

MEMBERS PRESENT: Don Wilkerson, JB, Brent Jensen, Jim Hutchins, Steve Ethington and David Poole.

OTHERS PRESENT: Sissy Stewart – Administrative Assistant and Jennifer Kharl - Development Services Department Staff; David Hargraves- Prosecuting Attorney.

Chairman Wilkerson opened the public hearing at 7:00 p.m. and welcomed everyone, then explained the public hearing process.

Item One –(Continued) Rezone#361 by Melvin Rowley to amend Rezone #284 to allow a total of four parcels be created from the 5.57 acres instead of only three parcels as stipulated in the Findings of Facts approving the Rezone. Located at 353 East Central Road. 7N, 1W, Section 31.

Jim Hutchins has a conflict of interest and recused himself.

Marvin Rowley - I am Melvin and Dixie Rowley's son, we have an original parcel of land that is in the B-1 zone. It meets all of the requirements for four splits. We would like to take advantage of the four splits. We have a stipulation from the past rezone that allows only three splits and the Planning Administrator doesn't know why that stipulation was put there.

J.B.- Is it still an original parcel?

Marvin Rowley-It still is an original parcel. They were lead to believe that they only had three splits coming to them at that time. The land is actually entitled to four splits and it does meet all the requirements for the splits.

J.B.-Since the rezone last year you have not split the land?

Marvin Rowley- No, they just had the parcel surveyed.

J.B.-Have you tried selling any of the land since the rezone?

Marvin Rowley-No, we have been waiting for approval for building permits.

Chairman Wilkerson opened the hearing to the public.

Krista Cole-361 East Central.

I am opposed to the application. I live next door to the Rowley's. This started in 1999, the zone was A-3 and the Rowley's came forward to change the zone to B-1. The reason they were only allowed three splits was because that was all the County Commissioners would allow at that time. The Planning and Zoning Commission denied it and the Rowley's contested it to the County Commissioners. At that time Mr. Rowley submitted a letter

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stating his sole purpose for rezoning was to help care for his disabled daughter Sabrina Rowley. The ground has not been split since 1999, unfortunately Sabrina has since passed away. If there purpose was to build for their family to live and care for Sabrina they did not act on it at that time. The neighbors hotly contested the application. The Rowley's claimed their property could not be used as agriculture and since then they have successfully planted a tree farm. I submit that this application be denied and the past zone change be rescinded. It was done under false pretenses. By allowing these homes at this density will cause a hardship on the water system, traffic and noise. All the homes and splits in this area are on larger ground and they are high-end homes.

Chairman Wilkerson-Do you live to the East or West of the property?

Krista Cole-To the East.

Marilyn House- 405 East Central Road.

I have recently moved to the community and I have renovated the home and have a farm type residence. My concern is the irrigation and well water. Right now I have a successful alfalfa crop. I know the property up there can be used as agriculture.

Brent-What piece of property do you own?

Marilyn House- I own 405 East Central, I can show you on the map.

Jim Hutchins- 350 East Central Road.

I live directly across the road from the Rowley's. I have concerns as to the water and sewage added to the area. The wells in that area are very shallow, mostly fifty feet into that aquifer. The extra drainage and extra water coming out of that makes me nervous. It has flooded the house next door with nine inches of water in the basement. The problem was across the street the drain ditch was not taken care of. They have started a fill at the bottom of this property, presumably a road would be put right in this subdivision that would lay right tight with this drain ditch. There was a stipulation originally to pipe and engineer that drain through there. I am opposed to these splits, but if it is approved there needs to be a stipulation that the drain must be piped and taken care of because it is a major drain and it does flood people out.

Gerlene Hash-2356 Scenic Drive.

We sent a letter with our concerns, the drain ditch is a big concern it is flooding my property right now in the corner. This drain ditch is a continuing problem.

J.B.-What is the current condition of the drain ditch, is it overgrown or full of weeds?

Gerlene Hash-It does have cattails in it and I had Mosquito Abatement out and they said it is flowing but it isn't large enough and it doesn't take care of the drainage. This last week it was so muddy in our yard we couldn't even work in there. The Mosquito Abatement felt it should have been a cement ditch.

Chairman Wilkerson-Looking at the pictures you submitted your property appears to be close to Central Road.

Gerlene Hash-No, we are at the south end of the Rowley property.

Chairman Wilkerson-If it pools right behind your house it appears that it is not the Rowley's problem.

Gerlene Hash- It is their problem, Mosquito Abatement District says there is too much water flowing through the ditch. It is really overgrown even behind our place.

Chairman Wilkerson- Do you know who owns the property south of the Rowley's who should be maintaining it?

Gerlene Hash-We have contacted them and they said they have no responsibility to that ditch.

Marvin Rowley -378 East Black Canyon Highway.

That ditch has been there forever and I don't see how that is an issue to get our four splits. Dad cleans out his ditch, it is flowing very well right now. The blockage probably starts at the property south of dad's because that property is higher. As far as installing the pipe, dad is a retired pipe layer but our question is who will be responsible for the damming of the pipes to the property. The dam is created by the farm of the man that testified earlier from across the street. When he plants his crop dad's ditch fills up with mud. Dad has to clean the ditch every year because of the mud from the hundred acres pointed out before. Regardless, we are entitled to the four splits, we comply with the Comprehensive Plan and we are in a B-1 zone. If you are going to stick with the three splits we need to know the legal reason you are denying our fourth split.

David Poole- If we do have a water problem at the bottom of the parcel, if the land is split there is a possibility of a failed septic system. The water problem is an issue and it needs to be addressed.

Marvin Rowley-Southwest District Health has already been out and approved a system.

David Poole-If there is a possibility of failure on a septic system why make it worse.

Marvin Rowley-I am a licensed septic installer and I do not see a possibility of that ditch being a problem. The property is on such a rise off of that ditch.

David Poole-You can get far enough away from that problem.

Marvin Rowley-Legally we can get far enough away from that drain ditch, that is no problem.

J.B.-Mr. Rowley, why do think you are entitled to four splits?

Marvin Rowley-It is an original parcel and in a B-1 zone which is a one acre minimum.

J.B.-According to the minutes the request was to sell property to family to care for Sabrina.

Marvin Rowley-I could tell you why this is but it would be hearsay. I want to know why that stipulation was put there.

J.B.-I am looking at item four under the findings of facts and it states that the applicant is asking for three parcels for family. Under item number three it states that the applicant has a relative that is disabled and they want homes close in proximity to care for her. May I ask when did Sabrina pass away?

Marvin Rowley-Six months ago on March 12th, 2005.

J.B.-The purpose you requested had merit up until four months ago when your sister passed away. Since you never acted on the rezone, I would be in favor of taking away the B-1. I am sure they took the water issue into account when they approved the three splits and they insisted the ditch be piped.

Marvin Rowley-As far as the family, I did not want to address the family issue because of how hard it has been on my parents. If this was approved because of family then that is not a legal reason. The legal reason should have been because it meets the Comprehensive Plan and it meets all the legal reason for that zone. The sentimental reasons should not have played any role.

J.B.-Sissy, does this particular parcel fit into the B-1 Comprehensive Plan for approved use?

Sissy Stewart-According to Debbie's staff notes it does comply with the R-2 zone today.

Chairman Wilkerson- To me it looks like you only asked for three splits at the time.

Marvin Rowley-We asked for four but there was a gentleman on the Administrative Board who said they would pass it if we asked for three.

Chairman Wilkerson-Tony Young at the time was Administrator; according to the Commissioner's minutes it looks like Tony Young recommended four splits.

Chairman Wilkerson closed the public portion of the hearing.

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David Hargraves-I would highlight that these are to be rural residential lots. They are not asking for a zone change. I will confirm that an original parcel can be split four times. Legally this is not a proper procedure to rescinding the decision of 2000.

Chairman Wilkerson-The subdivision to the west of the Rowley property looks like it could be one acre lots, if the Rowley's were approved it would not increase the density.

David Poole-I would be in favor of the splits because I feel it would resolve the water issues since the stipulations will have to be met.

J.B.-It concerns me that the owner said if he gets approval, he doesn't know who would be responsible for the drain ditch.

David Poole-Key word engineered system.

Chairman Wilkerson-Referring back to the letter from Emmett Irrigation all it states is that an engineered system will have to be placed.

Brent Jensen-Emmett Irrigation has no jurisdiction over wastewater. The property owner has the responsibility to route that wastewater however it travels historically.

Steve Ethington -We can also vote with the same stipulations from the decision from 1999.

David Poole -Made a motion to recommend approval of the Rezone for Melvin Rowley to Rezone approximately 5.57+/- acres. I feel the property does comply with the Comprehensive Plan.

Motion received a second.

Vote:

In favor-David Poole, Steve Ethington and Brent Jensen.

Opposed-J.B.

Motion to recommend approval of the application by a 3 to 1 vote.

Item Two – A Temporary Hardship Permit request by Lee and Bonnie Witt to allow the temporary placement of a manufactured home for their daughter to take care of them. The site is located at 1398 West South Slope Road. 6N, 2W, Section 25.

No ex parte or conflicts of interest were reported.

Letters read into record:

Southwest District Health.

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Farmers Co-operative Irrigation Company-No objections to granting the temporary Hardship as it would have no adverse affects on the Company's maintenance and operations of the canal.

Bonnie Witt-1398 West South Slope Road.

We have applied for a temporary permit for my daughter to take care of me while I am recovering. I am not sure when I will be able to get back to my daily duties and my husband Lee is needing another surgery on his ankle. However in this pressing time of need we would appreciate your favorable vote.

J.B.- Mrs. Witt, you have no indication from your doctor on the duration of this.

Bonnie Witt-I have heard it can be one to three years.

Chairman Wilkerson opened the hearing to the public.

Sue Dimmick-1411 W South Slope.

My lane is right in front of where they put the trailer house. I assume Bonnie did have the back surgery. I want to know why the trailer was placed prior to the hearing. The mobile home they have chosen is very unsightly they could have chosen a better looking home. Is it going to sit in the position it is now? What improvements will be made so it isn't so unsightly?

Chairman Wilkerson- We no longer do site visits, so you are saying the trailer is already there?

Brent Jensen-Could you please show us your property and the lane you were talking about?

Chairman Wilkerson-Are right across from their house?

Sue Dimmick-Almost.

Bonnie Witt -What I started to say a little bit ago is the fence was taken down to bring the trailer on the property and the fence will be put back up. The mobile home is an older home and we do plan on upgrading it. It will be moved and turned. And the manufactured home will sit behind our large shop. It would not be seen from the main road.

Steve Ethington -We do not have the opportunity to do a site visit now so can you tell me if you have two homes on the property. Could you show me where you plan on placing the home?

J.B.-Mrs. Witt where did the mobile home come from?

Bonnie Witt-We purchased it from a private party up on the bench here in Gem County.

David Hargraves-Is your daughter currently occupying the trailer?

Bonnie Witt-No, it is not hooked up to anything.

Steve Ethington- Sissy, what is the renewal process for a Temporary Hardship?

Sissy Stewart-We have an annual review to see if the need still exists.

J.B.-You mentioned it was already approved for water and sewer, what do you mean?

Bonnie Witt-Several years ago my husband's parents had a mobile home on the property and the well and sewer is still there.

Chairman Wilkerson closed the public portion of the hearing.

J.B.-I have a major concern that the home was placed prior to approval even though it isn't being used. On August 16th, 2005 the doctor's note stipulated a six week recovery period. On August 12th the doctor's note stated the need to be for three months for the husbands ankle. According to the doctor's notes the need will no longer be there.

Chairman Wilkerson-Another doctor's note dated September 1st states that Bonnie will need a Temporary Hardship, but it does not state for how long.

Chairman Wilkerson-I agree with J.B.

David Poole-I would suggest that if the applicant provides a doctor's note stating the need will be there for longer we could approve this.

Brent Jensen-The board should also consider geriatrics even though the doctor's note didn't state it.

J.B.- Made a motion to deny this application based on the stuff brought forward tonight I do not see that the doctor's notes state a need.

Steve Ethington –Second

David Poole- I still feel we should give the applicant a chance because there are extenuating circumstances.

J.B.-Do we have two applications or are we just looking at one for Mrs. Witt?

David Poole-We have one application but we have two people in need. We are causing more grief.

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David Hargraves-Temporary Hardship Permit is defined in the Zoning Ordinance. The manufactured home must be removed when the need no longer exists.

Vote:

In favor: J.B. and Jim Hutchins

Opposed: Steve Ethington, Brent Jensen and David Poole

The motion has died.

Brent Jensen-Made a motion to approve the Temporary Hardship with the following stipulations:

- Subject to annual review.
- The permit is non transferable.
- Manufactured home must be removed when the need no longer exists or if the property is sold.
- The applicant must obtain proper permits to place the home, including Septic Permit.
- The site of the home must be placed as shown on application, and skirted.

Motion received a second.

Vote:

In favor: Steve Ethington, Brent Jensen and David Poole.

Opposed: J.B. and Jim Hutchins.

Motion to approve the application by a 3 to 2 vote.

Item Three – A Special Use Permit request by Steve and Ronda Hunsaker to allow a petting zoo. The site is located at 2121 Mill Road. 6N, 2W, Section 13.

No ex parte or conflicts of interest were reported.

Letter read into record from Southwest District Health.

Ronda Hunsaker-2121 Mill Road.

We just would like to open a petting zoo on our existing property with the animals we already have to share with the public.

Steve Hunsaker-We already have people come from all around to see the animals. We have almost every animal you can think of.

Brent Jensen-Since we do not have the privilege of site visits can you walk us through your site plan and how you are going to lay out the zoo and tell us a little about the animals.

Ronda Hunsaker- We have a huge driveway that goes all the way back. My husband drives semi trucks and turns them around in our driveway. The animals all have homes already we just want to move some animals up front for people to see.

Steve Hunsaker- We basically have normal farm animals.

Jim Hutchins- Southwest District Health recommends a public facility, I do not see a restroom on the site plan.

Ronda Hunsaker- We have talked to a couple of people about placing portable restrooms out there.

David Poole- Will there be a charge?

Steve Hunsaker- There will be a minimal charge.

David Poole- What will the hours of operation be?

Ronda Hunsaker- I plan on having the hours 10 A.M. to 6 P.M. Thursday through Sunday.

David Poole- How much traffic is going to be incurred?

Ronda Hunsaker- I don't see how there will be much more traffic since we already have people coming.

Brent Jensen- Do you think there will be school bus traffic?

Ronda Hunsaker- I imagine there will be some of the smaller buses.

Steve Ethington - Do you anticipate parking off the property?

Ronda Hunsaker- No, we have a very wide driveway.

J.B.- How many animals do you have?

Ronda Hunsaker- We have two cows and eight dogs.

J.B.- What is the county limit on dogs?

David Poole- The limit is four dogs without a kennel license.

J.B.- Ronda, do you have a kennel license?

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Ronda Hunsaker- No, I didn't know we needed one.

Chairman Wilkerson-You have five adult dogs?

Ronda Hunsaker- Yes.

Chairman Wilkerson-You are in need for a kennel license then.

Chairman Wilkerson opened the hearing to the public.

James England-4600 Butte Road

I am a professor of Veterinarian Medicine at the University of Idaho. I have some concerns about diseases from cats and dogs to children and waste control diseases. Transmittal of parasites like ringworm. There are some requirements for animal welfare that the applicant may not be aware of. There are licenses and routine inspections required to have an animal exhibit.

J.B.-I am not aware, so you are saying the State has specific requirements for zoos.

James England-There are State specific requirements for zoos and exhibits. There may also be some federal guidelines on animal welfare for animal exhibits. Most of those guidelines require licenses.

Steve Hunsaker-We do some breeding and we had one complaint last year on a horse that was sick. Health and Welfare came out and said there was no way that was our horse because all our horses are healthy and fat. Our animals are more like our kids than our pets and they are very well taken care of.

Ronda Hunsaker-All of our animals are cleaned and vaccinated.

Steve Hunsaker-Most of my animals are hardship cases and we have rescued them.

Ronda Hunsaker-We have had thirty three foster kids in our home the past year. We went through all the testing and to make sure there would be no harm for the kids. Health and Welfare come every six months for a review.

Chairman Wilkerson-Have you looked into any required licensing for a zoo.

Ronda Hunsaker-We wanted to get approval first.

Chairman Wilkerson-Were you aware there was licensing?

Ronda Hunsaker- Yes, I thought there would be. We will do whatever is told to us.

Chairman Wilkerson-If you get approval, do you have plans on adding to the number animals?

Ronda Hunsaker-Not right away, I think I will see how it turns out. Right now we have what we are comfortable with.

Chairman Wilkerson closed the public portion of the hearing.

J.B.-It concerns me greatly they have are operating a zoo without a State License and Special Use Permit from us and they already have children come out there. The Veterinarian's comments are valid plus they are not in compliance with the County Ordinance already.

Jim Hutchins-I go along with J.B. I think the applicant has a lack of knowledge of what they have to have. My thought is to table this and let the applicant contact the entities that need to be involved and let them come back before us with the proper comments from them.

Brent Jensen-Contrary to what J.B. said I don't think it is against the law to have animals on your property and have people come look at them for no fee.

David Hargraves-When people are not in compliance with the Zoning Ordinance the Planning and Zoning office staff will contact them and give them a chance to come into compliance. I think it would be premature to deny this application based on that.

Steve Ethington -They will have to follow the State Of Idaho requirements and we could stipulate that.

David Poole-I think the kennel license requires a public hearing.

Chairman Wilkerson-We can put stipulations on this application if it were to be approved, that they have to follow and obtain all State and Federal guidelines and licenses.

David Poole-I think the kennel license requires a public hearing, so if we table this can it be tacked on to the same hearing?

Chairman Wilkerson-The kennel license can be a completely separate issue than this application.

J.B.-If we approve this tonight, they will have to shut down until they get all the right permits including the kennel permit. As long as they cease work I will go along with this.

David Hargraves- Above and beyond our ordinance, they will have to comply with all laws whether or not we make them comply.

J.B.-We do have responsibility to enforce the kennel law.

Steve Ethington- Made a motion to approve the Special Use Permit for Steve and Ronda Hunsaker to allow a petting zoo.

- The permit is subject to an annual review.
- The permit is non transferable.
- Any signage must comply with the Gem County Sign Ordinance.
- Approved driveway and parking paved.
- Retail hours of operation will be 10 a.m. to 6 p.m. Thursday through Sunday.
- A building permit is required prior to construction of any new building.
- Gravel parking in lieu of paved.
- Sanitary requirements as required by Southwest District Health.
- Obtain a kennel license and follow State and Federal guidelines and licenses.

Motion received a second.

Discussion.

Vote:

In Favor: Steve Ethington and Brent Jensen.
Opposed: Jim Hutchins, J.B. and David Poole.
Motion died.

J.B.-Made a motion to continue this for at least thirty days so they can come back to us with the proper information from the State of Idaho and other governing agencies in reference to a petting zoo.

Motion received second.

Vote-Unanimous.

Item Four – A Special Use Permit request by Dr. Andy D. Sapp, Ph.D., on behalf of Cherry Gulch Boys Ranch, LLC, to allow the operation of a boys ranch. The site is located on East Black Canyon Highway. 7N, 1W, Sections 15 and 22.

No ex parte or conflicts of interest were reported.

Brent Jensen has prior knowledge of the property.

Letters read into record:
Southwest District Health.
Emmett Irrigation District.

Dr. Andy Sapp-3800 Black Canyon Highway.

First, I would like to clarify that the neighbors are Sawyer/Smith, BLM, Dr. Wilkins and Ronnie Legg. We have a private road going to the proposed building. President Bush has requested that there be more programs for young boys to get an early intervention. The types of kids will be younger boys ranging from ten to fourteen years old. No criminals, sex offenders, psychotics, suicidal or homicidal. These kids are having problems with their parents and we just want to get them back on track and send them home. We purchased extra property to preserve the natural habitat. The kids will help to improve the property. This will be a very private operation. I don't think it will cause any problems with the community. I do feel it will be very positive for the community, we also will offer twenty five to thirty full time jobs. The jobs will range from ranch hands to professionals. Terry Poyzer will be the program and facility director. The program will be an agriculture program, the kids will learn to garden and restore the property back to what it was intended for. All the State of Idaho regulations and requirements will be met for a child care facility. We will also obtain licensure from the Western Region for academics.

David Poole-The students will be coming from where?

Dr. Andy Sapp-All over the country I am becoming nationally recognized for being an expert with these children.

David Poole-This is not coming from our State or Federal Government, you are saying it will be paid from private parties?

Dr. Andy Sapp- They are privately paid initially but, we are hoping to get a scholarship program so lower income families can be involved. We will take as many people locally that are qualified for positions and all employees will have extensive background checks and drug testing.

Jim Hutchins- This is a private school so none of the kids will attend public schools?

Dr. Andy Sapp-We have our own schoolhouse and we will never have more than forty students at one time. If we ever go off campus there will be at least one staff member for every six kids. On site the minimum ratio will be one to eight. At night we will have staff awake for twenty-four hours. There will be several staff living on site including myself. This will be a highly specialized program with a lot of one on one contact.

Jim Hutchins-How is the access off of Highway 52? I am assuming you will need a bridge over the Black Canyon Canal.

Dr. Andy Sapp-No sir, we will not need a bridge. The road begins before the canal.

Jim Hutchins-There will be a need for possible emergency vehicles, is the road up to county standards.

Terry Poyzer-We have improved and widened the road to county standards for emergency access.

Chairman Wilkerson-Have you punched the road in to the site yet?

Dr. Andy Sapp-The road does go to Ethel Nissula's house and there is a rough cut road to the proposed site.

Brent Jensen-I share this question probably with everyone, how are you going to keep the kids in?

Dr. Andy Sapp- This age group generally doesn't want to run away. This will be a friendly and warm place for these kids. This age group is not that sophisticated or mature enough to runaway, to them running away would be scary. There are a lot of obstacles and fences and a large perimeter for them to get around. This is a State mandated program and we have major requirements to meet.

Brent Jensen-So there will be no security or lock down rooms?

Dr. Andy Sapp-No, this is not a lock down facility. Lock down facilities deal with other types of kids that need to be locked down and there are a lot of concerns like fire hazard risks. This is an early intervention program, these kids just need supervision.

Brent Jensen-There is a risk of getting a bad apple.

Dr. Andy Sapp-Yes, if we got a kid we could not contain we would send them on to psychiatric evaluation. We lower the chances of getting a bad apple by having Ph.D therapists. We screen the kids very carefully, that is why we only take the softer younger kids.

Chairman Wilkerson-You mentioned permits, have you obtained any of the State permits to operate this facility.

Dr. Andy Sapp-Sir, we cannot obtain the permits until we build the facility and comply with their requirements.

Chairman Wilkerson-Have you developed and ran facilities like this in other areas?

Dr. Andy Sapp-Yes.

Chairman Wilkerson-Do you have references?

Dr. Andy Sapp-Not on me but I have a lot of references.

Chairman Wilkerson-In your experience with other facilities have you had trouble with runaways or troubled kids?

Dr. Andy Sapp-Not with this type of facility and this age range.

J.B.-Would you have any problems if we put a stipulation on the ages?

Dr. Andy Sapp-That would be fine with me.

Chairman Wilkerson opened the hearing to the public.

Gerald Wilkins-3750 East Black Canyon.

I am the closest neighbor and if something were to go bad, I would be the closest to danger. I have visited several hours with Dr. Sapp and they already have a great organization going. The road has had lots of improvements and the access is good. I am in favor and I think this is something we need here.

Dr. Larry Cromwell- 110 North Washington.

Talking with people in Gooding, Idaho Dr. Andy Sapp has a great name. This facility is greatly needed and the economic boost for the county will be great. I stand up for the application

Dick Smith-3333 West Central Road.

We own the property all around Dr. Andy Sapp and we checked him out very good before we sold the land to him. The welfare to the kids and the employment is needed. I recommend approval.

Jim Ciardelli-5250 Hidden Hollow.

I have a map of my property and we are closer than a mile. We are a little concerned with the safety aspect. In the application it stated that no grazing has been done in two years. I have proof that there are currently horses on the property. I am neutral and wanted to bring this into the light.

Brad Loy-5625 Hidden Hollow Lane.

We can see the property from a bird's eye view. I am concerned and I think it is overly optimistic to say that the kids this age want hugs and are afraid of the dark. My property is right up the road and I am definitely opposed. The boys will be able to see my house and cars and having young daughters I am concerned. We looked at properties in Sweet and we didn't buy because of the Boy's Ranch. Do these boys want to be there or do the

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parents send them away against their will? I don't understand how you can pay thirty staff when you only have forty boys, something doesn't seem right to me.

Ron Woody- 5758 Van Dussen Road.

I am concerned with future sale of my land.

Hazel Carnie England- 4600 Butte Road.

I have a concern with staff housing and how it will work.

James England- 4600 Butte Road

It seems to me that a fourteen year old boy would have no problem slipping off into the gullies and getting out of there in no time.

Chairman Wilkerson closed the public portion of the hearing.

Dr. Andy Sapp-I can understand the concerns. I will most likely build a house in the future for myself. And the staff quarters will be in bunkhouse with the boys. Living with the kids these staff members will be patrolling both exits. This is a very expensive program. This will be the premiere facility in the country for kids like this. The horses that the gentleman said was on my property are actually on Sawyer Smith's property. The neighbors that are closest to the property spoke in support of this. I think that this will increase property values. Instead of having a huge subdivision there will be a well maintained facility.

Terry Poyzer-This will be an educational facility and life skills shop. I am going to be moving near the property and I have two daughters. I have had more danger from women in an anorexia facility than with these types of boys.

J.B.-I am very impressed, however I would like to see alarms on the doors for after hours.

David Poole-You are aware that if people do raise concerns that this permit can be revoked.

Dr. Andy Sapp-We will risk losing our license through the State of Idaho also.

J.B.- Made a motion to approve the Special Use Permit for Dr. Andy D. Sapp on behalf of Cherry Gulch Boys Ranch to allow the operation of a boys ranch.

- The permit is subject to an annual review.
- The permit is non transferable.
- Any signage must comply with the Gem County Sign Ordinance.
- No adjudicated boys will be allowed on the site.

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- Building permits are required prior to construction.
- Maximum numbers of boys will be forty.
- Ages limited to no older than fourteen at the time of enrollment.
- Applicant must meet Gem County Landscape Ordinance.
- All doors housing the boys will have an audible alarm.
- The applicant shall provide to the Gem County Board of Commissioners and the Zoning Administrator a copy of the facility by the State Fire Marshall. As well as a copy of the approval and authorization from the State Fire Marshall of the applicant's proposed use.

Motion received a second.

Vote –Unanimous.

Item Five – A Rezone request by Robert Olsen to rezone approximately 0.676+/- acres from R-2 Residential Transitional to R-1 Residential, located at 1009 Edgemont Road. 6N, 1W, Section 6.

No exparte or conflicts of interest were reported.

Letters read into record:

Southwest District Health.

Emmett Irrigation District.

Mark Pierson-Attorney representing Robert Olsen.

His intention is to build two stick built homes on one-third of an acre each. They are to be served by central sewer and water. He does have splits available. There is a single family manufactured home currently on the property. If he is approved for this rezone, he will remove the manufactured home. I think it will improve the area.

Chairman Wilkerson opened the hearing to the public.

William Borup-I have lived next to this property for fifty years. I am not opposed to this application. If he cannot build a house then the land is not worth anything.

Chairman Wilkerson closed the public portion of the hearing.

David Hargraves-Sissy do you know why this piece is smaller than the zone designation?

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Sissy Stewart- I don't know for sure I wasn't in on the application but I would assume that it was created prior to our zoning ordinance.

David Hargraves-The County Commissioners just today denied an application that was rezoning from R-2 to R-1. The R-1 minimum lot size is six thousand square feet. According to the Comprehensive Plan it is not considered Rural Residential lot at that size.

Mark Pierson-My feeling is that my client is set to building just two homes and he needs to get it rezoned.

Steve Ethington – Does the present property have a building permit to it right now?

Mark Pierson-He hasn't done that yet because he would be applying for the existing lot that already has a home on it.

Sissy Stewart-Debbie Smith has done research on this property and her letter will tell us when this parcel was created.

David Poole-I think we need to continue this and get more information.

Chairman Wilkerson-If we continue this we might be paddling upstream if the County Commissioners determined that the R-1 zone does not comply with the Comprehensive Plan.

Mark Pierson-According to the ordinance I think the commission should consider that the applicant could not use the property as it is zoned if this is denied.

J.B-If we do deny this rezone, the property can definitely be used as it sits today because it has a home on it.

Sissy Stewart-It goes back to when this parcel was created, there are some parcels in the County that are smaller than the zoning minimums. If it was created prior to zoning then it can be replaced.

J.B- Made a motion to recommend denial of the rezone to the County Commissioners, as it does not comply with the Comprehensive Plan.

Motion received a second.

Vote: Unanimous.

Item Six- A Rezone request by J-2 Ventures to rezone approximately 8.399+/- acres from A-2 Rural Transitional Agriculture to R-2 Residential Transitional, located at 1677 Sunset Drive. 6N, 2W, Section 1.

No ex parte or conflicts of interest were reported.
Chairman Wilkerson has prior knowledge of the property.

Letters read into record:
Southwest District Health.
Emmett Irrigation District.

Janette Drew-1490 East Gem Estates Lane.
The application has two separate parcels that are adjoining and both are original parcels. Our application for rezone is consistent with what has been going on in that area.

Jim Hutchins-What is your access, I see no easements or roads or any access.

Janette Drew-On the front property we do plan on having access once we have this rezoned. The back property is a total of five acres approximately three of the acres are flat the rest is on a slope.

Jim Hutchins-Will you put a roadway to access the back property?

Janette Drew- There is already an existing access to the back property.

Chairman Wilkerson- Mr. Rambow has put a road to the back property and here it shows that there is a forty-foot easement.

Chairman Wilkerson opened the hearing to the public.

Fred Nussbaumer-1700 Sunset Drive.
Most of the property is covered up with the manufactured home and outbuildings. Are these people looking at the number of homes that will be added? Will the mobile home in front be one of the lots? We need to get a better idea of what they are doing. I am opposed to this rezone.

Dan Staples-1713 Sunset Drive.
I own the property to the immediate west of this property. I guess I am considered neutral on this. I am concerned that the application is such a mess. The application states that they want to create two building sites; there are already two sites. I am a concerned property owner because there is the potential of eight homes if this rezone is approved. I am not against two-acre parcels, but I am opposed to one-acre parcels. Jamie Watts bought this property and the very same day he closed on the land he came over to my house. He stated he wanted me to remove my fence off of his property. If this gets approved, I am worried that he will start ripping up my fence that has been there for sixty years.

Jim Hutchins-Has there been a survey done?

Dan Staples-We both have had surveys done.

Janette Drew-The main problem here is confusion. When we began applying we had two separate applications. It was recommended by the Administrator to combine them. We have one application with two parcels. As far as the fence issue, whatever a survey reflects and both parties agree on is what we will do.

Chairman Wilkerson-Do you plan on removing the manufactured home and shop if this gets approved?

Janette Drew-That is not our intention. We are taking this one step at a time and first we are seeking approval for the rezone.

Chairman Wilkerson-I had some questions on this application when I saw different parcels and different owners.

Janette Drew-The zoning office acknowledged that there was an error on the application, but it was too late to get the print changed. It is not that confusing if you look at each of these parcels separately and break them down.

Steve Ethington- I am curious to why the applications were combined.

J.B.-If we proceed would you have a problem if we include the parcel that the mobile home is on and have it become one acre?

Janette Drew-I am open to suggestion, I am not sure about that parcel. I believe it is an original parcel on its own. Is it possible to get R-2 for the front piece and R-3 for the back piece?

David Hargraves- Are you asking to amend your application? The R-2 zone gives you a minimum for one acre.

Chairman Wilkerson-If I were you I would withdraw your application at this time. You are asking for two different things.

David Poole-Can I make a suggestion to continue this to give her a chance to amend it if she wishes? I feel the way it is proposed it is not going to work.

Chairman Wilkerson-If you choose to withdraw we can get you on the top of the January agenda.

Nissa Watts-1490 East Gem Estates Lane.

If the manufactured home is placed as a one-acre piece and sold separately, do we need to put in a community well?

Chairman Wilkerson-When you get down to the smaller zone, it requires a community well.

Nissa Watts-There is already a well with the manufacture home, so we would need one more well? I think we may have been misguided by Planning and Zoning to combine the applications.

Nissa Watts-Our intention is to put a community well to the back two parcels and one for the front parcels.

Chairman Wilkerson-With the recommendation from the Prosecutor you need to make a decision whether or not to continue tonight with the application as presented. Our recommendation is to withdraw and the application fee may be put towards the new application if our bosses say so.

Janette Drew-Will we be on top of January hearing?

Chairman Wilkerson-Yes.

Nissa Watts- Why is there no hearing until January?

David Hargraves-The Commission is required to meet nine months out of the year. They chose not to meet in November and December.

Janette Drew-We will withdraw to get things straightened out.

Item Seven- A Rezone request by Clay and Margie Scofield to rezone approximately 6.33+/- acres from A-2 Rural Transitional Agriculture to R-2 Residential Transitional, located at 1800 Fenton Drive. 6N, 1W, Section 6.

No exparte or conflicts of interest were reported.

David Poole, Brent Jensen and J.B. have prior knowledge of the property.

Letters read into record:

Southwest District Health.

Emmett Irrigation District.

Clay Scofield -1800 Fenton Drive.

We have had a request from my son to split off a piece build a house on our property.

J.B.-What is your current acreage?

Clay Scofield-The current acreage is 6.33.

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J.B.-What size will you make for the new parcel.

Clay Scofield-We want to split off one acre. At this point there is one split available.

Jim Hutchins-Some of that land is vertical, does it cross over Lower Bluff?

Clay Scofield-Partway it goes down to Lower Bluff.

Chairman Wilkerson-Do you know the approximate acreage of the flat ground?

Clay Scofield –About three acres.

Chairman Wilkerson opened the hearing to the public.

Julie Herron- 1858 Fenton.

We are the only other property on Fenton that are in the A-2 zoning. We wanted to make sure we were allowed to have horses. We are at a speed limit at 25 MPH, is this something we can discuss here? I heard that the Scofield's were granted an access to Lower Bluff, is that correct?

Clay Scofield -In terms of the zoning we are only requesting for our piece of property. As far as access goes the original plat showed the access going all the way to Longview. We have no plans on using it we don't want to see any more traffic down that road either.

Chairman Wilkerson-You have no plans to develop the access off of Lower Bluff?

Clay Scofield-No, we do not.

Chairman Wilkerson closed the public portion of the hearing.

J.B. Made a motion to recommend approval of the rezone by Clay and Margie Scofield to the County Commissioners as the request complies with the Comprehensive Plan.

Motion received a second.

Vote:

In favor: Brent Jensen, J.B., Steve Ethington and Jim Hutchins.

Opposed: David Poole.

Motion to approve the application by a 4 to 1 vote.

Item Eight- A Rezone request by Siller Farms to rezone approximately 20+/- acres from A-2 Rural Transitional Agriculture to R-3 Rural Residential, located on the east side of Jackson Avenue between Edgemont Road and Sunset Drive. 6N, 2W, Section 6.

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No ex parte or conflicts of interest were reported.

Jim Hutchins and Chairman Wilkerson have prior knowledge of property.

Letters read into record:

Southwest District Health.

Emmett Irrigation District.

Darrin Youngstrom-1990 Geneva Way.

We are here to rezone this property because it is currently zoned A-2 with a five-acre minimum. With the three surrounding roads Gem County has required us to grant them road easements, which would be nearly two acres of ground. Leaving only approximately eighteen acres to split. It would make sense to follow the precedence that has been set by Sunset Subdivision to the East. To rezone this as recommended by Planning and Zoning to the R-3 we could put four equal parcels that would be four and half acre plots.

David Hargraves-You said you planned the pattern according to an adjacent subdivision which is right next door.

Darrin Youngstrom-Yes, it was approved by a previous Administrator. Those lots are sub standard lots.

Steve Ethington -Your intentions are to have four splits.

Darrin Youngstrom-Yes, to finish it out exactly like the other half was done.

Chairman Wilkerson-We know we have some high density subdivisions in this area and my question would be how do we know they will only create four parcels?

David Hargraves-Normally that is done with development agreements.

Steve Ethington-With the property being twenty acres, don't you already meet the zoning?

Steve Ethington-Even with the easements you are still paying taxes on twenty acres.

Chairman Wilkerson-So you are not deeding the ground you are just dedicating the ground to the County.

Darrin Youngstrom-We don't understand it either, we were advised by Planning and Zoning to rezone. The first step was to get it rezoned and then come forward with a minor subdivision application.

Chairman Wilkerson-My thought is there is a difference in deeding and dedicating a piece of ground. The Subdivision Ordinance states that on section lines and minor arterials you have to have this right of ways.

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J.B.-If this rezone is not required then they could come forward with the subdivision application with the four splits. If we approve this rezone they could create more than four parcels.

Steve Ethington-I think this rezone is not needed and they need to get their money back. We have never required this in the past and we will be setting precedence if we approve this.

David Hargraves –The question is whether or not they have to dedicate the roads.

Chairman Wilkerson-I think we need to continue this application so we can look into the dedication of the roads. If the prosecutor finds out that you do not need this rezone then you can withdraw your application and get your money back.

Ed Youngstrom-We have to go through the subdivision application anyway because there are no splits to the property. Whether we go ahead the way you recommend it we will be reversing it since we have already gone through sixty days of paperwork. I think we need to proceed and get this problem solved.

Chairman Wilkerson-If you continue you run the risk of being denied.

J.B.-Our concern is as submitted we are looking at approving two acre lots. If you allow it to be reviewed as the four lots you will probably be approved.

David Hargraves-The Commission has to follow the rezone standards to approve this or deny it. We have a legal issue that we do not have the answer to. Planning and Zoning cannot provide legal advice they just provide the best advice they can.

Chairman Wilkerson-I think you need to withdraw your application and go back to Planning and Zoning and start the processes of the subdivision.

Karl Siller-1945 Jackson.

There has been several people going to Planning and Zoning and we are tired of getting the run around.

Sue Siller-1945 Jackson.

The human side to this is because we need to pay St. Luke's and we need to sell this land. We have had five different buyers trying to buy this property. We are desperate and we have to have the money. We have no insurance and we had an emergency and the only way to pay the bills is with the sell of the land.

J.B.- I appreciate your situation but I cannot take it to account, it is not allowed.

Chairman Wilkerson-You need to make a decision, would you like to proceed?

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David Hargraves-From a legal perspective I would have to review the application in total to get some answers.

Chairman Wilkerson- Commission, are we willing to have a special hearing in November to continue this a little faster?

David Poole-Made a motion to continue the hearing until November 14th, 2005.

Motion received a second.

Vote: Unanimous.

Regular Meeting:

Item One – Approval of Minutes of September 20, 2005.

J.B.- Made a motion to approve the minutes as corrected.

Motion received a second.

Vote: Unanimous.

The minutes were approved and signed.

Item Two – Items from the Public.

John Evans –1103 E Phillips.

I have a couple concerns with the meeting tonight. On the Temporary Hardship the lady said there was another home there previously. Shouldn't they be able to replace it?

Sissy Stewart-They have to comply with the ordinance as it is today.

John Evans-On the Siller property, I thought you had to dedicate land to the County for the roads.

Chairman Wilkerson-They don't have to on a Minor Subdivision.

John Evans-Maybe the Subdivision Ordinance needs to be amended.

Item Three – Items from the Administrator.

The Rezone for Gene Atkinson was denied.

The Rezone for Joann Waters was approved.

The Special Use Permit appeal was approved for Diana Siderides.

Debbie Smith will contract with the County to do research for our office.

Item Four – Review By Laws.

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Chairman Wilkerson – If we can find out about starting with a quorum and someone excuses themselves to leave us shy of a quorum we can add it to our by laws.

Item Five – Elections.

J.B.-Made a motion to nominate Don Wilkerson as Chairman.

Motion received a second.

Vote: Unanimous.

David Poole- Made a motion to nominate Brent Jensen as Secretary.

Motion received a second.

Vote: Unanimous.

Item six – Items From The Zoning Commission.

Steve Ethington-Can we stop and get pictures of the sites since we don't do site visits?

Sissy Stewart-I will work with David to see what we can do.

Item Seven-Adjourn.

J.B. Made a motion to adjourn.

The motion received a second.

Vote: Unanimous.

Chairman Wilkerson closed the meeting at 11:30 p.m.

Chairman

Secretary