

BINGHAM COUNTY PLANNING & ZONING COMMISSION

REGARDING THE APPLICATION OF:

Conditional Use Permit to Transfer 1 Division Right

Property Owners &

Applicants: Perry and Margo Hawker

REASONING AND DECISION

January 11, 2023

Requested Action:	Perry and Margo Hawker requested a Conditional Use Permit to transfer one (1) Division Right from a remnant of an Original Parcel, which is too small to utilize the Division Right, identified as the "Sending Parcel," to a remnant of an Original Parcel, identified as the "Receiving Parcel" for retention on the farm parcel. According to Bingham County Code Section 10-14-3 " <i>Original Parcel Division</i> ," Division Rights may be transferred from one Original Parcel to another Original Parcel if assessed under one ownership and approved by a Conditional Use Permit.
Property Owners/ Applicants:	Perry and Margo Hawker
Property Locations:	<p>Sending Parcel: Parcel No. RP0245101, Township 3S, Range 34E, Section 8, consisting of approx. 1.92 acres, zoned Agriculture, with a Comprehensive Plan Map designation of Residential/Residential Agriculture and a small portion of Agriculture</p> <p>Receiving Parcel: Parcel No. RP0254208, Township 3S, Range 34E, Section 15, consisting of approx. 61.36 acres, zoned Agriculture, with a Comprehensive Plan Map designation of Agriculture</p>
Applicable Regulations:	Bingham County Comprehensive Plan, Dated November 20, 2018 Bingham County Zoning Ordinance 2012-08
Public Hearing Date:	January 11, 2023

I. MEETING NOTICE AND INFORMATION

1. The following was reviewed by the Commission:
 - a. Application;
 - b. Staff Report;
 - c. Governmental Agencies who provided comments were:
 - (T-1) Jeff Gardner, Bingham County Sheriff, had no comments or concerns.
 - (T-2) Bingham County Public Works, stated 200 S. Hahn Road is a Local Road and the speed limit is not posted. The approach spacing is 65 feet between approaches, when developed.
 - (T-3) Bingham County Surveyor, had no comments or concerns.

(T-4) Allan Johnson, Regional Engineering Manager with Idaho Department of Environmental Quality, provided general land development recommendations as shown in his response.

- d. No public response was received on this Application prior to the Public Hearing.
2. Director Olsen presented the Staff Report to the Planning and Zoning Commission. Chairman Leavitt asked if the Sending Parcel would retain a division right. Director Olsen confirmed the Sending Parcel is buildable and would have one additional division/building right remaining following the transfer, if approved. Additionally, Director Olsen confirmed the Applicants are aware Bingham County Code requires an Original Parcel shall only be divided four (4) times, using Division Rights, so it is essentially being transferred so it may be retained.

3. Public Hearing testimony included:

(T-5) Applicant, Perry Hawker, 805 W 200 S, Blackfoot, Idaho, stated his request was fairly simple as he is intending to “park” a division right on his farm parcel. He explained he acquired the Sending Parcel, which contained division rights, but since the parcel is less than two acres the division rights could not be utilized. Given the restrictions, Mr. Hawker determined it was best to transfer the division right to his farm.

Testimony in favor, neutral nor in opposition was received.

After the Applicant’s testimony, the Public Hearing was closed for this item.

II. REASON

The Planning and Zoning Commission found:

1. the Application met the requirements of Bingham County Code Section 10-4-2(B) as the Receiving Parcel is zoned “A” Agriculture, which supports and controls the infiltration of development. Additionally, the Applicant stated the intent is for retention of the Division Right on the farm parcel, as the Sending Parcel does not have enough acreage to utilize the Division Rights/Building Rights on the property; and
2. the Application met the requirements of Bingham County Code Section 10-8-2 as the contents of the Application were complete. Further the Commission did not identify concerns regarding the Applicants transfer creating a negative effect to neighboring uses. Additionally, the Applicants’ acknowledged that the transfer is to retain the Division Right on the Receiving Parcel, to maintain in their ownership, as an Original Parcel cannot be divided more than four (4) times utilizing Division Rights without applying for a Subdivision, under the current Ordinance. After the transfer, the Sending Parcel will remain buildable as well as have one (1) Division Right remaining for a

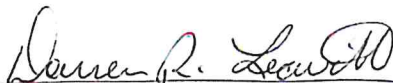
total of two (2) Building Rights. The Receiving Parcel will remain buildable as well as have one (1) Division Right remaining as a result of the transfer for a total of two (2) building rights. The Applicants agreed to meet with Planning & Development Staff if and when a Division Right is desired to be utilized on the Receiving Parcel and supply a Site Plan to ensure proper parcel size, legal access, and other Code requirements are met; and

3. the Application met the general objectives of the Comprehensive Plan as set forth in Bingham County Code Section 10-8-3(A)(2) as the Receiving Parcel has a map designation of Agriculture; and
4. the Application met the requirements of Bingham County Code Section 10-14-3(C)(5) as both the Sending and Receiving Parcels are held in the same ownership and are remnants of an Original Parcel; and
5. the Application met the requirements of Idaho Code §67-6512(b) and Bingham County Code Section 10-3-6 because the Public Hearing was held for all property owners within 300 feet; published in the official newspaper a minimum of 15 days prior to the Hearing and notice was posted on the property a minimum of one week prior to the Hearing.

III. DECISION


Based on the record, Commissioner Sellers moved to approve the request by Perry and Margo Hawker for a Conditional Use Permit to transfer 1 (one) division right from Parcel No. RP0245101 to Parcel No. RP0254208, as described in the Application materials as supplemented with additional information in the Staff Report, in accordance with the requirements of Bingham County Code Title 10 "Zoning Regulations" and subject to all applicable laws and regulations. Further, any phases and/or parcels created in the vicinity must be continuous and progress in an orderly fashion. He also included in the motion the condition that the Applicant shall meet with Planning & Development Staff with a proposed site plan, depicting legal access, lots size, and other parcel requirements, prior to the division thereof to ensure compliance with Bingham County Code.

Commissioner Carroll seconded the motion. Commissioners Sellers, Carroll, Aullman, Croft, and Johns voted in favor. The Motion carried.



Darren Leavitt, Chairman
Bingham County Planning and Zoning Commission

2/2/23
Date



Tiffany G. Olsen
Planning & Development Director

2/3/2023
Date