

**BLAINE COUNTY PLANNING & ZONING COMMISSION**  
**PUBLIC HEARING on May 27, 2021 & July 22, 2021**

**REGARDING THE APPLICATION OF: Blaine County to revise Title 10 Chapter 10 & Title 9 Chapters 5 & 5A, Zoning Regulations, regarding Voluntary Transfer Development Right Program.**

**FINDINGS OF FACT AND RECOMMENDATION**

**I. APPLICATION SUMMARY:**

A public hearing on and consideration of county-initiated amendments to Blaine County Code, Title 10 Subdivision Regulations, Chapter 10 Voluntary Transfer of Development Right (TDR) Program and associated chapters of Title 9, Zoning Regulations, Chapter 5 Productive Agriculture(A-20) and Chapter 5A Productive Agriculture(A-40). The amendments were initiated by the Board of Commissioners on April 13, 2021.

**II. APPLICABLE REGULATIONS:**

(Included below or made a part hereof by reference)

- Idaho Code, Title 67, Chapter 65, Local Land Use Planning Act
- Blaine County Code, Title 8, Comprehensive Plan
- Blaine County Code, Title 9, Zoning Regulations, Chapter 31, Amendments

**III. GENERAL INFORMATION:**

1. **Notice of the May 27, 2021**, hearing was provided as follows:
  - A. Published in the Idaho Mountain Express on May 12, 2021;
  - B. public service announcement request to area media sent May 12, 2021;
  - C. sent to all Blaine County political subdivisions on May 12, 2021;
  - D. posted in at least five (5) public places on May 12, 2021, as evidenced by affidavit in file;
  - E. mailed to incorporated cities in County pursuant to Area of City Impact Agreements on April 27, 2021 ; and,
  - F. The draft of the proposed amendments made available on the county web site.

► **Finding on Notice:** Upon motion by Commissioner Pynn, second by Commissioner Eisenbarth, and by a vote of 6 to 0,(1 seat vacant) the Commission finds notice to be in compliance with applicable regulations, I.C. §67-6509.

**Notice of the July 22, 2021**, hearing was provided as follows:

- A. Published in the Idaho Mountain Express on July 7, 2021;
- B. public service announcement request to area media sent July 6, 2021;
- C. sent to all Blaine County political subdivisions on July 6, 2021;
- D. posted in at least five (5) public places on July 6, 2021, as evidenced by affidavit in file;
- E. mailed to incorporated cities in County pursuant to Area of City Impact Agreements on June 23, 2021 ; and,
- F. The draft of the proposed amendments made available on the county web site.

**2. Enclosures:**

- Exhibit A-1 Draft Ordinance Title 10 Chapter 10 Voluntary Transfer Development Right Program- **P & Z Commission recommended revisions shown in red**
- Exhibit A-2 Draft Ordinance Title 9 Chapter 5 Productive Agricultural District (A-20)– **P & Z Commission recommended revisions shown in red**
- Exhibit A-3 Draft Ordinance Title 9 Chapter 5A Productive Agricultural District(A-40) **P & Z Commission recommended revisions shown in red**

**IV. GENERAL TEXT AMENDMENT CRITERIA**

**A. Idaho Code §67-6511(a) and Blaine County Code §9.31.4 (A):**

*Commission shall evaluate the facts and circumstances of the proposed to determine:*

- *The nature and extent of the amendment;*
- *The reasons therefor;*

**►FINDING:** The “nature and extent” of the proposal an “the reasons therefor” are not necessarily criteria for evaluation, but rather are understood by the Commission as part of their review.

The proposed TDR text amendments are a result of putting the program into practice over the past few years. A need has arisen to modify the text language to improve the program.

Specifically:

1. Editing language in regards to site density after transfer. A loophole currently exists, where after a landowner in the Sending Area removes all of the development rights, they still are able to building on the property. The edit will create the need to retain 2 development rights if wanting to retain the right to develop in the A-40 and 1 TDR if in A-20.

2. Creating an avenue to learn the purchase price of a TDR sale. Currently there is no way for the County to know what TDR's are selling for. This will make managing the TDR program possible if the administrator knows the market rate of the exchanges.

- *Whether it is in accordance with the Comprehensive Plan;*

► **FINDING:** Complies. The Commission considered the following chapters/sections of the Comprehensive Plan that touch on the importance of the TDR goal of conserving agriculture and wetland areas while steering growth closer to existing residential development:

Chapter 5, Natural Resources:

A. Planning & Principles

*Desired Outcome: Good planning and partnerships strengthen our natural environment and quality of life. Decisions are based on solid planning principles and available scientific information.*

B. Conservation Opportunities

*Desired Outcome: We use all available opportunities for preservation and restoration of the natural environment and open space. We encourage partnerships between private landowners and public land and wildlife managers. We develop incentives as well as regulations.*

Habitat Types; Riparian and Wetland Areas: *While riparian and wetland areas proportionally comprise a very small portion of the County, they are productive and valuable natural resources. Riparian areas recharge the aquifer, store water, and provide plant diversity and habitat for common and sensitive species. Cavity-nesting birds, songbirds, and raptors utilize riparian tree and shrub habitat.*

Chapter 4, Agriculture:

*Conservation Easements: Conservation easements have been important in protecting farm and ranch lands from subdivision activity.*

National & Regional Agricultural Trends:

*Farmland preservation programs. Best practices in rural planning have focused on clustering homes and allowing small lots. This is an attempt to make subdivision more compatible with ongoing agricultural practices such as irrigation and water delivery, farming and harvesting, calving and livestock-raising. Programs also include transfers of density, buffers and other tools. The success of these tools has been mixed.*

A. Land Use and Prime Farmland

*Desired Outcome: prime farmland protected for agricultural use and regulations that ensure that agriculture remains viable.*

- A-1: Work proactively to review and modify land use regulations to 1) reflect the changing needs of farmers and ranchers, and 2) reduce conflicts between farming activities and non-farm uses. Issues that need further examination include, but are not limited to, these:*

- ...
- *Revitalize the Transfer of Development Rights program by re-examining receiving zones and other potential improvements.*

- *The effects on potable water sources; and,*

► **FINDING:** Complies. No negative effects on potable water resources is foreseen with these proposed amendments.

- *The impacts of the proposal upon the delivery of services by any political subdivision providing services, including school districts, within the County.*

► **FINDING:** Complies. No impact upon the delivery of services is foreseen with these proposed amendments.

**B. Idaho Code §67-6511(b) and Blaine County Code §9.31.4 (B):**

*If the proposal is in conformance with the Plan and it is found that the proposal will not result in demonstrable adverse impacts upon the delivery of services, the Commission may recommend adoption of the amendment.*

**C. Idaho Code §67-6511(c) and Blaine County Code §9.31.4 (C):**

*If the proposal is not in conformance with the Plan, or will result in demonstrable adverse impacts upon the delivery of services, the Commission may consider whether it is appropriate to amend the Comprehensive Plan. Notice procedures provided in Idaho Code Section 67-6509 must be adhered to in recommending an amendment to the Comprehensive Plan.*

► **FINDING:** Complies. The proposal is in conformation with the comprehensive plan.

**D. Idaho Code §67-6528, Applicability of Ordinances:**

*“The state of Idaho, and all its agencies, boards, departments, institutions, and local special purpose districts, shall comply with all plans and ordinances adopted under this chapter unless otherwise provided by law. In adoption and implementation of the plan and ordinances, the governing board or commission shall take into account the plans and needs of the state of Idaho and all agencies, boards, departments, institutions, and local special purpose districts. ...”*

► **FINDING:** Complies. Public notice of the proposed amendments were sent to political subdivisions.

**V. RECOMMENDATION**

► **RECOMMENDATION:** Upon motion by Commissioner Martin, a second by Commissioner Eisenbarth, and a vote of 7-0, the Planning and Zoning Commission recommends that the proposed text amendments to Title 10 Chapter 10 & Title 9 Chapters 5 & 5A, Zoning Regulations, regarding Voluntary Transfer Development Right Program are in accordance with the Comprehensive Plan and will not negatively impact potable water or the delivery of services, and recommend that the proposed amendments be granted as modified.

IT IS SO ORDERED on this 19 day of August 2021.

BLAINE COUNTY PLANNING AND ZONING COMMISSION



By: Susan Giannettino, Chair