
  - S-3: Zoning Map
  - S-4: Comprehensive Plan Map
  - S-5: Flood Plain Map
  - S-6: Subdivision Map
  - S-7: Area of Impact Map
  - S-8: School District Map
  - S-9: Utilities Map
  - S-10: Nitrate Priority Area Map
  - S-11: Irrigation Provider Map
  - S-12: ½ mile proximity parcels by size Map and List
  - S-13: Google Imagery
  - S-14: Notice of Posting: Addie Jo Harris
  - S-15: Site Photographs
  - S-16: Proof of Publication- Bingham News Chronicle- Planning & Zoning Commission Public Hearing Notice

S-17- Shelley Government Agency Notice List & Notice of Mailing- Ashley Taylor, Planner

S-18: Property Owners List and Notice of Mailing- Ashley Taylor, Planner

3. All Information and Testimony presented prior to the Planning & Zoning Commission Public Hearing:

(T-1) Testimony from Bingham County Surveyor

(T-2) Testimony from Allan Johnson, Regional Engineering Manager with the Idaho Department of Environmental Quality

(T-3) Testimony from Bingham County Public Works

4. Testimony presented at the Planning & Zoning Commission Public Hearing:

(T-4) Applicant Bracken Adams, 1254 N 550 E, Shelley, Idaho, reviewed the History of how they came to own the property and that potential future access Would extend from a recently constructed county road.

There was no testimony on favor nor in opposition provided but testimony in neutral was provided from (T-5) David Hiatt, of 701 E. 1400 N., Shelley, Idaho, who expressed concerns with development in the area as well as fencing, irrigation and run off water to the property which is currently flood irrigated.

Director Olsen added that if this zoning amendment is recommended for approval and is approved by the Board of Commissioners, these valid concerns would be specifically addressed at the time a Subdivision Application is heard should the Abrams move forward with individual lot development. Additionally, a proposed Preliminary Plat would show location of irrigation easements, proposed and existing fences, storm water runoff and containment as well as access.

After Mr. Hiatt's testimony, Mr. Abrams offered rebuttal. He explained that he would address these concerns by reaching out to neighbors. Following Mr. Abram's rebuttal testimony, the Public Hearing portion for this Application was closed.

As to procedural items, the Board of County Commissioners finds the following:

1. Requested Action: The Public Hearing was held pursuant to Bingham County Code Section 10-3-6(A)(11) where the Board held a Public Hearing, using the same notice and hearing procedures as the Commission, on the Application for an Amendment to the Zoning Designation.
2. In accordance with Bingham County Code 10-3-6, Notice of the Boards Public Hearing was provided as follows:

- a. Sent to Government Agencies on June 10, 2024 (CC-3 List of Shelley Government Agencies and Notice)
  - b. Published in the Bingham News Chronicle on June 12, 2024 (CC-2- Affidavit of Publication)
  - c. Sent to 6 property owners within 300' of this property on June 10, 2024. (CC-Property Owners Mailing List and Notice)
  - d. Site was posted on June 24, 2024 and pictures were taken on March 22, 2024 (CC-5 Notice of Posting Affidavit and S-15 pictures)
3. There was no testimony received prior to the Boards Public Hearing.
  4. With no additional questions for Staff after presentation of the Staff Report, the Public Hearing was opened. The Board received testimony as follows:

The Applicant, Bracken Abrams, who testified via Zoom, stated that he has nothing further to add but if the Board has any questions, he would be happy to answer those.

Chairman Manwaring asked if there was testimony to be given in favor of the Application, wherein there was none.

Chairman Manwaring asked if there was testimony to be given in neutral of the Application, wherein there was none.

Chairman Manwaring asked if there was testimony to be given in opposition of the Application, wherein there was none.

### REASON

Public testimony was closed and the Board moved into discussion and deliberation which was held and the Board hereby finds:

Bingham County Code Section 10-4-2 (C), which states that the purpose of the "R/A" Residential/Agriculture Zone in that parcel meets the following criteria:

1. Suitability of parcel for agricultural purposes;
  - a. The Board had no concerns.
2. Proximity to existing areas of similar population density;
  - a. The Board had no concerns.
3. Lot size compatible with existing lot sizes in the immediate area;
  - a. The Board had no concerns.

4. Compatible with the existing uses in the immediate area;
  - a. The Board had no concerns.
5. Protection from incompatible uses;
  - a. The Board had no concerns.
6. Accessibility to adequate utilities;
  - a. The Board had no concerns.
7. Adequate service by roadways;
  - a. The Board had no concerns.

A brief discussion was held in regards to flood irrigation, wherein Chairman Manwaring stated there was concern in regards to fencing, irrigation and runoff. Chairman Manwaring asked Mr. Adams if there are issues with the runoff. Mr. Adams explained that when he was residing on the property, there were issues with water running down into where the county road has now been added. He believes this concern has been addressed when the county road was added but it does continue to flow south and if the water was left on there may be issues. Therefore, whoever is irrigating will need to be responsible for shutting off the water, so as to not flood.

There was no further discussion and Chairman Manwaring requested a motion at this time.

### **DECISION**

**Decision:** Commissioner Jackson moved to uphold the decision of the Planning & Zoning Commission to approve the Application for Zoning Amendment of approximately 4.62 acres from "A" Agriculture to "R/A" Residential/Agriculture, located South of 701 E. 1400 N, Shelley, as proposed by Bracken & Katie Abrams. Commissioner Bair seconded. All voted in favor. The motion carried.

**Request for Reconsideration/Judicial Review:** Upon denial or approval of a zone change, with adverse conditions, pursuant to Idaho Code Section 67-6535(2)(b), the Applicant or affected person seeking Judicial Review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

**Regulatory Takings:** Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek Judicial Review as provided by Chapter 52, Title 67, Idaho Code.

Dates this 30 day of July 2024.

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

---

Whitney Manwaring, Chairman

*Mark R. Bair*

---

Mark Bair, Commissioner

*Eric Jackson*

---

Eric Jackson, Commissioner