

BINGHAM COUNTY PLANNING & ZONING COMMISSION
REASON AND DECISION

APPLICATION OF: Bingham County's Amendment to the Existing Comprehensive Plan Map Designation of Residential/Agricultural to Agricultural for parcels

Requested Action: Following Bingham County Code Title 10 Chapter 15 *Amendments*, Section 2 *Initiation of Amendments*, and Idaho Code Section 67-6509 *Recommendation and Adoption, Amendment, and Repeal of the Plan*, on January 16, 2025 Planning and Development Services received a written petition designating the change desired and the reason therefore from Bingham County Riverton area residents Layne Hamilton, Joel Weaver, and Dallen Worthington.

Background: The written petition, titled "Request for Amendment of the Bingham County Comprehensive Plan to the Bingham County Planning and Zoning Commission," requested the Planning and Zoning Commission take a thorough review of, and make an update to, the 2018 Bingham County Comprehensive Plan with a specific amendment to the Comprehensive Plan Map boundaries in the Riverton area to better align with the Comprehensive Plan and promote organized residential growth within Bingham County.

The basis for the request is summarized as follows:

1. It had been over six (6) years since the Comprehensive Plan was reviewed and adopted, and since said approval, Bingham County has seen unprecedented growth; and
2. The City of Blackfoot had upgraded its sewage facility and negotiated a new impact zone within the county; and
3. The swearing in of newly elected Bingham County Commissioners who unseated the incumbents based on stark contrast in opinions on growth and development; and
4. To avoid further conflict and ongoing litigation due to the lack of clarity within the 2018 Comprehensive Plan.

The Request was accompanied by:

1. two (2) maps depicting the proposed boundaries of the Comprehensive Plan Map area designation of Residential/Agriculture, which currently extends from the southwest border of the municipal boundaries of the City of Blackfoot southwest to the western border of Section 23 in Township 3S Range 34E. The boundary amendment depicted in the maps provided proposes adjusting the Residential/Agriculture boundary from the western section line of Section 23 in Township 3S Range 34E to the eastern section line of Section 13 in Township 3S Range 34E.
2. a letter addressed to the Planning and Zoning Commission that consisted of three (3) pages and eight (8) photos.

The letter provided the following points to support the Request:

1. Shared plurality of ownership and quality of life: A large majority of the community membership opposes future growth in this area and expects that the Riverton area should remain rural, riparian, agricultural, and a ranching community.
2. Rural Agriculture: The Riverton area is rural with large tracts of farming and cattle grazing pasture land.
3. Shoshone Bannock Tribes: The Riverton area borders the Shoshone Bannock Tribal lands with only one Bingham County road accessing the area. All other access points come through tribal land and are maintained by the Shoshone Bannock Road and Bridge Department.
4. West Riverton Road: This road is curvy, narrow, and full of pitfalls, which would not be adequate for any sizeable traffic growth.
5. Preserve: The importance of remaining committed to this area of the river and continuing to maintain its rural benefits. The Riverton area is unique as a riparian and wildlife area, which includes fish, deer, turkey, upland game birds, etc. Additionally, the Riverton Sportsman's Access is a privately-owned access to the river and is the only public access on the southwest side of the Snake River from the City of Blackfoot downstream to Tilden Bridge and Ferry Butte.
6. Building Codes: The Riverton area is located between the Snake River and the Blackfoot River and is predominantly designated as a floodplain, which requires special building requirements for any type of structure. Additionally, the importance of larger lots for the

protection of drinking water due to the high-water table in the area was addressed.

Planning and Development Services staff brought the written petition to the attention of the Planning and Zoning Commission at their meeting on March 19, 2025. After review of the documents provided by the three Riverton area residents and Mr. Joel Weaver's verbal request to be placed on a future Planning and Zoning Commission Meeting Agenda for a Public Hearing as a County-initiated Comprehensive Plan Map Designation Amendment, the Planning and Zoning Commission found that a Public Hearing to review the Comprehensive Plan Map designation of the Riverton area is subject to public testimony of which should be heard, that reviewing this area was necessary, and that an action should be initiated by the County as reflected in the Minutes of the Meeting (Exhibit S-13)

According to this action, a total of approximately 1,262.38 assessed acres consisting of approximately 94 parcels were found within the requested Amendment area extending from approx. the eastern border of T3S R34E Sec. 13 to the western border of T3S R34E Sec. 23.

Majority of the parcels are in the floodplain; see Map Exhibit S-4. Surrounding zoning includes Agriculture in all directions, with an area of Residential/Agriculture Zoning located to the East of the proposed Amendment Area consisting of Riverton Heights Subdivision, Toveywood Estates Subdivision, and 1st Amended Toveywood Estates Subdivision; See Map Exhibit S-6. Parcel Nos. RP0253500 and RP0253603 are owned by Donald and Lorette Anderson, who were previously granted a Zoning Amendment from Agriculture to Residential/Agriculture but have since withdrawn their Application. A separate Public Hearing will be held to reverse Ordinance No. 2020-09 and return the two parcels to a zoning district designation of Agriculture. The Request impacts the parcels identified on Exhibit S-10.

Applicable Regulations: Bingham County Comprehensive Plan, dated November 20, 2018
Bingham County Zoning Ordinance 2012-08, as amended

Public Hearing Date: June 11, 2025

I. PUBLIC HEARING RECORD AND INFORMATION

1. The following was reviewed by the Commission:
 - a. Application and materials provided by the Applicant; and
 - b. Staff Report with exhibits.
2. At the Public Hearing, Planning and Development Services Assistant Director/Lead Planner, Addie Jo Jackman, presented the Staff Report for the Application. She reviewed the requested action and acknowledged that before the Public Hearing, the Commissioners were provided the record of written testimony received, which included:

(T-1) Bingham County Public Works submitted testimony in a neutral position stating no objections or concerns.

(T-2) John Reffit, Bureau of Land Management (BLM) Field Manager, submitted testimony in a neutral position and stated the BLM has concerns regarding the inclusion of certain BLM parcels within the identified areas for amendment. Specifically, the following BLM parcels should not be included:

T3S, R34 E, Section 13, Blocks 9 and 10

T3S, R24E, Section 14, NWSE, and Blocks 10, 11, 15, and 16

Inclusion of BLM parcels in the proposed amendment may lead to confusion regarding their status and misuse of land designation. Staff Comments: The parcels referenced were included as they currently have a Comprehensive Plan Map designation, but will be removed from the area prior to being presented to the Board of County Commissioners for a Decision if so moved by the Planning and Zoning Commission.

(T-3) Bingham County Surveyor submitted testimony in a neutral position, stating no comments.

(T-4) Merlin Yancey, 707 W 300 S, Blackfoot, ID, submitted testimony in opposition and stated the present Comprehensive Plan has served the residents of the Riverton area well and would support leaving the Comprehensive Plan boundaries as they presently are.

(T-5) Marvin Yancey, 691 W 300 S, Blackfoot, ID, submitted testimony in opposition and stated the existing Comprehensive Plan is better than the proposed change because it respects the property rights of both the large and the remaining small acreage owners in the Riverton area. Both have more control of their property – the American way – Freedom to choose as long as they do not negatively impact each other.

3. With no further questions for Ms. Jackman, testimony was received from:

(T-7) Joel Weaver, 800 W Riverton, Blackfoot, ID, testified that the Comprehensive Plan Map Area currently divides 100 acres right down the middle, one side being “A” Agriculture and the other “R/A” Residential Agriculture. Mr. Weaver testified that the first reason for the request was due to the recent change to Bingham County Code 10-5-3 *Land*

Use Chart; some land uses are now allowed where they had not been previously, and he believed that the Comprehensive Plan and Land Use Chart should match the community's wants.

The second reason was that the Agriculture Protection Act was enacted on November 7, 2024 by Bingham County, which allows farmers, ranchers, and forest landowners to designate their land for agricultural use for at least twenty (20) years. Combining private land and BLM land, there are over 1,900 acres in this area, with 98.5% of it being farmed.

Mr. Weaver explained that the subject area includes forty-three (43) homes, and he testified that with the addition of subdivision development, it could significantly increase the population in the Riverton area. Mr. Weaver testified that if this happens, the neighborhood's way of life would change, agriculture might decline or cease, and the riparian area and wildlife would be impacted. He stated that growth should occur within or near a municipality, but this specific area, subject to the Amendment, is at least three (3) miles outside of the City of Blackfoot, noting that there would need to be at least three (3) miles of development before reaching this area. He mentioned that only one County-owned road provides access to this area, and there is a need to protect farmland, promote orderly growth, and ensure comprehensive transportation. The road (implied to be Riverton Road) has blind curves, no striping, and cannot comfortably handle an additional ten (10) vehicles. If twenty (20) new homes are built, that means 200 more cars, and he raised concerns about slow-moving tractors and accidents, making it sensible to keep this area agricultural. Mr. Weaver noted that this area mainly lies in the floodplain, which complicates well water and septic system placement due to the water table.

Commissioner Johns asked Mr. Weaver of the 1,200 acres in the proposed area how many acres he owned and if he had placed his property in the agriculture protection program. Mr. Weaver stated 100 acres and that he has not, but is willing to look into it. Commissioner Johns questioned, in looking at the big picture of Bingham County, this individual initiated an Application for a large area could set a precedent, and asked Mr. Weaver if he would like to see this happen all across Bingham County? Mr. Weaver thought that growth should be comprehensive and near a municipality, and this area is three (3) miles away from that, which does not make sense.

Commissioner Jolley asked what if there was a situation where a family needed to sell their property to make ends meet. If they sold agricultural land, the difference in land values for farmland is now \$10,000 to \$15,000 an acre, compared to \$100,000 for a building lot. Commissioner Jolley asked Mr. Weaver if it could be justified to tell someone who owns private property that they can't develop it. Mr. Weaver responded that zoning laws exist to manage development. Commissioner Jolley added that this is how the zoning is currently, and by recommending approval of the three (3) Riverton citizens' requests, it would take the economic security away from landowners. From what Mr. Weaver understood, he replied that the Amendment would add an extra step in the application process, but that it would not take that right away from anyone, same as the Agriculture Preservation Act protects communities. Mr. Weaver testified that he did not think someone should be able to purchase a chunk of property and change the whole neighborhood, because the neighbors

also have rights. Mr. Weaver provided an example from the previous hearing item and a previous area where he lived, stating it could change the community from a farming community to something different. He stated the Riverton area is a generationally farmed area and of the forty-three (43) homes in that area, only two (2) have been constructed in the last ten (10) years, and this provided the example that this area has been protected by its people, but they want it protected by the Comprehensive Plan.

Commissioner Watson asked if there was a limit to the number of times the Comprehensive Plan Map could be changed. Director Olsen stated there was no restriction related to the Comprehensive Plan Map, but added that if you receive a Zoning Amendment, the zoning designation cannot be changed for four (4) years. She explained that the difference in this Application is that instead of a request coming from a landowner for their property, this request is from three (3) individuals which, if approved, will affect approx. ninety-four (94) parcels of land. Director Olsen noted there is a large number of parcels included in the request that do not have the permission of the landowners. Mr. Weaver responded by stating that although there are 94 parcels, there are not 94 landowners.

(T-8) Tricia Phelps, 639 W 275 S, Blackfoot, ID, testified that the Comprehensive Plan states *(a) To protect property rights and the use of property while not adversely impacting neighboring property values more than is necessary*. She testified that if a property is valued at \$300,000 for an area, this would create an undue hardship on her parcels, as she believed it would increase her property taxes. Ms. Phelps was concerned about running out of food sources. She does not want to eat something grown in a lab, but rather, locally grown and raised food. She believed it was important to protect the wildlife and riparian areas, and not to give up those areas because of the wildlife that currently exists in the Riverton area. Ms. Phelps testified that access roads include other roads to this area, but that some are Tribal owned, and it cannot be expected that those will be maintained for the Riverton community.

(T-9) Dallen Worthington, 685 W 300 S, Blackfoot, ID, testified that he thought that all of the land owners affected were present, and informed the Commission that he had personally reached out to many of them. He said there is a vast majority of people who want to protect this proposed area, the riparian wetland, agriculture, farming, and ranching lifestyles. Mr. Worthington testified that they were going to start a Petition so the Planning and Zoning Commission could visually see who was in support, but that they were not able to do so. Mr. Worthington testified he was a big believer in the plurality of ownership; what goes on should be considered by everyone involved. He explained the need for zones and for the communities to have a say in what goes on in their zone. Mr. Worthington stated that testimony was received from Jason Stewart, commenting that he does not live in the affected area. He pointed out to the Commission that there were only two letters received in opposition who live in the affected area. Commissioner Adams questioned why they were going to start a Petition, but did not? Mr. Worthington stated he was tired of fighting this fight and did not want to make the trip around to collect the signatures.

Testimony in a neutral position was not received. Testimony in opposition to the Application was received by:

(T-10) Robert Hoskins, 674 W 275 S, Blackfoot, ID, testified he owns a little over sixty (60) acres in this proposed area. He stated this is a free country, and a lot of freedoms have been taken away. He believed that if a man owns property in the United States of America, he should have the freedom to do what he wants. He concluded by stating that he believed we needed those freedoms in our country.

(T-11) Jason Stewart, 656 W 200 S, Blackfoot, ID, testified that there are actually three (3) access roads to this proposed area, Ferry Butte Road, Riverton Road, and South Riverton Road, which do cross the Reservation. Mr. Stewart referred to Mr. Anderson's twenty (20) home Subdivision Application, and at that time, Bingham County Road and Bridge determined the roads in their jurisdiction were adequate for the increase in development. Mr. Stewart testified that Mr. Weaver lives on a one-acre lot, and Mr. Hamilton also did not live in the affected area. He believed the individuals who want this change could utilize the Agriculture Protection Area Act, and it was not right to take the rights away from other landowners by proceeding with the requested action.

(T-12) Marvin Yancey, 691 W 300 S, Blackfoot, ID, testified that he thought this proposal was not necessary. He discussed that over the last decade, farms in the area have not been turned into subdivisions but rather acquired by other farmers. Mr. Yancey stated there has been a significant amount of growth over the years, with a few remaining farmers, but that the growth has come from farmers having family return to the area to build and farm. He testified that this proposed change would make development more difficult, and that is not ideal. He referred to Don Anderson's property and stated that a subdivision could be an upgrade because that particular land is a small pasture and a weed patch. Mr. Yancey believed the Anderson subdivision would have helped accommodate Bingham County's growth needs without severely impacting agricultural production, water rights, and sewer systems, from negative impacts to the community. He testified that the current Comprehensive Plan is better than what is proposed and protects property rights. Currently, property owners have more control of their property, and it is the American way, as long as it does not impact their neighbors. Mr. Yancey also discussed the access roads and stated that there is a road from Fort Hall that provides access to this area. He has sixty (60) acres in the area with eleven (11) division rights, and it was un-American not to allow someone to maximize their property value.

With no additional testimony received, Chairman Aullman closed the Public Hearing for this Application.

4. During Commission discussion, Commissioner Johns testified that he did not see the need to change the Comprehensive Plan Map Area as requested and add an extra step for property owners who want to utilize their land as they see fit. Commissioner Johns said there are ways to protect agricultural property by exercising inclusion into the Agricultural Protection Area, a Conservation Easement, or including a Deed restriction on the land, while still protecting growth. Lastly, Commissioner Johns stated he did not think there was

a landslide of growth in the Riverton area proposed for amendment and reiterated he did not see the need for the change. Commissioner Bingham agreed.

Commissioner Adams clarified that the Comprehensive Plan does not operate as a legally controlling zoning law, but is something to pay attention to and is used as a guide. He also thought this was adding an extra step to the process of development, affecting property rights, and was not a reasonable or necessary change that would benefit Bingham County.

II. REASON


After considering the Comprehensive Plan and the testimony provided, the Planning and Zoning Commission found:

1. the lands subject to the amendment request are comprised of large farm parcels; and
2. testimony was provided that of the forty-three (43) homes in that area, only two (2) have been constructed in the last ten (10) years. The Commission found that there has been minimal residential development in the requested area; and
3. the lands subject to the amendment request have a Comprehensive Plan Map Area designation of Residential/Agriculture; any future zoning amendment or subdivision land use application would require a public hearing. By recommending to approve the amendment request, it would necessitate an additional application process by applying for a Comprehensive Plan Map Amendment. The Commission determined that adding another application process is not necessary to protect agricultural farmland; and
4. property owners who are eligible to apply to place their farmland in the Agricultural Protection Area may request to do so, or consider other measures for protection, such as a Conservation Easement or Deed restriction; and
5. property owners who wish to utilize their land as they see fit are in the best interest of the public; and
6. the amendment request is not in the interest of the public. The request affects approximately 94 parcels of land and is only supported by the written petition from Riverton area residents Layne Hamilton, Joel Weaver, and Dallen Worthington, noting one other person who testified in support also resides in the affected area; and
7. is not harmonious with the objectives of Title 10 *Zoning Regulations*.

III. DECISION

Based on the record, Commissioner Adams moved to deny approval of the Comprehensive Plan Map Designation amendment from Residential/Agricultural to Agricultural on lands consisting of a total approx. assessed acreage of 1,262.38 and extending from approx. The eastern border of T3S R34E Sec. 13 to the western border of T3S R34E Sec. 23, based on Bingham County Code Title 10, is not reasonably necessary or in the interest of the public or harmonious with the objectives of Title 10.

Commissioner Bingham seconded the motion. Commissioners Adams, Bingham, Carroll, Jolley, Johns, and Watson voted in favor. The motion passed.



William Aullman, Chairman
Bingham County Planning and Zoning Commission



Date