

NOTICE OF PUBLIC HEARING

THE GEM COUNTY BOARD OF COMMISSIONERS WILL HOLD A PUBLIC HEARING ON MONDAY, JANUARY 9, 2023, AT 1:30 P.M. AT THE GEM COUNTY COURTHOUSE, 415 EAST MAIN ST., EMMETT, ID IN ADDITION TO A ZOOM MEETING/CALL TO HEAR THE FOLLOWING REQUESTS:

A Rezone request by Shawn L Nickel, SLN Planning on property owned by Creston & Renee Thornton to rezone 85.54 +/- acres, from A-1 Prime Agriculture (a 40 acre minimum) to A-2 Rural Transitional Agriculture (a 5 acre minimum lot size) located on Old Dam Road, T 07N, R 01W, Section 22, Parcels #RP07N01W228400 and #RP07N01W229000. The Gem County Planning and Zoning Commission has recommended approval of the rezone contingent on a development agreement to be heard.

THE APPLICATION AND LEGAL DESCRIPTION IS AVAILABLE FOR REVIEW BY CONTACTING THE DEVELOPMENT SERVICES DEPARTMENT VIA EMAIL (JVANDERBILT@CO.GEM.ID.US) OR PHONE 208-365-5144.

WRITTEN CORRESPONDENCE IS HIGHLY RECOMMENDED AND MUST BE SUBMITTED TO THE DEVELOPMENT SERVICES OFFICE (109 SO. MCKINLEY AVE., EMMETT, ID.) NO LATER THAN 12:00 P.M. JANUARY 2, 2023. WE HAVE A MAIL SLOT IN OUR DOOR FOR CONVENIENCE. WRITTEN CORRESPONDENCE WILL BE GIVEN TO THE COUNTY COMMISSIONERS FOR CONSIDERATION AND IS THE BEST WAY TO SHARE YOUR COMMENTS AND CONCERNS.

THE MEETING LINK AND CODE FOR CALLING IN WILL BE LISTED ON THE DEVELOPMENT SERVICES PAGE AT WWW.GEMCOUNTY.ORG/DEVELOPMENT-SERVICES/ FOR ANYONE WISHING TO ATTEND THIS MEETING VIRTUALLY. IF YOU DO NOT HAVE ACCESS TO THE WEB PAGE, YOU MAY CALL THE DEVELOPMENT SERVICES OFFICE AT 208-365-5144 PRIOR TO THE MEETING TO GET A MEETING LINK OR CALL IN CODE.

PUBLISH DECEMBER 21

Jennifer Kharri
Planning Director



GEM COUNTY
Zoning Commission
Recommendation to Board of County Commissioners

*(This recommendation is to be used in conjunction with the Staff Report
for the same application.)*

Application/Project Name: Rezone Application – File #RZ-22-011

Applicant Name: Shawn L Nickel- SLN Planning

Date of Written Recommendation: December 27, 2022

Date of Zoning Commission Public Hearing(s): November 14, 2022

Date of Board Public Hearing: January 9, 2023, 1:30 PM

Summary of Public Oral Testimony:

- In Favor: Shawn Nickel (applicant)
- Opposed: Steve Holmberg
- Neutral: Korth Elliott

Recommendation: Approval with a Development Agreement for a Water Quality and Quantity Study.
(Unanimous)

Reason(s) and Findings for Recommendation:

See the attached recommendation. For further analysis see the Staff Report.

Commission Changes to Staff Recommendation: Recommended approval with a Development Agreement to require a water quality and quantity study.

Outstanding Issues for Board of County Commissioner Meeting: None



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR
PLANNING & ZONING

PHONE (208) 365-5144

WEBPAGE

www.gemcounty.org

BEFORE THE ZONING COMMISSION

GEM COUNTY, IDAHO

In Re: REZONE APPLICATION #RZ-22-011)
For Creston and Renee Thornton)
from A-1, Prime Agriculture) RECOMMENDATION TO BOARD
to A-2, Rural Transitional Agriculture) OF COUNTY COMMISSIONERS

I.

RECOMMENDATION

The applicant, Shawn Nickel, on property owned by Creston and Renee Thornton, sought approval to rezone their property (see **Exhibit A**) from A-1 Prime Agriculture (40-acre minimum) to -2 Rural Transitional Agriculture (5-acre minimum). The property proposed to be rezoned is 85.54+/- acres in size, comprised of two adjacent parcels, and the majority of the property lies within the Priority Growth Area 2 of the County Residential Area, as designated on the Future Land Use Map in the Comprehensive Plan. The property is located on Old Dam Road and identified in Township 7 North, Range 1 West, Section 22, of the Boise Meridian, Gem County Idaho and Gem County Assessor's records as RP07N01W228400 and RP07N01W229000.

The matter came before the Gem County Zoning Commission (hereafter referenced as Commission) on the 14th day of November 2022, for the purpose of hearing the Rezone Application submitted by the applicant. Staff submitted a staff report for Commission

consideration. There was public testimony given in favor of the application by the applicant and testimony given in opposition by two members of the public.

Notice of Public Hearing on the application was published in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-15-5 on October 20, 2022. Notice of the public hearing was mailed to property owners within 300 feet of the subject property, in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-7-6 on October 20, 2022. The physical property was posted for the public hearing on October 21, 2022. Requests for all impact agency reviews were mailed on October 20, 2022.

Pursuant to section 11-15-4 of the Gem County Code, to grant approval of a Rezone Application, the Commission shall find adequate evidence showing the following:

1. The requested amendment complies with the Comprehensive Plan text and Future Land Use Map;
2. The requested amendment is not materially detrimental to the public health, safety, or welfare;
3. The subject property meets the minimum dimensional standards of the proposed zoning district;
4. The uses allowed under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area;
5. The effects of the proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

The Commission finds the Gem Community Comprehensive Plan and Zoning Ordinance supports a rezone of the property to A-2, Rural Transitional Agriculture. Based on the findings

outlined in **Exhibit B** of this Recommendation, the Commission voted unanimously to recommend approval of the application with a Development Agreement.

A motion was made by Commissioner Vickery to recommend to the Board of County Commissioners approval of the rezone with a Development Agreement. That motion was seconded by Commissioner Heimlich and the vote was as follows:

The final vote of the Rezone application was:

Commissioner Vickery	<u>Yea</u>
Commissioner Jones	<u>Absent</u>
Commissioner Heimlich	<u>Yea</u>
Chairman Eichelberger	<u>(If applicable in case of tie vote)</u>

CERTIFICATE OF SERVICE

I hereby certify that on this 28 day of December, 2022, I served a true and correct copy of the foregoing RECOMMENDATION upon

NAME Shawn L. Nickel - SLN Planning
ADDRESS P.O. Box 1595
Eagle, Id 83616

By depositing a copy thereof in the United States mail, with first class postage prepaid.

Stephanie Crays
Stephanie Crays, Development Services Coordinator

EXHIBIT A

LEGAL DESCRIPTION
THORNTON RZ #22-011

Lot 7 and the SE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 22, T 7N, R 1W, Boise Meridian, Gem County, Idaho

EXHIBIT B

REQUIRED FINDINGS FROM ZONING ORDINANCE THORNTON REZONE (RZ-22-011)

According to Title 11, Chapter 15, Section 4, “No map amendments (rezones) shall be recommended for approval by the Commission or granted by the Board of Commissioners unless the following findings are made by the Commission or Board”: (Commission findings are in *italics*.)

1. The requested amendment complies with the Comprehensive Plan text and Future Land Use Map;

Based on the Comprehensive Plan analysis provided in Section 5 of the accompanying staff report, the Commission finds the majority of the applicable policies support an A-2 rezone in this area. In the Commission’s estimation, the Comprehensive Plan Future Land Use Map relevant policies does support the rezone application to A-2 since the parcel falls within the County Residential Area, Priority Growth Area 2.

2. The requested amendment is not materially detrimental to the public health, safety, or welfare;

*Commission finds an A-2 zone would allow fifteen (15) additional dwellings on the subject parcel beyond what is permitted today (as it sits today, both parcels are eligible for a building permit for a single-family dwelling). However, the applicant is only proposing eleven (11) additional parcels at this time. The potential increased septic use could be viewed as detrimental to the health, safety, or welfare when located on five (5) acre minimum lot sizes, but has not yet been verified by SWDH. **The County may require further analysis on ground water impacts before a subdivision can be approved which would have to be conditioned with a Development Agreement tied to this rezone.***

3. The subject property meets the minimum dimensional standards of the proposed zoning district;

The minimum lot size in the proposed A-2 zone is five-acres. The subject area to be rezoned is currently 85.54 acres in size. The subject site could be developed to comply with the minimum dimensions for an A-2 zone.

4. The uses allowed under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area;

A list comparing the allowed uses, as listed in the GCC 11-5-5 Matrix Chart, in the proposed A-2 zone with the existing A-1 zone is shown in Section 6 of this report. None of the uses permitted in the A-2 zone are different than the A-1 zone. As such, the Commission finds the uses allowed in an A-2 zone, as listed in Gem County Code today, are compatible with the intended character of the area. The specific uses are listed according to each zone as allowed outright, prohibited or allowed with a Special Use Permit.

5. The effects of the proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

The public service agencies/providers that responded to this rezone application were the Gem County Road and Bridge Department (no objection).

If the applicant submits a subdivision request, all agencies/providers will review for compliance with their regulations at that time.

The impacts of development of 85.54 acres of A-2-zoned land into five-acre parcels could be expected to generate demands on public services beyond the current service demands with the addition of 11 more parcels.

The Board adopted an Impact Fee Ordinance which is used to off-set costs, to the public road system and other public services that are provided, caused by new homes and their traffic generation.

EXHIBIT 2
CONDITIONS
THORNTON RZ #22-011

General Terms

1. Nothing in this Agreement shall be construed as relieving Developer, or his successors, from further compliance with all other permit and code requirements for subsequent development of the Property.
2. Entering into this Agreement shall not prevent the County from applying new standards, regulations or conditions that do not conflict with the written commitments within this Agreement in any subsequent actions or applications made for development of the Property.
3. The allowed uses in the A-2 zone shall be as prescribed in Chapter 5 of the Gem County Zoning Ordinance.
4. Any and all new development of the Property shall be submitted to Gem County in accordance with the adopted ordinances and application processes at the time of the application.
5. Prior to making application for a Minor Subdivision, the developer shall provide a water quality and quantity study for wells from an Idaho Licensed Hydrologist or Geotechnical Firm. The study shall address water quality and quantity with the addition of 4 new wells as proposed on the 85.54 acre development. The report must provide a conclusion as to whether the addition of the 13 new wells will have detrimental effects on existing wells in the immediate area and should provide for any specific mitigation requirements.



MASTER PUBLIC HEARING APPLICATION

GEM COUNTY DEVELOPMENT SERVICES

109 SOUTH MCKINLEY, EMMETT, IDAHO 83617 WWW.GEMCOUNTY.ORG PHONE: (208) 365-5144

TYPE OF APPLICATION: (PLEASE CHECK ALL THAT APPLY.)

- | | | |
|--|--|---|
| <input type="checkbox"/> APPEAL | <input type="checkbox"/> PLANNED COMMUNITY | <input type="checkbox"/> SUPPLEMENTAL AMENDMENT |
| <input type="checkbox"/> COMPREHENSIVE PLAN TEXT AMENDMENT | <input checked="" type="checkbox"/> REZONE | <input type="checkbox"/> VACATION |
| <input type="checkbox"/> COMPREHENSIVE PLAN MAP AMENDMENT | <input type="checkbox"/> SPECIAL USE PERMIT | <input type="checkbox"/> VARIANCE |
| <input type="checkbox"/> DESIGN REVIEW | <input type="checkbox"/> SPECIAL USE PERMIT (MINERAL EXTRACTION) | <input type="checkbox"/> ZONING TEXT AMENDMENT |
| <input type="checkbox"/> DEVELOPMENT AGREEMENT | <input type="checkbox"/> SUBDIVISION, PRELIMINARY | |
| <input type="checkbox"/> PLANNED UNIT DEVELOPMENT | <input type="checkbox"/> SUBDIVISION, MODIFICATION | |

PROJECT NAME: Blackstone Ranch Rezone

SITE INFORMATION:

(This information can be found on the Assessor's property information assessment sheet.)

Quarter: SW Section: 22 Township: 7N Range: 1W Total Acres: 85.54 ac

Subdivision Name (if applicable): _____

Site Address: 0 Old Dam Road

Lot: 7 Block: _____

City: _____

Tax Parcel Number(s): RP07N01W228400

Current Zoning: A-1 Current Land Use: Vacant

RP07N01W229000

PROPERTY OWNER:

Name: Creston Thornton & Renee Thornton

APPLICANT:

Name: Shawn L Nickel - SLN Planning

Address: 757 W. Bankside Drive

Address: P.O. Box 1595

City: Eagle State: ID Zip: 83616

City: Eagle State: ID Zip: 83616

Telephone: 208-724-1097

Telephone: 208-794-3013

Email: creston@fhkllc.com

Email: shawn@slnplanning.com

I consent to this application and allow Development Services staff to enter the property for site inspections related to this application.

I certify this information is correct to the best of my knowledge.

[Signature] 7-5-22 Shawn L Nickel 7-10-22
 Signature: (Owner) Date Signature: (Applicant) Date

OFFICE USE ONLY

File No.: B2 22-011 Received By: SC Date: 7-13-22 Fee: \$1710 Receipt No: 2022-0321

Letter of Intent

Blackstone Ranch Rezone Application

On behalf of Creston and Renee Thornton, please accept this application request for rezone of their 85.54 acres from the current A-1 to an A-2 zoning designation. It is the intent of the owners to subdivide the property into 13, 5-plus acre lots with a private road. The applicant has been working with the railroad, irrigation district and bridge and roadway department regarding some of the site constraints associated with this property, including the crossing of the Black Canyon Canal and the Cascade Branch of the railroad located in the western portion of the property. The Old Dam Road is also located along this area and will provide primary access to the property.

The Comprehensive Plan Future Land Use Map designates this property as County Residential Area, with the majority of the property being within Growth Area 2, while a small portion adjacent to the Payette River appears to be in Growth Area 1. Growth Area 2 allows for densities of 1 unit per 5 acres, with Growth Area 1 allowing for densities of 1 unit per acre (page 12-13, Chapter 12 Land Use). The proposed overall density requested would be greater than 1 unit per 5 acres.

Regarding the Findings of Fact (Section 11-15-4B of the Gem County Code) that must be made by the Planning and Zoning Commission and Board of County Commissioners regarding rezones, the applicant presents the following:

1. The requested amendment complies with the comprehensive plan text and future land use map; and

The Comprehensive Plan states that densities being proposed within this application are consistent with the densities in the Priority Growth Area 2. The future land use map designates this property as County Residential Area, which would allow for the proposed A-2 zoning designation.

2. The requested amendment is not materially detrimental to the public health, safety, or welfare; and

The rezone requested would not be detrimental to the health, safety or welfare of the citizens of Gem County. The property is currently vacant. Minimal public services would be required. The applicant would be improving Old Dam Road, providing upgrades to an existing roadway. Providing a new roadway crossing of the canal and railroad will assist emergency services, including the fire districts ability to access the area for fire protection.

3. For zoning ordinance map amendments:

- a. The subject property meets the minimum dimensional standards of the proposed zoning district; and

With 5-acre minimum lot sizes, the applicant will be able to meet the dimensional standards for future subdivision of the property.

- b. The uses allowed under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area; and

5-acre plus average lot sizes would be harmonious with the surrounding land uses in the general vicinity and would not change the overall character of the area.

- c. The effects of the proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

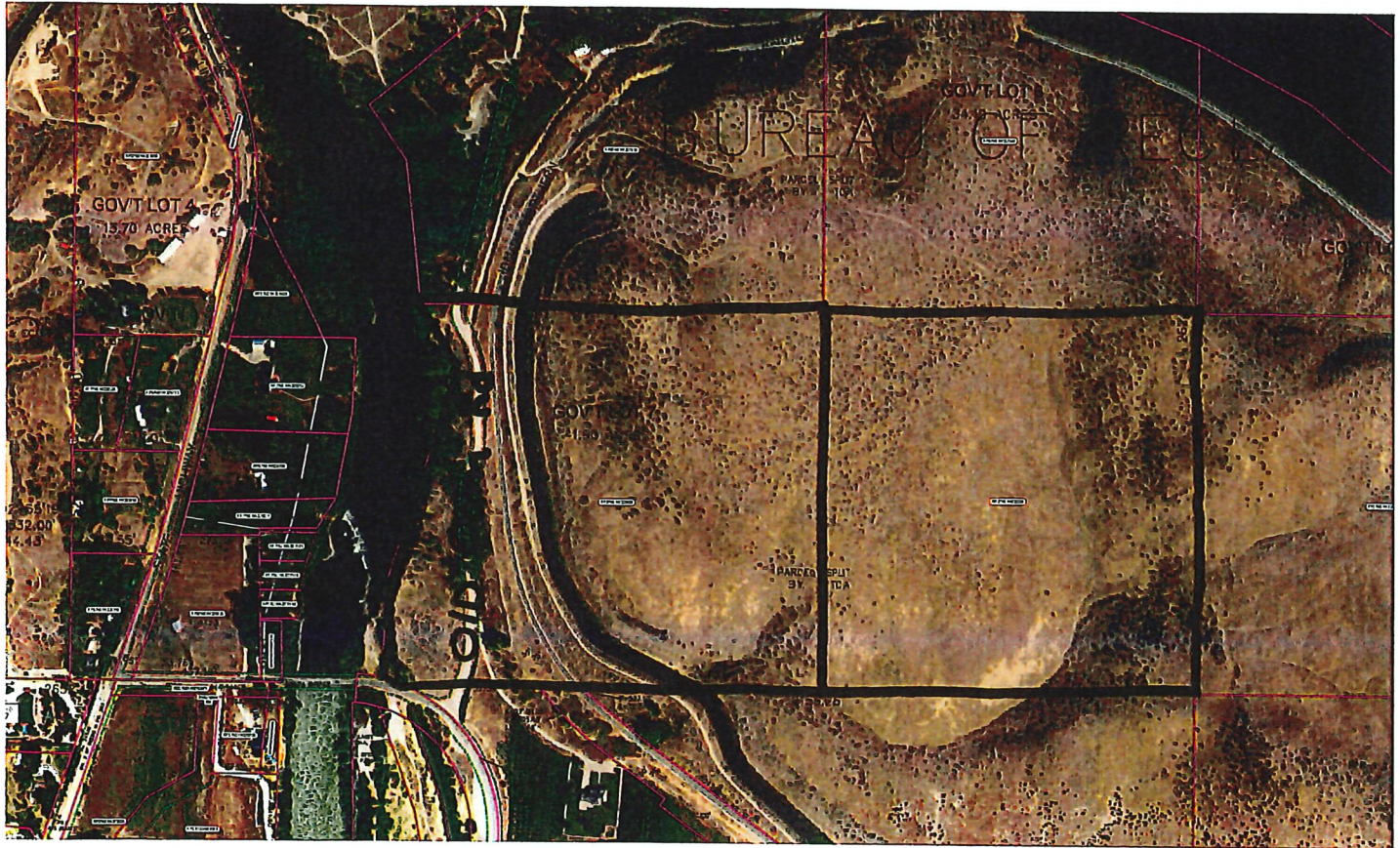
The development of this property at densities greater than 1 unit per 5 acres will mean that needed public services will be at a minimum as compared to higher density developments. Municipal Sewer and Water will not need to be extended, school districts will be minimally impacted and impact fees will be provided to those entities requiring them. This will ensure that services will not adversely impact the existing public services or the citizens of Gem County.

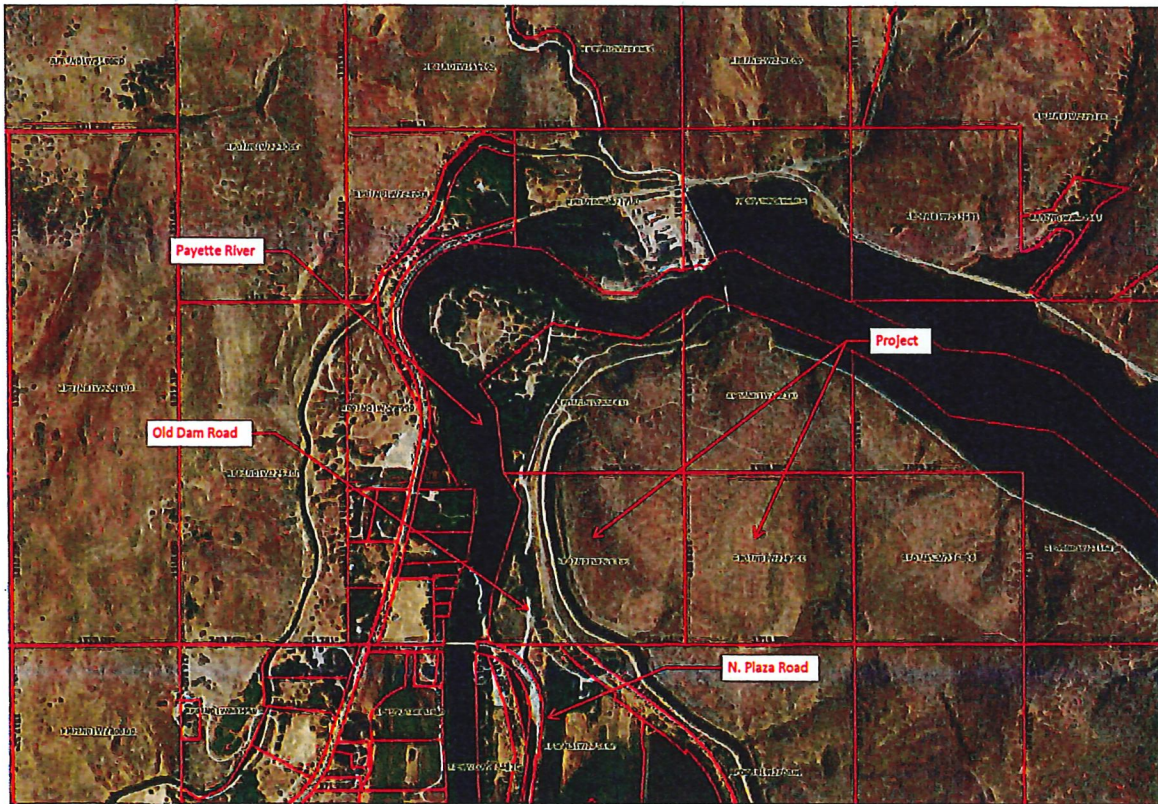
Thank you for your consideration of this requested rezone application. Please let me know if I can provide any additional information or answer questions.

Sincerely,



Shawn L Nickel, SLN Planning
Representing the Owner





VICINITY & ADJACENT PROPERTY MAP FOR:
BLACKSTONE RANCH
ASSESSOR PARCELS # RP07N01W228400 & RP07N01W229000
JUNE 21, 2022
PES FILE NO: 21-53





GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

OFFICE OF THE ADMINISTRATOR
PLANNING & ZONING

PHONE: (208) 365-5144

WEB PAGE: gemcounty.org

STAFF REPORT

APPLICATION DESCRIPTION: REZONE (A-1 TO A-2)

FILE NUMBER(s): RZ-22-011

ZONING COMMISSION HEARING DATE: November 14, 2022, 6:00pm

PROPERTY OWNER: Creston and Renee Thornton
757 W Bankside Drive
Eagle, ID 8616

APPLICANT: Shawn Nickel, SLN Planning

SITE LOCATION: OLD DAM ROAD

STAFF PLANNER: Jennifer Kharri

1. APPLICATION SUMMARY:

The applicant, Shawn Nickel, on property owned by Creston and Renee Thornton, is requesting a rezone of property located on Old Dam. The application proposes a change from A-1, Prime Agriculture (40-acre minimum lot size), to A-2, Rural Transitional Agriculture (5-acre minimum lot size). The application states the reason for the request is to create a subdivision. (A Standard Subdivision is a separate application and must be preceded by a rezone.) The property proposed to be rezoned is 85.54 acres in size, comprised of two adjacent parcels, and the majority of the property lies within Priority Growth Area 2 of the County Residential Area, and a small area within Priority Growth Area 1 of the County Residential Area as designated on the Future Land Use Map in the Comprehensive Plan.

2. APPLICATION & PROPERTY FACTS:

A. Site Address/Location:

The property is located on Old Dam Road and is within Township 7N, Range 1W, Section 22 (Tax Parcel #RP07N01W228400 & #RP07N01W229000).

B. Current Owner(s): Creston and Renee Thornton

757 W Bankside Drive
Eagle, ID 8616

- C. Applicant(s): Shawn Nickel, SLN Planning
- D. Present Zoning: A-1, Prime Agriculture (40-acre minimum)
- E. Present Comprehensive Plan Designation: County Residential Area, Priority Growth Area #2
- F. Property Size: 85.54 acres (comprised of two parcels)

3. APPLICATION PROCESS FACTS:

A. Application Submittal:

The application for this item was received and deemed complete by the Development Services Department on July 13, 2022.

B. Notice of Public Hearing:

Notice of Public Hearing on the application for the Gem County Zoning Commission was published in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-15-5 on October 19, 2022. Notice of this public hearing was mailed to property owners within 300 feet of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-7-6 on October 20, 2022. The physical property was posted for the public hearing on October 21, 2022. Requests for all impact agencies' reviews were mailed on October 20, 2022.

We received one (1) response letter from impact agencies –Gem County Road and Bridge Department (with no concerns).

Public hearing notices were mailed to ten (10) parcels in the immediate vicinity. One (1) written comment of concern has been received.

C. Relevant Ordinances and Required Actions:

The subject application will in fact constitute a rezone as determined by Gem County Code. By reason of the provisions of the Gem County Code Title 11, Chapter 15, a public hearing is required before the Zoning Commission and the Board of County Commissioners on this matter.

D. History of Previous County Actions on Property: None.

E. Companion Applications: There are no companion applications to the Rezone.

4. LAND USE

- A. Existing Land Use(s): Rolling baron hillside, dry land vegetation.
- B. Description of Character of Surrounding Area: Rolling baron hillside, dry land vegetation.
- C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	County Residential Area, Priority Growth Area #2	A-1, Prime Agriculture	BOR; Cobblestone Park
South of site	County Residential Area, Priority Growth Area #1 and Area #2	A-2, Rural Transitional Agriculture	Irrigated agricultural land; rural residential
East of site	County Residential Area, Priority Growth Area #2	A-1, Prime Agriculture	Bare hillside
West of site	Agriculture/ Natural Resources	A-1, Prime Agriculture	Payette River

D. Physical Constraints and Opportunities:

1. Wastewater and Domestic Water:

- a. Water: The site currently has no domestic well.
- b. Septic: The site currently doesn't have an individual septic system and drain field. Under today's Zoning Ordinance, future lots in the proposed R-2 zone may apply for individual septic systems, subject to approval by Southwest District Health.

2. Vegetation: Native rangeland vegetation

3. Floodplain: The parcel falls within zone "X" and zone "D" on FEMA's Flood Insurance Rate Map, Community Panel Number 160127 0337 B, which indicates areas outside of floodplain. No flood insurance is required in Zone X and D areas.
4. Canals/Ditches/Irrigation: No irrigation rights found. The Black Canyon Canal runs through the property and a portion of the property is adjacent the Last Chance Ditch on the western property boundary.

E. Subdivision Plat Information: N/A

F. Streets and/or Access Information:

The site has approximately 1300 feet of frontage along Old Dam Road.

5. COMPREHENSIVE PLAN POLICIES & GOALS [Staff comments and analysis are shown in *italics*.]

Staff finds the following policies in the Joint Comprehensive Plan are applicable to this application:

The Comprehensive Plan Future Land Use Map identifies the subject property as **County**

Residential Area, Priority Growth Area 2. The County Residential Area is set aside for primarily residential development. The long-term vision for this planning area is to maintain the uniquely rural character and to preserve non-conforming uses. The Priority Growth Area 2 allows densities down to one (1) unit per five (5) acres, or as the Zoning and Subdivision Ordinances currently allow.

The proposed A-2 zone designation would allow a minimum five (5) acre lot size for primarily residential uses. As noted in Section 4, several properties in the immediate vicinity are already zoned for 5-acre minimum lots. The proposed A-2 zone complies with the purpose of the County Residential Area and Priority Growth Area 2 policies.

The following policies have been set forth in the Housing Chapter of the Joint Comprehensive Plan (Chapter 3) and generally support the application:

3.8 - Rural residential and small ranchette type development shall be encouraged in areas where it is compatible with existing agricultural and ranching development.

The following policy has been set forth in the Natural Resources and Hazardous Areas chapter of the Joint Comprehensive Plan (Chapter 6) and generally supports the application:

6.7 – Preserve, protect and promote high quality standards for ground and surface water as an essential and limited natural resources throughout the community.

6.11 – Prevent contamination of groundwater from sewage and wastewater through appropriate planning, treatment and through regulations.

6.14 Manage and prevent unsuitable uses along creeks, canals, drainage ways, ponds and rivers to protect water quality.

The following policies have been set forth in the Land Use chapter of the Joint Comprehensive Plan (Chapter 12) for future growth and are found to be relevant to this application:

12.1 – Respect the responsibilities and rights of land ownership.

12.3 – Ensure due process of land development is clear and concise and avoid unnecessary delays for citizens and businesses.

The applicant/property owner met with Development Services staff to review the application process for rezoning.

12.7 – Support agriculture and business by buffering agriculture and business from incompatible land use encroachment.

There are existing agricultural uses in the vicinity of this parcel. If approved, a potential residential development of 5-acre minimum lot sizes should not encroach or impede these enterprises more than what is existing. If such concerns are raised during the public hearing, the Commission has the option to require a Development Agreement with the Rezone if more restrictive conditions are warranted.

12.1.10 – Review all development proposals in areas that are critical to groundwater recharge and groundwater source to determine impacts, if any, to protect surface and groundwater quantity and quality.

12.1.11 – Growth should start at the community centers and radiate outwards in a logical, orderly fashion.

12.9.1 – Encourage management and land –use priorities that support agricultural lands.

6. ZONING ORDINANCE

- A. Purpose Statement of Zone: Gem County Code 11-4-2.A lists the purpose of the A-2 zone as follows: “Lands lying within those unincorporated portions of Gem County that are likely to undergo a more intensive urban development. The regulations governing this zone are designed to protect agricultural pursuits and provide guidelines for conversion to suburban development” The A-2 zone has a five (5) acre minimum lot size requirement.

The applicant’s intent is to apply for a subdivision to create eleven (11) Lots in addition to what it is existing. (If the rezone is approved, a subdivision application must be filed to divide the property). The requested zoning would support this type of division. The subject site is large enough, therefore this criteria is met.

B. Permitted Uses:

The subject site is currently zoned A-1 (40-acre minimum) and allows the following types of uses, either outright or as a Special Use Permit:

Agriculture, kennel, mining, utilities, some manufacturing, limited trade, entertainment and recreation, limited services, various housing/residential uses, including halfway houses and single-family residential.

The proposed A-2 zone allows the following uses, either outright or as a Special Use Permit:

Agriculture, kennel, mining, utilities, limited manufacturing, limited trade, entertainment and recreation, commercial school, limited services, various housing/residential uses, including halfway houses and single-family residential.

Staff finds the SUP uses noted above are mostly the same for either the A-1 or A-2 zones. The biggest difference is the A-2 zone would allow for a Commercial School with a SUP, whereas it would not be allowed in the A-1 zone.

7. REVISED REQUIRED FINDINGS & STAFF ANALYSIS [Staff comments and analysis are shown in *italics*.]

According to Title 11, Chapter 15, Section 4., “No map amendments (rezones) shall be recommended for approval by the Commission or granted by the Board of Commissioners unless the following findings are made by the Commission or Board”:

1. The requested amendment complies with the Comprehensive Plan text and Future Land Use Map;

Based on the Comprehensive Plan analysis provided in Section 5 above, staff finds the majority of the applicable policies support an A-2 rezone in this area. In Staff's estimation, the Comprehensive Plan Future Land Use Map relevant policies does support the rezone application to A-2 since the parcel falls within the County Residential Area, Priority Growth Area 2.

2. The requested amendment is not materially detrimental to the public health, safety, or welfare;

*Staff finds an A-2 zone would allow fifteen (15) additional dwellings on the subject parcel beyond what is permitted today (as it sits today, both parcels are eligible for a building permit for a single-family dwelling). However, the applicant is only proposing eleven (11) additional parcels at this time. The potential increased septic use could be viewed as detrimental to the health, safety, or welfare when located on five (5) acre minimum lot sizes, but has not yet been verified by SWDH. **The County may require further analysis on ground water impacts before a subdivision can be approved which would have to be conditioned with a Development Agreement tied to this rezone.***

3. The subject property meets the minimum dimensional standards of the proposed zoning district;

The minimum lot size in the proposed A-2 zone is five-acres. The subject area to be rezoned is currently 85.54 acres in size. The subject site could be developed to comply with the minimum dimensions for an A-2 zone.

4. The uses allowed under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area;

A list comparing the allowed uses, as listed in the GCC 11-5-5 Matrix Chart, in the proposed A-2 zone with the existing A-1 zone is shown in Section 6 of this report. None of the uses permitted in the A-2 zone are different than the A-1 zone. As such, staff finds the uses allowed in an A-2 zone, as listed in Gem County Code today, are compatible with the intended character of the area. The specific uses are listed according to each zone as allowed outright, prohibited or allowed with a Special Use Permit.

5. The effects of the proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

The public service agencies/providers that responded to this rezone application were the Gem County Road and Bridge Department (no objection).

If the applicant submits a subdivision request, all agencies/providers will review for compliance with their regulations at that time.

The impacts of development of 85.54 acres of A-2-zoned land into five-acre parcels could be expected to generate demands on public services beyond the current service demands with the addition of 11 more parcels.

The Board adopted an Impact Fee Ordinance which is used to off-set costs, to the public road system and other public services that are provided, caused by new homes and their traffic generation.

8. IMPACT AGENCIES NOTIFIED

Gem County Road Department
Gem County School District #221
Gem County Mapper
Idaho Department of Transportation
Gem Rural Fire District #1
Black Canyon Irrigation District
Last Chance Ditch
Idaho Northern and Pacific Railroad

9. STAFF RECOMMENDATION

Staff finds that the proposed rezone application as proposed meets all of the required findings from the Zoning Ordinance listed in Section 7 of this report and conforms with the overall intent of the applicable Comprehensive Plan policies and Future Land Use Map. The Commission must rely upon any additional testimony provided during the public hearing when making its recommendation to the Board of County Commissioners.

October 28, 2022



To Whom It May Concern,

My name is Dustin Simpson, and I am writing regarding the recent development application by SLN Planning and Creston & Renee Thornton, for the property located on Old Dam Road. (T 07N, R 01W, Section 22)

My wife and I recently purchased 2 properties in Emmett, both with direct views to this property. One, located at 3850 N. Plaza Rd, is right across the river from it. The other is located on Cherry Gulch Road, and sits above the river with a direct line of sight down to this property.

Before we invested a very large amount of money in these two properties just 5 months ago, I called the county to inquire about the future of this exact property. I specifically asked if it was splittable, and I was told that it was zoned A1 (Prime Agricultural - 40 acre minimum), and that it would not be able to be split into smaller parcels. So we proceeded with our purchase of 3850 N Plaza Rd.

The second property is a 31 acre parcel that, as I mentioned, looks over this 85 acre property. I was told by the seller of our piece that he had also spoken with the county, and was told **in no uncertain terms** that this area would not be able to be split into smaller parcels. And so we advanced with the closing of that land.

We made a huge investment in this area of Emmett, based on the feedback we received from the Development Services Department. We bought both of these pieces specifically for their locations, and because we wanted a view of the beautiful hills, and not another subdivision of homes.

We strongly oppose this Rezone application, and encourage the Development Services Department to uphold the current zoning and deny the application.

Thank you for your consideration.

Sincerely,

A large, stylized handwritten signature in blue ink, appearing to be "Dustin Simpson", written over the word "Sincerely,".

Gem County
Road & Bridge Dept.
402 N. Hayes Ave.
Emmett, ID 83617



Neal Capps, Director
Phone: 208-365-3305
Fax: 208-365-2530
Email: gcrb@co.gem.id.us

October 24, 2022

Jennifer Kharri
Development Services
109 S. McKinley Ave.
Emmett, ID 83617

RE: Shawn Nickel – SLN Planning (Rezone)

Dear Jennifer,

Gem County Road & Bridge Department (GCRB) has reviewed the Rezone Application of Shawn Nickel, property located on/at Old Damn Road. GCRB has no comments in regards to this application.

If you have any questions please contact our office at 208-365-3305.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neal Capps", is written over a horizontal line.

Neal Capps, Director
Gem County Road & Bridge

CERTIFICATE OF MAILING

I hereby certify that on the 16 day of December, 2022, I served a true and correct copy of the foregoing upon:

PROPERTY OWNER LIST WITHIN 300 FEET

Blackstone Ranch
T 07N, R 01W, Section 22

Korth Elliott
3700 N. Plaza Rd
Emmett, ID 83617

Dustin Simpson
1155 N. Ballantyne Lane
Eagle, ID 83616

Yvonne Welsh
3860 N. Plaza Road
Emmett, ID 83617

Steven Holmberg
P.O. Box 144
Emmett, ID 83617

Catherine Harvey
3233 E. Black Canyon Hwy
Emmett, ID 83617

Bryan Elliott
2850 N. Plaza Rd.
Emmett, ID 83617

Cindy Smith
3255 E. Black Canyon Hwy
Emmett, Id 83617

Creston Thornton
757 W. Bankside Dr.
Eagle, ID 83616

USBR Bureau of Reclamation
3999 E. Black Canyon Hwy
Emmett, ID 83617

Raspberry Ranches LLC
60 Raspberry Lane
Emmett, ID 83617

Harlan Martin
64491 E. 256 PL
Grove, OK 74344

By depositing a copy thereof in the United States mail, with first class postage prepaid.


Stephanie Crays, Development Services Coordinator

SUMMARY MINUTES
GEM COUNTY ZONING COMMISSION
GEM COUNTY COURTHOUSE
November 14, 2022

Page #2

A-1 (40-Acre minimum) to A-2 (5-acre minimum lot size). The application states the reason for the request is to create a subdivision. The property proposed to be rezoned is 85.54 acres.

Applicant:

Shawn Nickel-P.O. Box 1595 Eagle, ID. They are asking for a rezone. They are asking for A-2 zoning five acre lot size rezone. The property has no water rights. They have spoken to Road and Bridge and the railroad and irrigation. The future intent is to come back with thirteen five acre lots.

Favor: None

Neutral: None

Opposed:

Steve Holmberg-3832 N. Plaza Road, Emmett, ID. They have concerns about the Old Dam Road and its conditions. The road is almost washed out. There is too much traffic on Plaza Road as it is and this will only make it worst.

Korth Elliott-3700 N. Plaza Road, Emmett, ID. The concern is about wells being drilled. Also the concerns with traffic on Black Canyon Road. Black Canyon Canal Company will not allow gates.

Applicant Rebuttal

Shawn Nickel-P.O. Box 1595 Eagle, ID. When they go through their preliminary plat process they will have to do some improvements, they just haven't gotten that far yet. They will only be drilling for thirteen lots. Each property drills their own well.

Chairman **Eichelberger** closed public hearing 6:18pm

Commission Discussion

Chairman **Eichelberger** read through the five required findings. They have a letter with no concerns from Road and Bridge at this time. Commissioner **Vickery** has no concerns. Commissioner **Heimlich** has no concerns.

Commissioner **Vickery** moved that they recommend for approval for rezone with conditions of a quality and quantity water study.

Commissioner **Heimlich** second the motion.

Vote: Unanimous.