

**Custer County Commissioners  
Public Hearing Minutes  
Seay Rezone  
January 25, 2023**

**Call to Order** at 6:00 PM.

**Roll Call**

Present: Commissioner Wayne Butts, Commissioner Randy Corgatelli, Commissioner Steve Smith, Clerk Lura Baker, Planning & Zoning Administrator Jessica Clemenhagen. In the audience Patrick Seay, Melissa Edith Wheeler Seay, Donna Gaskill, and Wanda Pickering attended.

**Public Hearing Called to Order** at 6:00 p.m. (Recorded)

Commissioner Chairman Wayne Butts called the public hearing for a zoning change from Agricultural to Transitional Agriculture on Patrick and Melissa Seay's property. He reviewed the process and the rules of testimony for those attending.

**Applicant Testimony:** Patrick Seay stated that they are requesting a rezone of their property located at 3957 W 4100 N from Agriculture to Trans-Ag so they can continue to develop the property. We have owned this property for about two and one-half years, applied for and received permits. We inquired about building and were OK'd to begin, so we had our house started and it is currently started and dried in. We received a cease and desist letter approximately 8 months ago and have not touched the project since. We are wanting to do what is right, and are requesting a rezone so we can continue to build our home.

**Chairman Butts** questioned the process of testimony to be sure no conflicts were created by discussion of the wrong subject. Jessica affirmed that there was no conflict involved.

**Applicant Testimony:** Patrick spoke on the original subdivision process that was not done correctly, and his original understanding that building on his parcel of land was perfectly legal. He had no idea that his parcel, being under 20 acres, was not the correct size for development when zoned Agriculture. As far as Patrick and Melissa knew, they were doing nothing wrong.

**Planning & Zoning Administrator Testimony:** Jessica Clemenhagen testified on parcel #RP06N25E09070B located and 3957 W 4100 N in Mackay, Idaho. The size is 13.713 acres. Public Hearing Notice was posted in the Challis Messenger on September 15, 2022. Notices were mailed to all property owners that were within 300 feet of the property boundary. The property was physically posted on September 21, 2022. Notices were posted on the Custer County Courthouse doors and uploaded to the Custer County Planning & Zoning webpage. Notices were also given to Mackay City Hall, South Custer Fire District, Custer County Sheriff's Office, Eastern Idaho Public Health Department, and Lost River Electric. The application was received on July 21, 2022 and was found to be complete. The parcel is zoned Agriculture and was split from another parcel in 2018. The parcel only contains 13.713 acres creating a

nonconforming parcel. It was brought to my attention that the new owners had started construction of a new dwelling on the parcel. They had an approved septic permit, but not a zoning certificate. I sent them the letter advising them that the parcel was nonconforming, did not meet the minimum size requirement of 20 acres, and they would have to stop construction. The owners responded by filling out the appropriate paperwork to start the process of rezoning the parcel in hopes they would be able to continue the construction on their dwelling. The proposed rezoning request seems to be in compliance with the Custer County Ordinances #2007-09. No letters or comments were received by the Custer County Planning & Zoning Department. The Planning and Zoning Commission held a Public Hearing on October 6, 2022 and considered all timely submitted, written and oral comments and testimony. The Commission deliberated and made the decision to recommend the decision to rezone from Agriculture to Transitional-Agriculture to the Custer County Board of Commissioners.

**Audience** commented that the property split did not occur in 2018, but was done in 2020. It was agreed that Jessica would double check the date in her records.

**There was no Support Testimony, Neutral testimony or Opposition testimony.** Chairman Butts thanked the general public for attending the public hearing.

**Chairman Butts** offered the applicants an opportunity to give rebuttal. Patrick Seay shook his head "no", he no rebuttal comments.

**Commissioner Smith** asked for clarification on the adjoining 6 acres that are still zoned as Agriculture. Jessica responded that that property is owned by someone else and is not connected to this hearing.

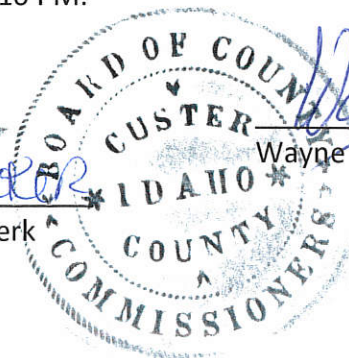
**Commissioner Corgatelli** asked if there were any additional parcels in this area that are zoned Trans-Ag. The Custer County map server was viewed and zoning was clarified with Jessica.

**Deliberation was held between Commissioner Corgatelli, Commissioner Smith and Chairman Butts.**

Commissioner Smith made a motion to stand behind the Planning & Zoning Commission decision and approve the rezone of the 13.713-acre property from Agriculture to Transitional Agriculture. Commissioner Corgatelli seconded the motion and the motion passed with a roll call vote of unanimous Ayes.

**Hearing Adjourned at 6:10 PM.**

  
Attest: Lura H. Baker, Clerk



  
Wayne F. Butts, Chairman