



October 22 & 23, 2007, Emmett, Idaho

Pursuant to a recess taken on October 16, 2007, the Board of Commissioners of Gem County, Idaho, met in regular session this 22nd day of October, 2007, at 8:00 a.m.

Present:	Michele Sherrer	Chairman
	Sharon Pratt	Commissioner
	Lan Smith	Commissioner
	Shelly Gannon	Clerk

Whereupon the following proceedings were had, to-wit:

October 22, 2007

STEVE WESTON REZONE: While being tape recorded a public hearing was held to hear a rezone request by Steve & Wendy Weston to rezone 6.90+/- acres from A-2 Rural Transitional Agriculture to R-2 Residential Transitional located at 3333 Wills Road.

Steve Weston spoke regarding the rezone request. They would like to split the property into a total of 4 pieces depending on what Southwest District Health Department allows regarding septic systems. They will build a home for themselves to reside on a lot that is different from the lot they currently reside. They don't find their rezone to be contrary to current requirements.

Zoning requirements regarding community vs. individual wells was discussed. The Westons' feel that one well could serve the entire property but they would like an individual well for their home. R-3 Rural Residential zoning would allow individual wells but would require 2 acre minimum lot size rather than the 1 acre minimum for R-2 zoning. The Westons' decided to change their rezone request from R-3 to R-2 zoning.

During discussion regarding whether or not a change in zoning from R-3 to R-2 would be a substantial material change which would require another hearing Wendy Weston stated that changing from R-3 to R-2 would be less impact for the area. She feels the neighbors would be more pleased with the change.

A motion was made by Commissioner Pratt to hold a hearing based on the change request of the Westons' to R-3. It was seconded by Commissioner Smith with discussion. After discussion regarding being consistent and fair to all applicants and possible changes in the way hearings are noticed which would allow for a change of this type without the need for another hearing the motion carried unanimously.

CHARLENE FACKRELL REZONE: While being tape recorded a public hearing was held to hear a rezone request by Brian & Charlene Fackrell to rezone 5.50+/- acres from A-2 Rural Transitional Agriculture to R-2 Residential Transitional located at 3210 S. Johns Avenue.

Brian Fackrell spoke regarding the rezone request. He stated the property has 2 existing homes, 2 wells and 3 addresses associated with the property. They are requesting the rezone to fix up the property. They tailored their plans to meet the Gem Community Comprehensive Plan. The use of a community well was discussed.

Brad Hawkins-Clark discussed the location of the property and reviewed the Planning & Zoning Commission recommendation for approval. Septic issues and traffic on Johns Avenue were concerns stated by those in opposition during the Planning & Zoning Commission meeting. Brad stated the property falls into Priority Growth Area 1 on the Future Land Use map. Currently all property around them is zoned A-2 with some grandfathered lots that are less than 5 acres.

Charlene Fackrell stated that Rocky Smith who had spoken in opposition to the rezone lives on a ½ acres parcel himself.

A letter from Last Chance Ditch Company was recognized for the record.

A motion was made by Commissioner Smith to close the public hearing. It was seconded by Commissioner Pratt and carried unanimously.

A motion was made by Commissioner Smith to support the Planning & Zoning Commission's recommendation to rezone this application RZ07-017 based on staff findings and the Planning & Zoning Commission findings that it complies with the Comprehensive Plan. It was seconded by Commissioner Pratt and carried unanimously.

INDIGENT APPLICATIONS: At 11:00a.m. a motion was made by Commissioner Pratt, seconded by Commissioner Smith and carried unanimously to go into executive session under Idaho Code 67-2345(1)(d) for indigent matters with a roll call vote as follows: Commissioner Smith, aye, Commissioner Pratt, aye, and Commissioner Sherrer, aye.

07-049	Sign Release of Statutory Lien
07-057	Withdrawal of Medical Application
07-068	Sign Statutory Lien

After reconvening in regular session at 11:05 a.m., Commissioner Smith made a motion to sign release of statutory lien on 07-049, to deny and sign withdrawal of application for 07-057, and sign statutory lien on 07-068. It was seconded by Commissioner Pratt and carried unanimously.

The Board recessed at 12:00 p.m. for lunch to reconvene at 1:15 p.m.

CONSENT AGENDA: The consent agenda included items A. Resolution 2007-16 Dewey Road Corridor Study, B. Appointments of a Development Services representative and a Shadow Butte Development Corporation representative to the Architectural Control Committee, C. Appointment of Amy Linville to the

Historical Preservation Commission, D. Chloe Hollow Minor Subdivision Decision & Order. A motion was made by Commissioner Pratt to approve the consent agenda as presented. It was seconded by Commissioner Sherrer and carried unanimously.

APPROVAL OF MINUTES: The minutes of September 24 & 25, 2007 were reviewed. A motion was made by Commissioner Pratt to approve the minutes of September 24 & 25, 2007 as amended. It was seconded by Commissioner Smith and carried unanimously.

The minutes of October 1 & 2, 2007 were reviewed. A motion was made by Commissioner Smith to approve the minutes of October 1 & 2, 2007 as amended. It was seconded by Commissioner Pratt and carried unanimously.

The minutes of October 15 & 16, 2007 were reviewed. A motion was made by Commissioner Pratt to approve the minutes of October 15 & 16, 2007 as amended. It was seconded by Commissioner Smith and carried unanimously.

BROKEN CIRCLE ESTATES REQUEST FOR RECONSIDERATION: A hearing continued regarding a request for reconsideration of conditions for Broken Circle Estates. The applicant, Robin Nuffer, attended via telephone. Estimated cost and mitigation for the curb, gutter and sidewalk was discussed. Also discussed was a license agreement for the drain field, septic system, irrigation boxes and trees that encroach in the right-of-way. Passing the cost of the items to be included in a license agreement on to a future owner is a concern to the Commissioners.

Robin Nuffer discussed the burden being placed on the homeowner through the mitigation process for improvements.

Roger Bennie suggested attaching a lien to the property to get the money for required mitigation from the sale of the first lot.

Brad Hawkins-Clark wondered if payment at the time of building permit is still being allowed.

A motion was made by Commissioner Smith to reconsider the Conditions of Approval for Broken Circle Estates specifically that item #3 be re-worded to state that the mitigation fee assessed to each lot for improvements required to be constructed in the City of Emmett per letter of August 6, 2007 shall be paid prior to any building permit issued to such lots and the amount of the total mitigation is \$50,000.00. It was seconded by Commissioner Pratt and carried unanimously.

A motion was made by Commissioner Pratt to authorize a license agreement to be drawn up on the four conditions that were requested for reconsideration due to specific barriers #1 the shared diversion box fed by Last Chance Ditch Company which encroaches upon the right-of-way at 1082 Cherry Lane, #2 the intake pump station also encroaches upon the road right-of-way at 1082 Cherry Lane, to allow the septic and drain field located at the same address 1082 Cherry Lane to remain until services are provided at which time a request for annexation is required and

to allow the six trees that also would be encroaching on the right-of-way at the same address 1082 Cherry Lane all of these would remain until the road is improved with the additional requirement on the septic and drain field to request annexation. It was seconded by Commissioner Smith and carried unanimously.

CLAIMS: The Commissioners reviewed the claims presented for fiscal year 2007 and 2008. A motion was made by Commissioner Pratt to approve the claims as presented and signed on the individual claim forms. It was seconded by Commissioner Smith and carried unanimously.

WATER TANK BID OPENING: There was only one bid received. The bid was from Utility Truck Equipment to supply and install "Diamondbilt" model #H35ET4CSL3232 3540 gallon water tank and water system per "Gem County Road & Bridge" specifications for \$62,656.00. The bid was forwarded to Kim Reed, Road Department Supervisor, for his input.

INDIGENT HEARING 07-046: At 4:00 p.m. a motion was made by Commissioner Sherrer, seconded by Commissioner Pratt and carried unanimously to go into executive session under Idaho Code 67-2345(1)(d) for indigent matters with a roll call vote as follows: Commissioner Sherrer, aye, Commissioner Pratt, aye and Commissioner Smith, aye.

While being tape-recorded during executive session, an indigent appeal hearing was held for 07-046. Those present were Commissioners Sherrer, Pratt and Smith, Clerk Shelly Gannon, Deputy Clerk Diane Wright and Deputy Prosecutor David Hargraves.

The case file was entered into the record as Exhibit A. After reconvening in regular session at 4:10 p.m. a motion was made by Commissioner Smith to deny 07-046 based upon withdrawal of the applicant and the providers. It was seconded by Commissioner Pratt and carried unanimously.

OPEN FORUM: An open forum was held in Sweet. Those in attendance were Commissioners Sherrer, Pratt and Smith and Clerk Gannon. One citizen attended the meeting. Topics discussed included road maintenance, the status of the Shadow Butte Industrial Park and elections.

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Commissioner Smith was absent from the meeting while attending a pre-construction meeting for Shadow Butte Industrial Park.

ROAD DEPARTMENT UPDATE: Kim Reed, Road Department Supervisor, met with the Commissioners to discuss the status of Road Department projects.

PLANNING & ZONING UPDATE: Brad Hawkins-Clark, Development Services Director, met with the Commissioners to discuss Planning & Zoning issues.

Commissioner Smith rejoined the meeting.

A motion was made by Commissioner Smith to accept the bid from Utility Truck Equipment for the water tank in the amount of \$62,656.00. It was seconded by Commissioner Pratt and carried unanimously.

Commissioner Smith was absent from the meeting while on vacation.

PUBLIC WALK-IN: David Wood met with the Commissioners to discuss Qwest Services for the county offices. Rates and billing options were discussed.

PROSECUTING ATTORNEY MATTERS: Deputy Prosecutor, David Hargraves, met with the Commissioners to discuss Prosecuting Attorney matters.

The Board recessed at 12:00 p.m. for luncheon with the Elected Officials at LaCosta to reconvene at 1:15 p.m.

The Commissioners worked on Administrative matters.

The Board recessed at 5:00 p.m. to 8:00 a.m. on November 5, 2007.

Approved: _____
Chairman

Attest: _____
Clerk