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Special Meeting at 6:30 with City and County Planning and Zoning Commissions.

MEMBERS PRESENT: Karole Fouria, Teresa Murray, Ted Smith, Steve Ethington, Jim Hutchins, Brent Jensen, J.B., and Fred Nussbaumer.

OTHERS PRESENT: Brad Hawkins-Clark-Planning Director, Maureen Hill- Planning Analyst, Leandra Rountree- Administrative Assistant; David Hargraves- Prosecuting Attorney.

Item One-Final Comprehensive Plan and Land Use Map Recommendation.

J.B.-I thought the only reason we continued it was to see our changes in writing. I looked through it and everything seemed to be there. Jim did you see anything that was not changed?

Jim Hutchins-I looked over it briefly and it looks like everything was there.

Brad Hawkins -Clark-On page 15 under ag and natural resources there was an addition of per the Bureau of Reclamation. All the additions are underlined or stricken. That was the request from Brent from your last meeting. The next one is on page 20; policy 4.8 new section to encourage sound development promotes growth radiating outward from the city's existing infrastructure. The committee had a concern about the word sprawl being used with the lack of a definition so this was an attempt to use the policy instead of just the word. The next one we need your clarification tonight on page 28 on item seven, all outdoor lighting should promote and preserve a dark night's sky and you did not want to include low cost sodium lights. You did not want to refer to a specific technology and keep it generic. We had a problem with that particular portion of the recording so we need your clarification.

J.B.-What if we said something like it should be appropriate for its use?

Jim Hutchins-Technically it is not low cost it is low-pressure sodium lights. It is not an upward light.

J.B.-I would make a period after the intended motion or say a new light should be appropriate for its intended use.

Ted Smith-So, appropriate for its function.

J.B.-That sounds good. I have a question on eight, why is it Community not County? County includes the city. Community could be defined much smaller than the County.

Brad Hawkins -Clark- Most of the text does not include the City.

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Jim Hutchins-You called it the Gem Community and it enhances both City and County.

Brad Hawkins-Clark-We are just trying to be consistent over the chapters. There was concern about the word ensure and it was replaced. In section 11 a-1 and 11 a-5 there were some changes. Then on page 35 if you have comments on this section 11 d-1 there was discussion about the alleys. We wanted to make sure this is what was intended.

J.B.-We talked about encouraging alleys, not making it mandatory.

Chairman Ethington-I don't remember that.

J.B.-Does anyone remember what was discussed about alleys?

Brad Hawkins-Clark-This is what I understood you to say. Page 40 there was the discussion about agriculture and natural resources being divided into separate definitions, description, and designations; we added new designations. This area adds the separate definitions.

Jim Hutchins-On the agricultural we narrowed it down to Emmett Irrigation and Black Canyon Irrigation, I thought we wanted it to include all irrigation districts and companies.

Brad Hawkins Clark-Are you comfortable with the language on page 41? The second sentence actually needs to be A-1.

Chairman Ethington-That is on the natural resources. That is right, A-3.

Brad Hawkins-Clark-I would recommend not using a zone, and use the Comprehensive Plan map description of planning area number four because that could change.

J.B.-Was that discussed or was that submitted after?

Chairman Ethington-That was discussed.

J.B.-The word controlled, I am not sure it applies as much as what we talked about.

Chairman Ethington-It would have to be rezoned.

Teresa Murray-One comment I have, if we are we going to change the A-3 to planning area four we should probably go up into the preceding paragraph and change it there for the sake of consistency. We should make a not to use planning area designations.

Brent Jensen- I am a little disappointed, I don't see a lot of the things we discussed over the last three meetings reflected in this text. I would have to pull my notes and look over

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it. We talked about the 2700-foot elevation and there would only be one place where it was referenced and it is reference all over the document.

Brad Hawkins-Clark-We are only making changes reflecting on your motions.

Brad Hawkins-Clark-To clarify my understanding was we made the changes and you wanted to see them before you voted. I thought we reflected your last motions, if not we are here to make your corrections.

Chairman Ethington-We talked about the irrigation companies that were not mentioned. That is the only thing I can see that was not put down, everything else seems to be in order. Also the water right they have in the rivers and tributaries. Everything else seems to be in order. Lets look at page 41 on the underlined text.

Brent Jensen-My understanding was the 2700-foot elevation line east of the area of city impact went to the canal.

Brad Hawkins-Clark-That is correct, that is a mistake we did not catch. Instead of going to the 2700-foot on the eastern side we would go to the canal.

Brent Jensen-Once again we reference the 2700-foot elevation on planning area number two and it goes one to five acres, I thought that the consensus was five acres.

Ted Smith-Do you have that Brad?

Brad Hawkins-Clark -Yes, we changed it on the map just not the text.

Brent Jensen-That was in reference to irrigated land wasn't it, or did I get overruled on that? I thought it was lands on the north end it was EID land or land with EID water rights was called natural resources.

Teresa Murray-Which is now planning area four which is very specifically bounded. The 2700-foot elevation describes everything but planning area four. Planning area four is very definitely written down so I don't think that elevation should be a problem. Not everything to the north is going to be a part of the natural resources.

Brent Jensen-Other than off of Haw Creek. It says one to five acres

J.B.-It says one unit to five acres.

Brent Jensen-I stand corrected, but that was only between Gem Avenue and Lower Bluff where it was extended to the 2700-foot elevation.

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Brad Hawkins-Clark -If you are happy with the map then we could describe the text by the map. I think the map does reflect what you discussed. If you feel that is the case then we can describe the text by that.

Brent Jensen-If we approve this document as written, it doesn't reflect our verbiage. It is contradictory with the old and new verbiage.

Brent Jensen-As much as I would like to get this done, I want it done right. So far we have planning area number two and three definitions and planning area number one was corrected. The rest of the document looked okay.

J.B.-City, when are you going to vote on it?

Teresa Murray-September 5th.

Brent Jensen-Brad, when does in go in front of the Commissioners?

Brad Hawkins-Clark- September 28th.

Chairman Ethington-In our motion we could make the acknowledgment that the description of planning area one, two and three are incorrect and need to follow the map boundaries and designations. It is incorrect verbiage but the map boundaries and designations are correct.

J.B.-Brad has indicated that their meeting on the 5th does fall within the timeline. If we met with them then that would fall into the deadline.

Karole Foruria- I would be happy to invite you to join us on the 5th to make the decision.

Brent Jensen-The one area that we did leave is the 2700-foot elevation standard.

Chairman Ethington-I would like to see this move on.

J.B.- Well, they can't vote until the 5th anyway and they are going to want to see it corrected.

Ted Smith-Are you guys going to change anything after that?

J.B.-No, we will have it ready for approval, is that okay Brad?

Brent Jensen-We may be able to do something tonight.

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Chairman Ethington- I think we can have it done tonight, we will meet after our public hearing to make our decision.

Brent Jensen- We don't want to be pressured to present the wrong thing.

Chairman Ethington- The map is correct.

Public Hearing at 7:00 P.M with County Planning and Zoning Commission.

MEMBERS PRESENT: Steve Ethington, Jim Hutchins, Brent Jensen, J.B., and Fred Nussbaumer.

MEMBERS ABSENT WITH PRIOR NOTICE: David Poole and Don Wilkerson.

OTHERS PRESENT: Brad Hawkins-Clark-Planning Director, Maureen Hill- Planning Analyst, Leandra Rountree- Administrative Assistant; David Hargraves- Prosecuting Attorney.

Chairman Ethington opened the public hearing at 7:15 p.m. and welcomed everyone, then explained the public hearing process.

Item One- (Continued) A Preliminary Plat for High Vista Estates by Mike Homan to subdivide 177.72 +/- acres, which includes 32 single-family dwelling lots in an A3, Rural Agriculture Zone. The property is located on Little Freezeout Road that is a portion of T 06N;R 03W; Section 36.

No ex parte or conflict of interest were reported.

Shawn Nickel - 148 N. 2nd Street.

Staff indicated there were eight items you wanted to focus on. I faxed over the letter from the fire district. One of the concerns you had was having something in writing instead of the verbal agreement I had. The second issue was regarding the neighbor.

Chairman Ethington- Read a letter into record from the Middleton Fire District.

Shawn Nickel- I would also like to point out that condition number one of your recommendation does require that we comply with all the recommendations of the fire district, I think that works. The second item was the neighbors concerns, there was a letter from Mrs. Womack, Mr. Homans' representative did talk with Mrs. Womack. I also have a letter from the property owners to the north indicating an additional commitment to another ten feet of easement that they have agreed to. If you recall one of the concerns was the north boundary road. The question had come up with regards to how much right of way was proposed originally from the developer. There exists a 60-foot access easement. 30 feet on

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each side of our northern boundary. We initially showed 40 feet of boundary on our side of the property line. Your concern was that enough room to fit the right of way and the future needs of that section line road, which your code calls out an 80-foot right of way. We have revised our plat and we show 60 feet of right of way on our side from centerline. We have the commitment from the people from the north for an additional 10 feet. There is 30 feet along Mrs. Womack's property that would give us an ultimate 80 or 90 feet. Along this portion of the north boundary there is 100-foot access that is in the county records. I believe there will be plenty of future right of way. I have a letter from our engineer stating that we could build our road within the right of way proposed and we do have the additional 10 feet. The road will stop at the BLM land.

Jim Hutchins -Is there a cul-de-sac planned where it joins the BLM land?

Shawn Nickel-Yes, I believe there is something in the bridge and road department's response.

Jim Hutchins -Meeting school district and fire department regulations?

Shawn Nickel-I am assuming that if it meets fire department regulations it would meet the school districts.

J.B.-Not necessarily, a fire truck can legally back up and a school bus can't.

J.B.-Does the code stipulate eighty feet period for a road?

Brad Hawkins-Clark-The ordinance states eighty feet right of way. Ultimately on the section line. The ordinance doesn't say center. The engineer states they are shifting the centerline to the south to accommodate the road for this development. If they provide the seventy and the property to the north comes in, we would ask for an additional ten feet. I don't think there is a problem in requiring the right of way. The one question is the construction of the road. Being adjacent to BLM there is less concern with it being centered.

J.B.-The road department is satisfied with them building a road on the seventy foot section until the additional ten feet is acquired?

Brad Hawkins-Clark- Our road department has received the correspondence and has not communicated back to our office.

Shawn Nickel- The concern of the road department is that we can build that road within the right of way that we are providing. I have given documentation to staff indicating from my engineer that we can accommodate that in the 60 feet we are proposing.

Brent Jensen -Is that north of that private property?

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Shawn Nickel- Yes. The other question is regarding irrigation. The property owners are here to explain there are no water rights on the property. Staff did some investigating and the property is not within an irrigation district. I will let Brad explain the open space. You have a letter from the BLM that staff has incorporated in your revised application. There is some cleanup work that we did on the plat. We are showing the temporary turnaround on the stub streets. We are fine with that being a school and fire approved turnaround. There was a question about the t intersections; our engineer has cleaned that up. I think that is all that you asked me to clean up.

Brent Jensen-Is there access to the public land at the end of that lane?

Shawn Nickel-The applicant indicates no.

Brent Jensen-Is it proposed to lead access?

Shawn Nickel-Yes, we are proposing to bring the road down and stub it with the turnaround.

Jim Hutchins-I don't have the letter from BLM, but didn't they want it fenced along that area to keep the encroachment of animals and people?

J.B.-They incorporated that. The fences between the BLM and the subdivision had to be animal proof. What they are going to do is incorporate it in the covenants.

Brad Hawkins -Clark-The way that it is worded is if the fencing is going to be used it has to be the way, but if you want the developer to do something different you would have to modify number four.

Brent Jensen-Is that currently grazing?

Jim Hutchins -Yes, and it is currently the home of curlews.

J.B.- We could make that a requirement.

Chairman Ethington-How many lots are on this?

Shawn Nickel-There are 32 buildable lots.

Chairman Ethington-Who has the BLM letter?

J.B.-It is not specific; it says it would be appreciated if they would do it. They don't ask for it to be mandatory.

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Brent Jensen-It is a good idea.

J.B.-That would be a huge fence to build on five acres.

Jim Hutchins-How many lots adjoin the BLM property?

Shawn Nickel-Four lots, 1322 feet.

Brent Jensen-How have you addressed the concerns that the BLM has in their letter in your CCR's?

Shawn Nickel-We will incorporate that in the CCR's. We received it a couple of weeks ago. The developer will speak about a few things on this letter. The majority of those items can be adopted into the CCR with no problem, he does want to speak about the fence with you.

J.B.-In reading one of our conditions of approval, we have written it in here stronger than what the BLM has asked for. If a homeowner comes in to put up a fence and asks for a permit these CCR's would require that they address it. The BLM says they would appreciate it but we are saying that we require it.

Brent Jensen-My concern is that based on some of the statements in this letter that they share the same concerns. They are going to advertise this adjacent to BLM land and they are going to have the same problems. There is not going to be a fence in the backyard and people are going to be out riding their ATV's. I think it is a concern that we all share with development. We have to keep that in mind through this process with the developer. It is just like putting stipulations on Bryce Walker's even though they owned the property and have a right of way to the center of the canal, they are different stories but they share similar characteristics.

Jim Hutchins-It doesn't say they can't go out there they just have to have authorization from BLM to do so.

J.B.-I know we are talking about a fence, but we are talking about two different applications of it. The one that had to do with the fence I thought it was addressed. Now we are discussing unauthorized access. My comment had to do with the pet issue. We hadn't really gotten into unauthorized access.

Chairman Ethington-On the open space, there was a conflict between the Subdivision Ordinance and the Landscape Ordinance. Brad, you feel that it pretty well weighs heavier on the Subdivision Ordinance.

Brad Hawkins-Clark- I would actually weigh heavier on the Zoning Ordinance. The Zoning Ordinance refers to "R" zoned land needing to provide open space.

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J.B.-We discussed this last time that the need for common space in a five-acre subdivision is different from one and two acres.

Chairman Ethington-Is Mrs. Womack here, the applicant was asked to contact Mrs. Womack to address her concerns. What was that regarding Shawn?

Shawn Nickel-It was regarding the future road on the north boundary, I believe that was resolved.

Mike Homan- 2229 West State Street.

I had my representative go out and meet with Mrs. Womack and see what her concern was. She was concerned that her driveway would be cut off and we assured her that it would not. The CCR's regarding dogs, the fence against BLM is already up, it is a four-strand barbed wire fence.

Brent Jensen-With no gates?

Mike Homan-No.

Brent Jensen-You have no intention of adding any new access?

Mike Homan-As far as federal land we will let them regulate it. My CCR's can only do so much. As far as the turnaround we are going to build it to code that is a fifty-foot radius.

J.B.-Would you be willing to add to your CCR's a statement that gates or other access to the BLM property are not allowed without prior permission from the BLM?

Mike Homan-Yes, sir I will put that in the CCR's.

Jim Hutchins -Is that a continuing fence?

Mike Homan-I believe so.

Jim Hutchins -Is there a gated access that would allow for access if there was a fire.

Mike Homan-It is a BLM fence.

Fred Nussbaumer-Who is going to be on your CCR's committee?

Mike Homan-Myself, the realtor, and the landowner.

Fred Nussbaumer-What status do you have in order to enforce your CCR's?

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Mike Homan-They are recorded, we have an architectural review committee, and we have the attorney write it up where we have some teeth so we can put a lien on their property.

Fred Nussbaumer-That is very important.

J.B.-Once the developer has developed it, he has no enforcement rights, it becomes the other property owners or the county's responsibility.

Mike Homan-We have done very well stating that we can put a lien on the property. We try to be proactive on that situation.

Fred Nussbaumer-We don't enforce CCR's.

Mike Homan- It would be the homeowner's association. When you are in areas with BLM land you need to have that so they can be accountable.

Chairman Ethington opened the public portion of the hearing.

None.

Chairman Ethington closed the public portion of the hearing.

Brent Jensen-The recommendations on page 9 of the staff report are well put together. Number 5 does include the BLM guidelines. I would like to modify this recommendation and add number 14 to prevent the developer from taking the money and running. There should be an investment in a fence put along there to protect the properties. I think there should be a fence put there to prevent unauthorized access to the BLM land for 4 wheelers and motorcycles. I think we should recommend a fence and design to be presented with the plat.

J.B.-I am opposed to the fence. We ask for a letter from BLM and they give us a recommendation and we say that is not enough. A half a mile of wood fence to me creates a hardship. The rules and the laws are there to protect it, if it is encroached on the BLM can take care of it.

Brent Jensen-If it is adjacent to development I don't think it is a bad idea. We had a wind storm the other day and I spent four days picking up the neighbors trash off of my farm ground.

J.B.-On high density housing, these are five acres lots.

Brent Jensen- I have five acres adjacent to me. There is a lot of money involved here and I don't think a couple thousand dollars for a fence would hurt anything.

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Chairman Ethington-You are saying that the present fence that is there is inadequate.

Brent Jensen-Yes.

Jim Hutchins-If that is an existing BLM fence, another fence would have to be set back on the property.

Discussion.

Brent Jensen-When they specify the parameters that they would go along with, they want to prohibit unauthorized access by motor cross tracks or hill climbing. All I am saying there is no way to enforce it unless there is some kind of problem first. By requiring some type of fence other than a 4-strand barbed wire fence would be a great idea.

J.B.-The road issue is pretty well covered, but I would like to see a letter from the road department saying that it is okay. I am disappointed with the road department. It takes one of our tools away when we don't have it from them.

Chairman Ethington-I am disappointed too, I would assume that by them not responding that they don't have any concerns.

Fred Nussbaumer-I would like some clarification on number six about submitting an irrigation plan. Are we asking them to put in a community well that would irrigate the entire acreage? There are no water rights, so what are we asking for? We can delete number six then?

Brent Jensen-There is a restriction on the amount of land you can irrigate with a well. I think they still need to submit that plan, rather than just deleting it showing it is consistent with the code.

J.B.-Made a motion to approve the Preliminary Plat for High Vista Estates with conditions proposed in staff's recommendation with the addition of the developer's commitment to add gates to the BLM land and no access would be permitted without prior written authorization from the BLM.

Motion received a second.

Discussion.

Vote: Unanimous

Item Two- A Rezone request by Casey Johnston to rezone 3.22 +/- acres from A-2 Rural Transitional Agriculture to R-2 Residential Transitional. Located at 1732 East Main Street. T 06N, R 01W, Section 8.

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No ex parte or conflicts of interest were reported.

Maureen Hill showed a power point presentation and described the history of the property.

Valerie Wilson-1505 South Plaza (representing Casey Johnston).

Otis Strang's mother owned the property. When she passed, he and his sister inherited it and split the property in half that created this non-conforming parcel. In 1992, Casey bought the property and was told it had a building permit. He has been paying taxes all these years as if it was a build able lot. We just want one building permit and we want to do it right and comply with today's zoning. He will be placing his house on this property and he is prepared for the property to eventually be annexed into the city. I consulted with planning and zoning and they suggested we go to the R-3 zone instead of the R-2 zone; we didn't want to have to have a central well. I don't think we had anyone oppose, they couldn't believe there wasn't a building permit.

Brent Jensen-Was it purchased through a real estate agent? The county must have been misunderstood if they have been taxing it for all these years.

Valerie Wilson-It was bought personally through Otis.

Brent Jensen-Is the applicant opposed to following staff's recommendation of going to R-3 instead of R-2?

Valerie Wilson-Not at all.

Chairman Ethington opened the public portion of the hearing.

None.

Chairman Ethington closed the public portion of the hearing.

J.B.-This is a prime example of something that could be done at staff level. Because if it was done through the county in the 80's, it probably was anticipated to have a building permit. I am in favor of it; I think staff's recommendation should be followed.

Chairman Ethington-If the administrator did make a mistake it still has to follow the Zoning Ordinance currently. Today it is a five-acre zone so that is why they have to rezone.

Brad Hawkins-Clark- I think there may have been a difference in term, I think Maureen used administrative split, but those did not exist back then. It did not match the county.

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Brent Jensen-Made a motion to recommend approval to the Board of County Commissioners for the rezone by Casey Johnston to rezone 3.22 +/- acres from A-2 Rural Transitional Agriculture to R-3 Rural Residential as recommended in the staff report.

Motion received a second.

Discussion.

Vote: Unanimous.

Item Three- A Rezone request by Gary Shipley to rezone 155.00 +/- acres from M-1 Light Industrial to MX Mixed Use. Located at 2719 West Highway 52. T 06N, R 02W, Section 14.

Brad Hawkins-Clark showed a power point presentation and described the history of the property.

No exparte or conflicts of interest were reported.

Chairman Ethington-There has been new material presented. The reason you have deadlines for comments and what not is because it gives the commission time to review it and it gives the public time to address it. I would entertain the thought that because new material has been presented that we continue this. We can still hear the public comment. We need to respect the requirement of submitting information on a timely basis even though sometimes they can't help it.

Mike Williams-825 Hawthorne (representing Gary and Judith Shipley). Most of the information is contained in my presentation. He showed a power point presentation of the property.

Brent Jensen-You would agree that if you are zoned MX, then you could put one acre lots in there without any submitted plan.

Mike Williams- There would have to be a plat submitted.

Brent Jensen-If it falls within the Subdivision Ordinance, but other than that there would be no specific planned approval.

Mike Williams-Yes, a plat could come through, but this commission has final recommendation and the Board has final decision whether or not the plat is approved. During that time there can be conditions placed that would require compatibility.

Chairman Ethington opened the public portion of the hearing.

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Colleen Cox -2727 W. Highway 52.

I have had numerous conversations with the Idaho water resource commission and the water master. I have been instructed by him to make sure you are aware that the water does run through Mr. Shipley's property. I am not opposed to what Mr. Shipley is trying to do I just want you to be aware of the water and I want more research to be done.

Jim Hutchins-The water rights or delivery of water runs through the Shipley property, correct?

Colleen Cox-Yes. Since I have purchased my home I have not had any water delivered to my property.

Chairman Ethington-Your water has been completely cut off?

Colleen Cox-Yes.

Mike Williams-When anything goes through the development process the irrigation district will have the final say. It is in the Zoning Ordinance that the irrigation district has final approval. Pressurized irrigation will more than likely be required. Idaho Code 31-3805 basically says you have to get water from point a to point b. She is right about the department of water resources.

Chairman Ethington closed the public portion of the hearing.

J.B.-I am very, very opposed to this application. I have seen too many airports get shut down and restricted because of residential. He was here before saying that he could not use it for ag and went for industrial. Even under the staff's recommendation I think I could support a motion to turn this down because staff is not aware of any reason this property cannot be used as it is currently zoned.

Jim Hutchins-I am in agreement with J.B. on this. Opening that up to one or more houses around the airport is not a good idea. Noise can be a problem, it won't be very long before the neighborhood is going to want to move the airport. It is the only airport we have. It is in the new transportation plan to hopefully expand the airport. I am opposed to the mixed-use plan.

David Hargraves-The legal standard number one is whether or not the property is in compliance with the comprehensive plan and number two is if the property cannot be used as it is currently zoned. It is one or the other. It is not necessarily grounds for denial. Those are two standards for grounds of approval.

J.B.-The fact is that the state and aeronautics are opposed because of the possible obstruction of the airport. Anything that would obstruct the airport is not good.

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Fred Nussbaumer-What letters were submitted late that we have not seen?

Brad Hawkins-Clark-I won't make that determination, but I can tell you what was submitted late. Letters from Don and Charlene Taylor, Ed Botkin, Shawn Merrill, and an e-mail from FAA.

Chairman Ethington-I think we should continue this in order to look at new materials. I think there are portions of this area that I would be in favor of the MX zone but I am not in favor of putting something like this that close to the airport. I think some of the area should be left industrial. We are limiting our county. I think we should maintain some of these areas as industrial. Once you put it in MX you can't put it back in industrial.

J.B.-It complies with the comprehensive plan; it was designed or influenced by this being industrial.

Brad Hawkins-Clark-The MX zone does allow for quite a range of industrial uses.

J.B.-But it allows residential which we are opposed to.

David Hargraves-You mentioned the possibility of continuing this hearing to consider the new information. If you wanted to do this it would be an option.

Chairman Ethington- I am in favor of what the City of Emmett stated.

J.B.-Is this in the city impact zone?

Brad Hawkins-Clark-No.

David Hargraves-The Comprehensive Plan that you need to work under is the current one. The land use designation now is mixed use, consider what the Comprehensive Plan has the designated as.

J.B.-I have a question for David. When we looked at agriculture land, we decided that it can be used as it is currently zoned, so we would turn rezones down. Now you are saying that we can't use that argument.

David Hargraves-The Zoning Ordinance gives you two ways that the rezone can be approved. It can be one or the other.

Chairman Ethington- This is sole legalize on this because he could find another attorney that might say that you are wrong on this. I know what you are saying though, it is very ambiguous and we will listen to you.

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J.B.- We have turned down changing agriculture land with the argument that the land can be used as sits currently.

David Hargraves-I don't recall one of those since I have been here.

Chairman Ethington-Since it has or in there, it has to be one or the other.

David Hargraves-Yes. This is what our Zoning Ordinance says we have worked with this to tighten our standards. However, you can consider the effect of the rezone on public services.

Chairman Ethington-I can make the argument that this does not meet the Comprehensive Plan.

Brent Jensen-It is surrounded by A-2 rural transitional agriculture.

David Hargraves-You should use that argument, then.

Chairman Ethington- I would say this directly affects the area.

J.B.-Made a motion to recommend denial to the Board of County Commissioners for the rezone request by Gary Shipley to rezone 155.00 +/- acres from M-1 Light Industrial to MX Mixed Use because it adversely affects public services of the airport.

Motion received a second.

David Hargraves-What is that based on?

J.B.-It is based on the letter from the letter from the Idaho Transportation Department asking us not to approve it.

In favor: J.B. and Jim Hutchins.

Opposed: Fred Nussbaumer, Brent Jensen, and Steve Ethington.

Motion is denied by a 3 to 2 vote.

Brent Jensen-I would like to continue it.

Fred Nussbaumer-Made a motion to continue the rezone request to the next regular meeting.

Motion failed with lack of a second.

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David Hargraves-The applicant is requesting a rezone. He either has to meet one or two. If they can't show number one then they have to show number two then they would meet the standards. If they can't show either one of those we can't recommend approval of the rezone request.

J.B.-Does this comply with the Comprehensive Plan?

David Hargraves-That is a decision for you to make. If you want to continue this then the question is, are you going to consider the written information and will there be anymore public input?

Fred Nussbaumer- If we continue we have to have the reason and a chance to review new material and a chance for rebuttal and a chance for some legal guidance?

David Hargraves-If you feel that you need more legal guidance I would be happy to help.

Chairman Ethington- If that is the case, we are concerned with residential being next to the airport. We want to protect the airport.

Brad Hawkins -Clark- Are you asking staff to prepare your motion?

Chairman Ethington- No, we are asking for help to find some support for what we have discussed.

Brent Jensen- Made a motion to recommend denial to the Board of County Commissioners for the rezone request by Gary Shipley to rezone 155.00 +/- acres from M-1 Light Industrial to MX Mixed Use because it will adversely affect surrounding properties and it is not compatible with the airport including putting high-density residents in, and it is adjacent to and surrounded by industrial zones on two sides as well as A-2 on the other.

Motion received a second.

Chairman Ethington-I have a question on the motion.

Brent Jensen-Based on those three reasons rather than just the airport, which is why I could not support J.B.'s motion.

Chairman Ethington-This is what we have done it the past, but does this meet the legal qualifications of those two requirements?

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David Hargraves-I don't know what more I can tell you, it has to comply with the Comprehensive Plan you have to look at the land use designation of the Comprehensive Plan and policies and staff has already done that for you.

Brent Jensen-The existing Comprehensive Plan.

David Hargraves-If you are not satisfied with staff's recommendation and would like to get more information you know the two legal standards.

In Favor: J.B., Jim Hutchins, and Brent Jensen.

Opposed: Fred Nussbaumer.

Vote: 3 to 1.

Item Four- A Special Use Permit request by Judy Gibson to allow the operation of a daycare at her home. Located at 1599 West Central Road. T 07N, R 02W, Section 36.

Maureen Hill showed a power point presentation.

No ex parte or conflicts of interest were reported.

Brent Jensen-I reviewed the site-specific conditions of approval, I question number one. I think the intent is good but as far as the number of children that can be there under care will be managed by the State through their process. Why should we designate a number?

Maureen Hill-It was an off street parking issue. There are also issues about not using more than fifty percent of the floor space being used as a daycare.

Brent Jensen- I don't know if we need to address the number in this process.

Judy Gibson-1599 W. Central Road.

I am applying for this permit because I have to have it if I want to be licensed from the State.

Jim Hutchins-I see chain linked fencing, does that encompass where the kids will be?

Judy Gibson-It is all around the backyard.

Jim Hutchins-The children cannot get out, then?

Judy Gibson- They cannot.

J.B.- Mrs. Gibson, you currently run a daycare now?

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Judy Gibson-Yes I do, when I called Planning and Zoning they told me I could have up to five children before I would have to apply for a Special Use Permit.

Chairman Ethington opened the public portion of the hearing.

Kathy Moffis-6051 W. Idaho Boulevard.

My children currently go to Judy Gibson. The driveway is very safe, you don't have to back out onto the roads and I appreciate what she has done for me.

Jon Powell- 5437 West Black Canyon Highway.

I have taken my daughter to Gibson's place and she does a tremendous job.

Chairman Ethington closed the public portion of the hearing.

Chairman Ethington-One thing that was brought to my attention we should make in our motion that any variation from the reasons of approval would qualify for an immediate revocation of the permit.

J.B.-In the future, I would like to see that in the staff report.

Brent Jensen - Made a motion to approve the Special Use Permit for Judy Gibson to allow the operation of a daycare because it does comply with the Special Use Permit Standards with the following stipulations:

- ?? This Special Use Permit approval is contingent upon licensing approval from the Idaho State Department of Health and Welfare. The applicant shall submit to the Development Services Department a copy of a valid daycare license issued by the Department of Health and Welfare prior to operating the daycare facility for more than five children.
- ?? Prior to operation, the applicant shall file for a criminal background check with the Gem County Sheriff's Department. Submit approval of the background check to the Development Services Department prior to operation.
- ?? The applicant shall comply with all requirements of the Gem County Fire District #1, including minimum square footage of indoor and outdoor play areas. Fire District approval must be obtained prior to operation.
- ?? The applicant shall provide at least one drop-off parking space that is located off-street. This parking space must be kept free of any personal vehicle and/or equipment or toys during the daycare operating hours.

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?? This permit is subject to an annual review by the Development Services Department.

?? The permit is non-transferable to another property and is only valid at 1599 West Central Road.

?? Any new signs for the business shall comply with Gem County Sign Ordinance (Chapter 10).

?? If any of the conditions are not met it may be cause for immediate revocation of the permit.

The motion received a second.

Vote: Unanimous.

Regular Meeting:

Item One- Sketch Plat review for Stage Coach Canyon.

Angela Comish-1523 West Hayes. (Showed a power point presentation)

I am asking for your thoughts, inputs, and ideas. This property is directly south of the campground that is in Montour. This property is 170 acres. This would be an equestrian friendly atmosphere. My suggestion was to apply for a PUD to create more open space. If this were to happen then 70 acres would be dedicated to common open space.

Brent Jensen-Where is the park? Who owns the other property?

Angela Comish-I do not recall their names.

Brent Jensen-Is there any guarantee that the common area will remain common area?

Chairman Ethington- If we approve this sketch plat, then that is what they have to follow.

Angela Comish- Right.

Brent Jensen- My point is you can create open space for the 170 acres unless as part of the approval there are some conditions.

Angela Comish- History shows that there was a stagecoach that used to run along this property and the applicant is trying to emphasize that. They are also proposing a kids camp that will have pictures and displays of the history of the property.

Brent Jensen- Will that be open to the public?

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Angela Comish-Yes. The property next to this is the Montour wildlife refuge and BLM land and we have given a permanent easement to that public land. If they ever did want to develop that land it would have to go through us.

Jim Hutchins-What type of access?

Angela Comish-No vehicle access, a walking or four wheeler access.

Brent Jensen-I don't think there is vehicle access there now.

Angela Comish- For fire protection I thought it would be best to do the PUD to cluster the homes. On the kids camp lot there is an existing well and we will utilize that for fire protection.

Brent Jensen- What about central water?

Angela Comish- I have researched the existing lots for that area and there is abundant water.

Brent Jensen-Brad, is this something that should be addressed at this point?

Brad Hawkins -Clark- That is a perfect example for what needs to be addressed.

Brent Jensen-Community water is definitely our preference for smaller acreage.

Angela Comish-They are looking at classic ranch style homes. This is consistent with the Comprehensive Plan.

Brent Jensen-Because of the increased traffic, the county road access to this proposed community is minimal. The road system needs some improvement some of it isn't even paved. Reclamation Park to this driveway is not paved; there would be excessive dust. You are paving from the entryway into the development. I think we need to consider road improvements for the unpaved section.

Angela Comish-My clients agree that something needs to be done and are willing to do that.

Brent Jensen-If you look at Black Canyon Development, they are paving it all the way back to Plaza.

J.B.- Is this a preliminary concept plan that we can address roads?

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Chairman Ethington- I think the road improvements are a concern.

J.B.-I would like to get a recommendation from the Road Department and have them submit what they want done.

Angela Comish-That is reasonable.

Chairman Ethington-We discussed the road and community water.

Brent Jensen-My point is if the remainder parcel gets sold then it could be potentially developed.

Angela Comish- This remainder land in all honestly it is not developable.

Chairman Ethington- I like the concept, you won't have a big mess of weeds.

J.B.-Will you have a maintenance plan for the open space?

Angela Comish- Right now it is sage brush, I am not sure.

J.B.-What are you going to do to maintain noxious weeds and such?

Angela Comish- Good point.

Chairman Ethington- There are ordinances that you will have to follow.

J.B.-I am impressed with the presentation.

Brent Jensen-Those are our concerns, community water and the impact on roads.

J.B.-On the community water, I think it is a concern that needs to be addressed. At least it needs to be considered. If they have a plan after talking to the Water Resources people then that should be adequate.

Brent Jensen- One of the reasons we have five acre splits out there is because of water. She is asking for higher density the impact on groundwater is a concern.

Chairman Ethington-What is our resource on this?

Brad Hawkins-Clark-It is probably going to be a well driller that has experience in this area or a hydrologist with the DEQ or water resources.

Angela Comish-The Department of Water Resources has a well specialist and I have already talked to them.

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J.B.-My request is that she presents a professional study from the Department of Water Resources.

Brent Jensen-Why is this not open to the public?

Brad Hawkins-Clark-The sole purpose of this is to allow the applicant the opportunity for unique areas. They come to you for a lower cost. The ordinance doesn't say you have a public hearing for sketch plats.

Brent Jensen-I do like your history center. That is something that our community is starved for. By making that a jewel you will get a lot of community support.

Fred Nussbaumer-Is the kid's camp going to be large enough?

Angela Comish-I think once we lay it out we can determine that, if it needs to be bigger we will discuss that.

Brent Jensen-Made a motion to accept the sketch plat for Stagecoach Canyon review as discussed in this presentation knowing that we will be concerned about individual wells, the impact on the roadways and the need for road improvements, and we need some approval designs from the County road department.

Motion received a second.

Discussion.

Vote: Unanimous.

Item Two – Sketch Plat review for Heritage Land, LLC.

Tyler Archer-133 N. Old Park Place.

What we are looking at is five lots; one lot in the front is set aside for commercial. There is a vet across the street on Highway 52. One thing I know there needs to be a turnaround at the end of the lane. We are looking at individual wells and septic and we are working with an engineering firm and the health department. To the south there are residential lots.

Brent Jensen-Where is this property at?

Tyler Archer-Highway 52 is to the west and the county line is to the east of this property.

J.B.-Why so much open space for five lots?

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Tyler Archer-It is in the ordinance that we need 10 percent for a PUD.

Brent Jensen-This is currently zoned five acres; my opinion is that this is too dense.

Chairman Ethington-That is my first concern too.

Tyler Archer-Even if we got the okay from the health department?

Brent Jensen- They don't do a groundwater study, they will say you have to have a one acre minimum to put a well and septic on the same lot.

Chairman Ethington- We are looking at the general area.

Brent Jensen-A community water plan might be a good idea.

Tyler Archer- We were thinking of a central well.

Brent Jensen- That would be more favorable than this proposal.

Chairman Ethington- I think the density is still too much.

Tyler Archer-I think if we get rid of the 10 percent we can get 2 acres.

Chairman Ethington- You will still have to have the ten percent open space.

Jim Hutchins-This is part of a larger development across the county line that we are not looking at. We are not getting to look at the whole plan here. I have some heartburn about this.

Brent Jensen-Even though we have no jurisdiction over that area can we take it into consideration.

Brad Hawkins-Clark-I think you need to take this into consideration. I think it affects the land use in the area.

David Hargraves-The State Code allows you to mitigate impacts of subdivisions. One of those impacts is going to be traffic.

Brent Jensen-Fire protection especially in light of what has happened now. You need to address that and have some type of community system.

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Brent Jensen- I think we already addressed that these lots are too small.

Chairman Ethington-You have probably two lots more than you should have.

Brent Jensen-From what I've seen the lots are too small, it is a five acre zone you need to be closer to that ratio of one residence per five acres and attach some common area or make your lots larger. You need to address water system and fire protection.

J.B.-It doesn't take a motion I think he gets the idea.

Tyler Archer-Is there any objection to the commercial for lot one?

Brent Jensen-We need to keep the commercial closer to the community hub. One of the clauses is to keep commercial together.

Tyler Archer-Even if we were to bring more lots in the other County?

Chairman Ethington-It is hard for us to say, we would have to see the whole plan.

Brent Jensen-It is hard for us to justify commercial property when the lots are substandard anyway.

Item Three – Approval of Minutes of June 12, 2006 and July 10, 2006.

Jim Hutchins-Made a motion to approve the minutes as submitted.

Motion received a second.

Vote: Unanimous.

The minutes were approved and signed.

Item Four – Items from the Public.

None.

Item Five – Items from the Planning Director.

A. Recent Board of Commissioner meeting decisions.

None.

Item Six– Items from the Deputy Prosecuting Attorney.

David Hargraves-My role in being here is not to make the decisions for you I just want to outline the standards so you know what they are. If you want my legal opinion on a particular application I will give it to you in writing.

Item Seven –Items from the Zoning Commission.

Chairman Ethington-I think we did the wrong thing on the Gary Shipley Rezone because it needs to meet one or the other standard and in my opinion it does meet standard number one.

J.B.- There has got to be something in the Comprehensive Plan that addresses if a property is going to be detrimental to the surrounding area.

David Hargraves-The other standard comes from the Idaho Code it is not before you in the Ordinance but you can use it because it is Idaho code.

J.B.-You can still use it because it is State Code.

David Hargraves-When I review these applications, I review the staff reports to see if there are any areas of concerns I will contact Brad or Steve and I let my concerns be known. I did not see a concern on the staff recommendation on this application. If you want me to give you an in depth analysis I will need time.

Chairman Ethington- I just feel we did the wrong thing tonight.

David Hargraves-If you think that it met the Comprehensive Plan then it should be approved.

J.B.-That is where I was trying to pull in the State Code.

Brent Jensen- We told the City commission we would clean up those paragraphs.

Chairman Ethington-Basically we just want to follow the map. I think the only questions we had was on Planning area one two and three. Planning area four is okay. Planning area one is okay. On planning area two we agree that the 2700-foot line should be removed. I think we should change the wording and have it say radiates from the City. Density should be five acres or greater and remove the one acre part.

Brent Jensen- I think it needs to say that the recommended density should be one unit per five acres or greater.

Chairman Ethington-On the map Planning area two looks just like we wanted it. Planning area three needs to meet the map. One unit to five acres or more needs to be changed to one unit per 40 acres.

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Brent Jensen- Planning area four needs to be north of the EID. The map follows the canal but it needs to follow the EID ground.

Jim Hutchins- Made a motion to approve the Gem Community Comprehensive Plan with the changes that they made tonight on planning areas two and three.

Discussion.

Motion received a second.

In Favor: Brent Jensen, Jim Hutchins, and Fred Nussbaumer.

Opposed: J.B.

Vote: 3 to 1.

Item Eight –Adjourn.

Fred Nussbaumer- Made a motion to adjourn.

The motion received a second.

Vote: Unanimous.

Chairman Ethington closed the meeting at 10:45 p.m.

Chairman

Secretary