



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:

Application of Eldene L. Alexander

Project No. 201301908 ZC-DA-OTD-V

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

A. The Board finds that the record is comprised of:

1. Exhibits to the Staff Report.
2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
3. All other information contained in Ada County Development Services File for Project No. 201301908 ZC-DA-OTD-V.

B. As to procedural items, the Board finds the following:

1. In accordance with Section 8-7A-2 of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on August 15, 2013.
2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on September 29, 2013.
3. On December 9, 2013, Development Services accepted Project #201301908 ZC-DA-OTD-V and scheduled it for public hearing before the Ada County Planning and Zoning Commission on February 13, 2014.
4. On December 11, 2013, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Project #201301908 ZC-DA-OTD-V
Eldene L. Alexander

5. On January 26, 2014, property owners within 1,000 feet of the site were notified of the hearing by mail. Legal notice of the Commission's hearing was published in The Idaho Statesman on January 28, 2014. Notices of the public hearing were posted on the property by February 3, 2014 and a certification sign posting was submitted to the director by February 6, 2014.
 6. On February 12, 2014, the Commission voted to recommend approval of this application to the Board of Ada County Commissioners.
 7. On February 18, 2014, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.
 8. On March 12, 2014, property owners within 1,000 feet of the site were notified of the hearing by mail. Legal notice of the Board's hearing was published in The Idaho Statesman on March 25, 2014. Notices of the public hearing were posted on the property on March 12, 2014 and a certification sign posting form was submitted to the director on March 19, 2014.
- C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201301908 ZC-DA-OTD-V the following:
1. PROPOSED USES: A one-time division of a 14.467 acre parcel.
 2. PROPOSED STRUCTURES: A single-family dwelling on resultant Parcel #1.
 3. PROPOSED SITE IMPROVEMENTS: The grain silo will be relocated and an out building will be removed.
- D. Based on the materials found in the file for Project No. 201301908 ZC-DA-OTD-V, the Board finds the following concerning the project description:
1. PARCEL NUMBER AND LOCATION: The parcel number is S0406336300. The property is located at 1752 N. Can Ada Road.
 2. OWNERSHIP: Eldene L. Alexander.
 3. SITE CHARACTERISTICS
Property size: 14.467 acres.
Existing structures: There is a 2,248 square foot single-family dwelling and a barn on the property.
Existing vegetation: The vegetation consists of agricultural crops (alfalfa & pasture) and residential landscaping.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Slope: The majority of the site is relatively flat with slopes less than 15%.

Irrigation: The site is located within the jurisdictional boundaries of the Middleton Irrigation Association.

Drainage: The site is located within the jurisdictional boundaries of Drainage District No. 2.

Views: The site is generally visible from all directions.

- E. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the current land use and zoning:

The property is currently zoned Rural Residential (RR) and the current land use is agricultural with a rural residence.

- F. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the surrounding land use and zoning:

North: The property is agricultural with a rural residence located in the City of Star in their Medium Low Density Residential (R-3) District.

South: The property is agricultural with a rural residence located in the Rural-Urban Transition (RUT) District.

East: The property is agricultural with a rural residence in the Wayfaring Lane Subdivision and is located in the Rural Residential (RR) District.

West: The property is agricultural with rural residences and is located in Canyon County.

- G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201301908 ZC-DA-OTD-V, the Board finds the following concerning services:

Access Street and Designation: Access is off of N. Can Ada Road. N. Can Ada Road is designated as a collector.

Fire Protection: Star Fire District.

Sewage Disposal: Individual Septic Systems.

Water Service: Individual Wells.

Irrigation District: Middleton Irrigation Association.

Drainage District: Drainage District No. 2.

- H. As to the applicable law, the Board finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Board finds **Section 8-4B-5 of the Ada County Code** is applicable because the applicant has applied for a one time division. The Board finds that the application complies with **Section 8-4B-5 of the Ada County Code**. Regarding Section 8-4B-5 of the Ada County Code the Board finds the following:

A. *The proposed division shall result in two (2) parcels that comply with the design and dimensional standards of this title, except when the parcel of record has diminished by government action, the director may approve a reduced property size on one of the resulting parcels, subject to other regulations of this title.*

The Board finds that division of Parcel #S0406336300 along with the approval of the variance to grant relief from a development standard for roadway frontage in the Rural-Urban Transition (RUT) District; specifically to allow for one of the resultant parcels to have 230 feet of roadway frontage instead of 250 feet will result in two (2) parcels that comply with the design and dimensional standards for the RUT District. Both of the resultant parcels meet or exceed the minimum lot size of five (5) acres as illustrated by Parcel “1” having a property size of 5.001 acres and Parcel “2” having a property size of 9.486 acres. Also, Parcel “2” exceeds the minimum street frontage of 250 feet for the RUT District by having 654.92 square feet of street frontage. The approval of the variance allows for Parcel “1” to have 250 feet of street frontage.

The Board finds that there is an existing barn that is approximately 25 feet from the proposed boundary line between resultant Parcel “1” and resultant Parcel “2”. An 8 ½” x 11” drawing was submitted of the proposed one-time division. The size of the drawing produces a scale that makes it difficult to determine with accuracy if the barn is exactly 25 feet from the property line, which is the interior side yard setback for the RUT District. As conditioned, the applicant shall depict that the barn is at least 25 feet from the property line between resultant Parcel “1” and Parcel “2” on the record of survey.

B. *The proposed division is not a “subdivision” as defined in this title.*

The Board finds that Parcel #S0406336300 is not a “subdivision” as defined in this title because the parcel complies with the applicability section for a one time division as Parcel #S0406336300 is a parcel of land that was of record in the Ada County recorder’s office prior to January 1, 1985. The applicant has provided a copy of the current recorded deed to the property, which dates prior to January 1, 1985. This deed with Instrument #7846686 was recorded on August 31, 1978. The deed indicates that the boundaries of Parcel #S0406336300 have not changed since January 1, 1985.

2. The Board finds **Section 8-7-3C of the Ada County Code** is applicable because the application involves a zoning ordinance map amendment. The Board finds that the application complies with **Section 8-7-3C of the Ada County Code**. Regarding Section 8-7-3C the Board finds the following in regards to the zoning ordinance map amendment.

1. *The zoning ordinance amendment is in accordance with the applicable comprehensive plan;*

The Board finds that the **Star Comprehensive Plan as adopted by Ada County Code** is applicable because the subject property is located within Star's Area of Impact. The Board finds that the application complies with the **Star Comprehensive Plan as adopted by Ada County**. Regarding the Star Comprehensive Plan as adopted by Ada County the Board finds the following:

The Board finds as evidenced in the record, that the subject property is designated as "Medium Density Residential" on the Star Comprehensive Plan Map. The Medium Density Residential land use designation is suitable for single-family residential development and appropriate residential densities for four (4) dwelling units or fewer per gross acre.

The Board finds that the zoning ordinance map amendment from the Rural Residential (RR) District to the Rural-Urban Transition (RUT) District will provide development that has a residential density that is fewer than four (4) dwelling units per gross acre.

2. *The zoning ordinance amendment complies with the regulations outlined for the proposed base district, specifically the purpose statement;*

The Board finds that the zoning ordinance map amendment complies with the regulations outlined for the proposed base district Rural-Urban Transition (RUT), specifically the purpose statement. The purpose of the RUT District is to provide standards and regulations for the development of property within areas of city impact, consistent with the goals and policies of the applicable city comprehensive plan. Allow agriculture and rural residential uses to continue within areas of city impact until urban public facilities are extended. Provide design standards that shall permit redevelopment of property to higher densities when urban public facilities are extended. The proposed rezone is adjacent to an area that is already zoned RUT to the south. In addition, agriculture and rural residential uses will continue on the property.

3. *The zoning ordinance amendment shall not be materially detrimental to the public health, safety, and welfare;*

The Board finds that the zoning ordinance map amendment is not materially detrimental to the public health, safety, and welfare because adequate utilities and public services are provided to the property. The application was transmitted to applicable agencies and political subdivisions on December 11, 2013 and February 18, 2014. The responses received from the agencies and political subdivisions generally reflect the project as a whole, which also includes the development agreement, one time division, and variance applications.

The Ada County Development Services Building Division replied in Exhibit #18 that they have no objection to the proposed land use. The Ada County Development Services Engineering/Surveying Division provided comments related to easements in Exhibits #19 and #34. The Ada County Highway District responded in Exhibit #21 and that the development is estimated to generate nine (9) additional vehicle trips per day. The Idaho Transportation Department (ITD) replied in Exhibit #28 that they do

not object to this application or require any mitigation. The Central District Health Department initially responded in Exhibit #20 that they have no objection to the parcel split as long as the existing septic system is completely on the parcel with the existing dwelling. Staff noticed that the resultant Parcel “2” had a septic system easement for the proposed single-family dwelling to be located on resultant Parcel “1”. Staff followed up with the Central District Health Department on their response. The Central District Health Department later stated in Exhibit #22 that it is preferred that the septic system for each parcel is on its own parcel. However, if the septic system for Parcel 1 will be on Parcel 2 (or vice versa) then they need to have an easement in place. So, if the 5 acre Parcel 1 will have the septic system on Parcel 2 then the septic drainfield easement needs to be in place. If there is an easement in the plan then this is sufficient and we have no objections to the split. The Middleton Irrigation Association replied in Exhibit #31 that the property is within their service area and at this time it does not appear that the request will have any effect on their ditches. The Middleton Irrigation Association attorney (Sawtooth Law Offices, PLLC) stated in Exhibit #35 that there are ditches and easements that runs through or abuts this property. The easements are 25 feet each side from the top of the bank. The attorney also stated that the owner must contact the Ditch Companies and their attorneys, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into Ditch Companies facilities occurs. As conditioned, the applicant and/or owner will need to provide confirmation from the Middleton Irrigation Association that all irrigation easements have been depicted on the Record of Survey. The Star Fire District replied in Exhibit #32 that they are okay with the split.

4. *The zoning ordinance amendment shall not result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services within the planning jurisdiction including, but not limited to, school districts, and*

The Board finds that the zoning ordinance map amendment does not result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing services within the planning jurisdiction including, but not limited to, school districts because such political subdivisions providing public services have not given any indication that public services would be affected.

5. *For zoning ordinance text amendments within a planned community (PC) base district, the amendment complies with the planned community implementation plan.*

The Board finds that the application is for a zoning ordinance map amendment and is not for a zoning ordinance text amendment within a planned community (PC) base district.

3. The Board finds **Section 8-7-6C of the Ada County Code** is applicable because the application involves a variance to grant relief from a development standard for roadway frontage in the Rural-Urban Transition (RUT) District; specifically to allow for one of the resultant parcels of a one time division to have 230 feet of roadway frontage instead of 250 feet. The Board finds that the application complies with **Section 8-7-6C of the Ada**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

County Code. Regarding Section 8-7-6C the Board finds the following in regards to the variance.

1. *The variance shall not grant a right or special privilege that is not otherwise allowed in the base district;*

The Board finds that the applicant is requesting a variance for relief from the development standard for roadway frontage in the Rural-Urban Transition (RUT) District; specifically to allow for one of the resultant parcels of the one-time division to have 230 feet of roadway frontage instead of 250 feet.

The Board finds that the approval of the variance would not constitute a granting of a special right or privilege as the one-time division would allow for the property owner to split her 14.467 acres into two (2) parcels with each parcel complying with a minimum lot size of five (5) acres for the RUT District.

2. *The variance relieves an undue hardship due to characteristics of the site; and*

The Board finds that the variance relieves an undue hardship due to characteristics of the site because of the existing alfalfa field and the location of the existing barn on the property. The applicant has stated in her detailed letter (Exhibit #7) that if the variance is not allowed there is no place on the property for her daughter to build a house without tearing up the alfalfa field. In addition, the existing barn needs to maintain a 25 foot side yard setback, which requires for the property line to be in its current location.

The Board finds that allowing for relief from the development standard for roadway frontage in the Rural-Urban Transition (RUT) District to allow for resultant Parcel "1" to have 230 feet of roadway frontage instead of 250 feet of roadway would allow for the one time division of the 14.467 acres to occur while maintaining the integrity of the alfalfa field and having the barn maintain a 25 foot side yard setback.

3. *The variance shall not be detrimental to the public health, safety, and welfare.*

The Board finds that the variance is not detrimental to the public health, safety, and welfare because the owner will be required to secure the necessary building permits and agency approvals to construct the new single-family dwelling. In addition, information regarding the variance was transmitted to affected public agencies charged with the protection of the health, safety, and welfare of the public. A number of agencies responded to the project which also included applications for a zoning ordinance map amendment, development agreement, and one time division. The Ada County Development Services Building Division replied in Exhibit #18 that they have no objection to the proposed land use. The Ada County Development Services Engineering/Surveying Division provided comments related to easements in Exhibits #19 and #34. The Ada County Highway District responded in Exhibit #21 that the development is estimated to generate nine (9) additional vehicle trips per day. The Idaho Transportation Department (ITD) replied in Exhibit #28 that they do not object to this application or require any mitigation. The Central District Health Department initially responded in Exhibit #20 that they have no objection to the parcel split as long as the existing septic system is completely on the parcel with the existing

dwelling. Staff noticed that the resultant Parcel “2” had a septic system easement for the proposed single-family dwelling to be located on resultant Parcel “1”. Staff followed up with the Central District Health Department on their response. The Central District Health Department later stated in Exhibit #22 that it is preferred that the septic system for each parcel is on its own parcel. However, if the septic system for Parcel 1 will be on Parcel 2 (or vice versa) then they need to have an easement in place. So, if the five (5) acre Parcel 1 will have the septic system on Parcel 2 then the septic drainfield easement needs to be in place. The Middleton Irrigation Association replied in Exhibit #31 that the property is within their service area and at this time it does not appear that the request will have any effect on their ditches. The Middleton Irrigation Association attorney (Sawtooth Law Offices, PLLC) stated in Exhibit #35 that there are ditches and easements that runs through or abuts this property. The easements are 25 feet each side from the top of the bank. The attorney also stated that the owner must contact the Ditch Companies and their attorneys, Sawtooth Law Offices, PLLC, for approval before any encroachment, change of easement, or drainage discharge into Ditch Companies facilities occurs. As conditioned, the applicant and/or owner will need to provide confirmation from the Middleton Irrigation Association that all irrigation easements have been depicted on the Record of Survey. The Star Fire District replied in Exhibit #32 that they are okay with the split.

4. The Board finds **Article 8-7C of the Ada County Code** is applicable because the owner has applied for a development agreement as a part of their application for a zoning ordinance map amendment. The Board finds that the application complies with **Article 8-7C of the Ada County Code** because the owner has submitted a draft development agreement to be reviewed by the Board of Ada County Commissioners as part of the proposed zoning ordinance map amendment.

CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Board concludes that Project No. 201301908 ZC-DA-OTD-V complies with Section 8-4B-5 of the Ada County Code.
2. The Board concludes that Project No. 201301908 ZC-DA-OTD-V complies with Section 8-7-3C of the Ada County Code.
3. The Board concludes that Project No. 201301908 ZC-DA-OTD-V complies with Section 8-7-6C of the Ada County Code.
4. The Board concludes that Project No. 201301908 ZC-DA-OTD-V complies with Article 8-7C of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Commission recommends approval of Project #201301908 ZC-DA-OTD-V to the Board, subject to the Conditions of Approval attached as Exhibit A and the Site Plan Drawing dated November 5, 2013.

DATED this _____ day of _____, 20____.

Board of Ada County Commissioners

By: _____

David L. Case, Commissioner

By: _____

Jim Tibbs, Commissioner

By: _____

Rick Yzaguirre, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS (IN ORDER) THAT THE APPLICANT AND/OR OWNER MUST COMPLETE BEFORE THE APPROVAL OF 201301908 ZC-DA-OTD-V WILL BE CONSIDERED FINAL. PLEASE NOTE THAT YOU HAVE UNTIL ONE YEAR OF THE WRITTEN DECISION TO COMPLETE THESE TASKS AND OBTAIN A FINAL APPROVAL LETTER. THIS TENTATIVE APPROVAL SHALL BECOME VOID IF A FINAL APPROVAL LETTER HAS NOT BEEN ISSUED BY THAT DATE. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS.

1. The applicant and/or owner shall have a Record of Survey completed by a professionally licensed surveyor, and record the Record of Survey with the County Recorder's office.
2. The applicant and/or owner shall obtain new tax parcel numbers from the Ada County Assessor.
3. The applicant and/or owner shall provide the following documentation to the Director:
 - a) One "8 ½ x 11" copy and/or one full size blueprint of the recorded Record of Survey.
 - b) Proof of assignment of tax parcel numbers.
 - c) One copy of the recorded deed(s).
4. The applicant and/or owner shall depict that the barn is at least 25 feet from the property line between resultant Parcel "1" and Parcel "2" on the record of survey.
5. If the five (5) acre Parcel "1" will have the septic system on Parcel "2" (or vice versa) then the septic drainfield easement needs to be in place.
6. The applicant and/or owner shall provide confirmation from the Middleton Irrigation Association that all irrigation easements have been depicted on the Record of Survey.
7. Upon completing the above tasks, the applicant shall request a letter from the Director stating the One Time Division is final.