



BEFORE THE ADA COUNTY PLANNING & ZONING COMMISSION

In re:

Application of L&R Environmental

Project No. 201504098 ZOA

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 Commission finds that the record is comprised of:

1. Exhibits to the Staff Report.
2. All other information contained in Ada County Development Services File for Project No. 201504098 ZOA.

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

1. In accordance with Section(s) 8-6-3A/8-7-3A2/8-7-4A1 of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on October 20, 2015 and November 10, 2015
2. On December 7, 2015, Development Services accepted Project No. 201504098 ZOA and scheduled it for public hearing before the Ada County Planning and Zoning Commission on February 11, 2016.
3. On December 17, 2015, 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.
4. Legal notice of the Commission's hearing was published in The Idaho Statesman on January 26, 2016 and February 2, 2016.
5. In accordance with Section 8-7A-5E of the Ada County Code, a public service announcement was issued on January 25, 2016.

C. As to the applicable law, the Commission 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 Commission finds **Section 8-7-3C of the Ada County Code** is applicable because the applicant is proposing a zoning ordinance text amendment to the Ada County Code. The Commission finds that the application complies with **Section 8-7-3C of the Ada County Code**. Regarding Section 8-7-3C the Commission finds the following:

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

The Commission finds that the **Ada County Comprehensive Plan** is the applicable comprehensive plan as the proposed use would only be allowed in the RP district outside of the Cities Area of Impact. The Commission finds that the proposed zoning ordinance text amendment complies with the following sections of the **Ada County Comprehensive Plan**:

Water Management

Goal 6.3: As an essential and limited natural resource, preserve and protect groundwater and surface waters.

Policy 6.3-7: Require industrial wastes or hazardous materials be stored or located in a manner that will ensure that they will not enter surface water or groundwater systems.

Policy 6.3-8: Prevent contamination of surface waters and groundwater from solid waste disposal by enforcing strict regulations on disposal activities at approved solid waste management sites.

Wastewater Facilities

Goal 7.4: Assist in coordinating the provision of wastewater treatment and collection services and facilities in a cost-effective, efficient and environmentally sound manner.

Policy 7.4.2: In order to minimize the number of facilities and to ensure cost effective provision of wastewater services, encourage long-term regional planning of city and sewer district collection and wastewater treatment facilities.

Policy 7.4-3: Coordinate with cities and sewer districts to develop long-term planning area boundaries to accommodate future expansion to help ensure that wastewater treatment and collection facilities can be provided cost-effectively and efficiently over the long term (beyond 20 years) as areas outside of impact are urbanized.

The Commission finds that the zoning ordinance text amendment is in accordance with the **Ada County Comprehensive Plan** because the proposed use will benefit the residents of Ada County and the adjacent cities by adding the ability for a private septage treatment and disposal facility to be constructed in Ada County since the existing facilities at the City of Meridian and the City of Boise are no longer accepting septage. At this time, the City of Caldwell and the City of Nampa are accepting septage, however there is the potential that continuing to do so would be cost prohibitive for septic businesses to travel to Nampa and Caldwell to drain their tanker trucks in the future. This could further reduce

available sites for septage treatment and disposal within and adjacent to Ada County. Because of the changes to the zoning ordinance text amendment proposed by Ada County Staff, the proposed use would be required to obtain approval from the Department of Environmental Quality. Additionally, due to the proposed changes to the application submittal requirements, the applicant of a private septage treatment & disposal facility would be required to provide sufficient information for the county to make a determination that would help protect the health, safety and welfare of the adjacent property owners and the public.

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

The Commission finds that the zoning ordinance text amendment is county-wide and would be applicable to only Rural Preservation (RP) districts located outside of Cities Area of Impact. The Commission finds that the proposed zoning ordinance text amendment complies with the regulations outlined for Rural Preservation (RP) Districts, specifically the purpose statements because the purpose statement allows for a limited number of uses with excessive space requirements.

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

The Commission finds that with the changes proposed by staff as found in Exhibit #15, the proposed zoning ordinance text amendment is not materially detrimental to the public health, safety, and welfare as the proposed ordinance would require that as a condition of approval for the use, the applicant will be required to receive approval from the Department of Environmental Quality (DEQ). Additionally, all structures, ponds and lagoons shall be located a minimum of 300-feet from any property line, and an odor management plan will be required to be approved by DEQ.

For ease of reading the changes to the proposed language, additions to the proposed zoning ordinance text amendment made by Staff are shown in blue and underlined. Staff recommended deletions are shown in ~~red and strike through~~.

- Staff Justification (Full Document): Throughout the entire text, based on recommendations by the Department of Environmental Quality (DEQ), the words “treatment &” were added resulting in the following verbiage: Septage Treatment & Disposal Facility, Private. Additionally, based on recommendations by DEQ, staff is recommending that “municipal wastewater” be replaced with “septage” throughout the entire proposed ordinance amendment.

SECTION 1: *Amending Ada County Code 8-1A-1 to add the following new definitions, with all other definitions remaining unchanged, as follows:*

8-1A-1: DEFINITIONS:

~~**MUNICIPAL WASTEWATER:** Unless otherwise specified, sewage and associated solids, whether treated or untreated, together with such water that is present. Also called domestic wastewater. Industrial wastewater may also be present, but is not considered part of the definition.~~

~~**SEPTAGE:** A general term for the contents removed from septic tanks, portable vault toilets, privy vaults, or wastewater holding tanks, ~~wastewater treatment plants, or semi-public facilities (i.e., schools, motels, mobile home parks, campgrounds, small commercial endeavors)~~ receiving wastewater from domestic sources. Non-domestic (industrial) waste may also be present, but is not considered part of the definition. This does not include drinking water treatment residuals that may be held in a holding tank.~~

~~**SEPTAGE TREATMENT & DISPOSAL FACILITY, PRIVATE:** An establishment that provides for the treatment and disposal of ~~municipal wastewater~~ septage and is under private ownership.~~

~~**SEWAGE:** The water carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present.~~

- **Staff Justification:** A definition for “municipal wastewater” is not needed in the proposed zoning ordinance text amendment as the Ada County Code (ACC) already addresses municipal wastewater collection and treatment facility under “Public Infrastructure Facility” and is addressed through the public, quasi-public procedures under the specific use standards found in 8-5-3-86. It is not found anywhere else in the ACC, and neither is sewage. Therefore, the added definitions are not needed. In addition, the use the applicant is proposing to add “septage disposal facility, private,” is not a municipal wastewater facility. Staff also recommends the removal of “wastewater treatment plants, or semi-public facilities (i.e., schools, motels, mobile home parks, campgrounds, small commercial endeavors)” from the “Septage” definition in order to eliminate any confusion as to what is allowed at a private septage disposal & treatment facility. DEQ’s original definition, where the proposed definition originates from, includes the language “very small” for wastewater treatment plants. However, in discussions with DEQ, they do not define “very small” (Exhibit #11).

SECTION 2: Amending Ada County Code Table 8-2A-1 to include Septage Treatment & Disposal Facility, Private as an allowed conditional use within the rural preservation (RP) base district outside of city areas of impact, with all other uses remaining unchanged, as follows:

TABLE 8-2A-1: ALLOWED USE WITHIN THE RURAL BASE DISTRICTS:

<i>Allowed Use</i>	<i>RP</i>	<i>RR</i>	<i>Rural Residence</i>
<i>Septage <u>Treatment & Disposal Facility, Private</u></i>	<i>C</i>	<i>=</i>	<i>=</i>

SECTION 3: Adding Septage Treatment & Disposal Facility, Private as Section 8-5-3-104; amending previous sections 8-5-3-104 through 8-5-3-114 to reflect the renumbering due to the addition of Septage Treatment & Disposal Facility, Private; and amending 8-5-3-9 and 8-5-3-87 to reference the updated section numbering, as follows:

TABLE 8-4G-2: REQUIRED PARKING SPACE BY USE

<u>Use</u>	<u>Required Number of Automobile Spaces</u>
<u>Septage Treatment & Disposal Facility, Private</u>	<u>1 per 1,000 square feet of gross floor area plus 1 per employee</u>

- **Staff Justification:** Staff added Septage Treatment & Disposal Facility, Private to table 8-4G-2, indicating the number of parking spaces to be consistent with other specific use requirements. Staff amended the parking requirements to one (1) space for every employee and one (1) for every 1000 square feet of gross floor area due to the proposed location of the facilities within the Rural Preservation (RP) District (See Item d below)

8-5-3-104: SEPTAGE TREATMENT & DISPOSAL FACILITY, PRIVATE:

The following standards apply to establishments that import ~~municipal wastewater~~ septage from septic tanks for treatment and disposal.

A. General Use Standards:

1. A. The minimum property size shall be forty (40) acres.

~~2. B.~~ The applicant or owner shall obtain written approval for the acceptance, treatment and disposal of ~~municipal wastewater~~ septage from the state of Idaho Department of Environmental Quality. The approval shall make specific reference to the location of the facility, type of facility, the substance(s) being treated and its sources, the method(s) of treatment, the method(s) and location(s) of disposal of solids, monitoring methods, and the ability of the site to support the proposed use.

~~C.~~ ~~The applicant or owner shall provide confirmation of the availability of an appropriate facility for the disposal of solids.~~

3. D. ~~Chain link fencing at least six (6) feet tall~~ Security fencing shall be provided to prevent access to the facility by animals and unauthorized persons as required by DEQ.

~~4. E.~~ The proposed use shall not be located in any city area of impact, the Snake River Birds of Prey National Conservation Area, Airport Overlay District, or wildlife habitat area as depicted in the Ada County comprehensive plan.

~~5. F.~~ All structures, ponds/lagoons, and waste storage areas shall be located a minimum of three hundred feet (300') from any property line. ~~This requirement may be waived where the owner and/or operator of the establishment can demonstrate that the structure in which municipal wastewater is contained shall not result in material negative impact to any nearby resident.~~ The use shall be located a minimum of one thousand feet (1,000') from any residential district ~~or approved hospital use.~~

~~6. G.~~ The use shall comply with the flood hazard overlay district as set forth in chapter 3, article F of this title.

~~7. H.~~ Zoning Inspection: For the duration of the approval, the use shall be subject to zoning inspection upon advanced notice and request by the Ada County development services department. If a permit holder refuses to allow inspection of the premises by the development services department, the approved zoning certificate or conditional use permit may be revoked.

8. The applicant shall submit written approval that the operator of the private septage disposal facility is licensed and qualified as required by DEQ.

9. Private Septage Treatment & Disposal Facilities shall not be allowed on a private road.

10. The applicant shall submit an odor management plan for the septage disposal facility as required by DEQ.

- **Staff Justification:** Staff recommends that “General Use Standards” be identified and separate from the “Application Requirements” so as to have consistency throughout the Ada County Code (ACC). Staff also changed the numbering/lettering for consistency. **Item #2:** Per DEQ there are multiple “types” of septage treatment and disposal facilities. Therefore, staff recommends that the applicant identify the “type” of facility for clarity. **Item #C:** This item was removed from General Use Standards and added to the Application Requirements as item B(f) below. **Item #3:** DEQ requires adequate fencing for septage facilities in order to prevent the entering of livestock and to discourage trespassing and stated in a correspondence that a six (6) foot chain link may be too restrictive in some cases. **Item #4:** After discussions with DEQ and Ada County Staff, the addition of the Airport Overlay District was included. **Item #5:** This item addresses setback requirements for the proposed use. The use is proposed in the Rural Preservation (RP) Districts only and would be applicable county-wide. Although DEQ has minimum setback requirements for septage treatment and disposal facilities, Ada County Staff proposes more restrictive setbacks in order to protect nearby residential and incompatible uses. The recommendation that there be a minimum three hundred foot setback from any property line is consistent with other odor creating facilities such as livestock confinement facilities and a slaughterhouse. Additionally, the recommendation to remove the proposed waiver language is because structures and ponds in which septage is contained “shall not result in material negative impact to any nearby resident”

is not quantifiable. Item #8: This item was added due to a recommendation by DEQ. Item #9: Due to possible adverse impacts and maintenance concerns such as the use generating additional traffic and the property being frequented by large commercial vehicles, Staff is recommending that the facilities should not be allowed on private roads. Item #10: This item was added due to a recommendation by DEQ.

~~B.-I. Additional Standards: Application Requirements:~~

~~1. The application materials shall include the following written documentation following shall be considered as part of the review of the application:~~

~~a. The proximity of existing residential dwellings within 1,000-feet of any proposed structure, lagoon, or pond associated with the use;~~

~~b. The number and frequency of anticipated deliveries from outside companies dumping septage;~~

~~c. The anticipated quantity (in gallons) of municipal wastewater septage to be accepted;~~

~~d. Parking – one spot for every ~~two~~ one (2 1) employees and one (1) for every 1000 square feet of gross floor area;~~

~~e. Signage Required – Municipal Waste Water Do Not Enter;~~

~~f. e. The hours and days of operation;~~

~~g. Odor;~~

~~f. Description of the disposal method(s), including but not limited to: evaporative lagoon(s), land application, or subsurface discharge (interment), and proposed location of disposal;~~

~~g. Description of the proposed substance(s) being treated and its source(s), the method(s) of treatment, monitoring methods, and the ability of the site to support the proposed use;~~

~~h. Description of the surrounding area within one mile of the subject site;~~

~~i. Storage and screening method for materials to be used to process solid waste (i.e. woodchips) and location of storage good.~~

- Staff Justification: Staff recommended changes to the above items requiring that they be submitted with the application was made to address potential concerns with the use, and to be consistent with Ada County Code application requirements. The application submittal requirements are needed in order to provide adequate information for both the decision making body and the public. For staff and the decision makers to make findings that the use is not detrimental to the public health, safety, or welfare, and does not create undue adverse impacts to surrounding properties, the application submittal information is necessary. Item #1 was amended to be consistent with Ada County Code and to verify that sufficient information is submitted with the application. Item “a” recommended changes were made to show the proximity of any residential dwellings within 1,000-feet

of the proposed use. This information is consistent with the required notification distance of 1,000-feet and for staff and the applicant to verify that the use will not be a detriment to the public health, safety, or welfare of adjacent property owners. Item “d”: parking requirements were amended to one (1) space for every employee and one (1) for every 1000 square feet of gross floor area due to the proposed location of the facilities within the Rural Preservation (RP) District. Item “e” was removed because DEQ will have specific requirements for signage for the facility therefore this information is not needed with the application submittal. Examples of signed that may be required by DEQ could include signage for hazardous materials or restricting access by the public. In addition, business signs may be subject to Ada County Code Section 8-4I. Item “e” for hours of operation was amended in order to provide clarification for the submittal requirement. Staff’s recommendation is that days of the week also be included. Item “g” for “Odor” was moved to General Standards above and the item can be a condition of approval. Item’s “f” through “i”: The addition of these items is to provide information needed for the decision making body and the public to review the application. The additional information allows for staff and the decision makers to make findings that will not be a detriment to the public health, safety, or welfare or create undue adverse impacts to surrounding properties.

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 Commission finds that the zoning ordinance text amendment, as amended by staff, will not result in demonstrable adverse impact upon the delivery of services by any political subdivision providing public services within the planning jurisdiction including, but not limited to, school districts. The proposed amendment, as submitted, was transmitted to agencies and political subdivisions who indicated whether the ordinance would affect their delivery of public services. The Ada County Building Official replied in Exhibit #4 that the Building Division has no objection to the proposed text amendment. The Pioneer Irrigation District responded in Exhibit #6 that the proposal is outside of their boundaries and does not impact any Pioneer owned facilities. The Eagle Fire Department responded in Exhibit #5 that they have reviewed the application for a zoning text amendment and they have no specific comments or concerns regarding its approval. The Ada County Engineer responded in Exhibit #10 that she has no objections to the proposed text amendment. Boise City Public Works Department responded in Exhibit #7 that they had no comment. The Idaho Transportation Department responded in Exhibit #8 that they have no comments about this proposed change. The Department of Environmental Quality (DEQ) provided in Exhibit #9 general comments regarding air quality, wastewater and recycled water, drinking water, surface water, hazardous waste and ground water contamination. The Department of Environmental Quality (DEQ) responded in Exhibit #11 that the proposed language in the subject amendment generally appears to be in line with the DEQ requirements for the creation and operation of septage treatment and disposal facilities. DEQ also provides comments for consideration that involved: the definition of septage used in the proposed

ordinance differs from their definition with the omission of the words “very small” from the term “very small wastewater treatment plans,” that the term municipal wastewater be removed to avoid confusion, add “treatment” to create “sewage treatment and disposal facility, private,” under Item D that a six foot chain link fence might be too restrictive, and under Item F that they have a minimum setback requirement that must be followed, even if a waiver is granted. The Central District Health Department responded in Exhibit #12 that they have no objection to this proposal.

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

The Commission finds that the proposed zoning ordinance text amendment, as amended by staff, is not applicable to properties located in the Planned Community (PC) District due to the fact that the proposed use will only be allowed in the Rural Preservation (RP) District outside of the City’s Area of Impact.

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 Commission concludes that Project No. 201504098 ZOA complies with Section 8-7-3C of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein (inclusive of staff’s recommended changes as found in Exhibit #15), the Commission recommends approval of Project No. 201504098 ZOA to the Board.

DATED this _____ day of _____, 20__.

By: _____
Teri Murrison, Chairperson
Ada County Planning and Zoning Commission

ATTEST:

Mark Perfect, Secretary