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MEMBERS PRESENT: Don Wilkerson, Steve Ethington, Jim Hutchins, David Poole and Fred Nussbaumer.

MEMBERS ABSENT WITH PRIOR NOTICE: J.B.

MEMBERS ABSENT WITHOUT PRIOR NOTICE: Brent Jensen.

OTHERS PRESENT: Maureen Hill- Planning Analyst, Jennifer Kharrl - Development Services Coordinator, Leandra Rountree- Administrative Assistant; David Hargraves- Prosecuting Attorney.

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

Item One- (Continued) A Special Use Permit by Whitney B. Eggers to allow the operation of an equestrian center, which would allow riding lessons, training, clinics, event derbies, and other equestrian activities. Located at 1550 West South Slope Road. T 06 North, R 02 West, Section 25.

No ex parte or conflicts of interest were reported.

Whitney Eggers-1550 West South Slope.

We had the bridge repaired and practically rebuilt. We have a paper from Holladay Engineering saying that they brought it up to code. We have a letter from the Fire District that says they went out and took pictures, and it does meet fire code. We also got a letter from Farmers Co-operative saying the bridge does meet requirements due to recent improvements.

Chairman Ethington-How was the driveway issue addressed?

Whitney Eggers-The Fire District took care of that. There was also an additional road that took up our easement. We had drawn a map and said we wanted to use the property and they said we couldn't, so there has been an easement taken up which has been extended beyond the ditch company property.

Chairman Ethington opened the public portion of the hearing.

None.

Chairman Ethington closed the public portion of the hearing.

Jim Hutchins-It looks to me like all the stipulations that we placed on the prior hearing have been met. It looks like this is ready to go forward.

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Don Wilkerson-I agree. We had three meetings on this and with lack of public comment tonight I think this should be approved with the stipulations of the Special Use Permit.

Don Wilkerson - Made a motion to approve the Special Use Permit for Whitney Eggers to allow the operation of an equestrian center, which would allow riding lessons, training, clinics, event derbies, and other equestrian activities because it does comply with the Special Use Permit Standards with the following stipulations:

- ?? In accordance with Gem County Code (GCC) 11-14-1, the applicant shall obtain a Zoning Certificate for the new use prior to any construction or change of use on the property.
- ?? The permit is subject to an annual review.
- ?? The permit is non-transferable to another property.
- ?? Any signs associated with the new use must obtain a separate sign permit and must comply with the Gem County Sign Ordinance (Chapter 10).
- ?? Applicant shall comply with all applicable Impact Agency requirements.
- ?? All vehicular access to the use shall be taken from existing driveways. No other new access points are permitted.

The motion received a second.

Vote: Unanimous.

Don Wilkerson-I would like to thank the Eggers for going through the process. We appreciate your efforts.

Item Two- A Special Use Permit by Sacheen Wright to allow the operation of a daycare. The general location is 1450 Pennsylvania Avenue, Letha Id. T 07 North, R 03 West, Section 36.

No ex parte or conflicts of interest were reported.

Letters read into record:

Letha Sewer District – Concerns.

James Matteson & Ed & Cynthia Spence – Concerns.

Cheryl Williams-In Favor.

Dave and Shelley Oliver-In Favor.

Sacheen Wright-1450 Pennsylvania Avenue.

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I am here to apply for a Special Use Permit for a small home daycare. Currently I have four to five children I watch daily. I have no plans to expand into a business that would require a staff. I have had positive feedback from families in the area. There are several parents that drive from Emmett all the way out to Letha so their kids will be in a safe place. I did receive a negative letter from the Sewer District. I don't claim to be an expert on pond sewage, but I do find it odd no reason was stated as to the exact damage that would be done. Only that the daycare was a bad idea. I am right across the street from a big temple, I think if the pond sewage can handle the temple, I don't see why it can't handle four or five small children. I am willing to work with the Sewer District to make this work. I read the condition of approval that was on the staff report and I am able to meet them. I've made my house a great place for children, and I don't think it will have a negative impact on the area. I hope you approve my application.

Don Wilkerson-In our staff report, it says your home is fifteen hundred square feet, all on one level.

Sacheen Wright-It is a one-story house.

Don Wilkerson-How much square footage will be dedicated to the daycare?

Sacheen Wright-The entire living area and dining area. There is a back room I have dedicated to being a daycare room. I have a big backyard, which is split into two. One area is a play side. The other side has an above ground pool for the older children. They are gated from each other so the children are not in that area without an adult.

Don Wilkerson-You are proposing to run a daycare as a home business and it states that not more than half the area should be used as daycare.

Sacheen Wright- Right.

Don Wilkerson-The code states that a swimming pool needs to be enclosed by a six-foot fence with a self-locking latch.

Sacheen Wright- I can work on that.

Don Wilkerson- A stipulation might be if this is approved that the fence be made six-foot high.

Sacheen Wright-I can definitely work with that.

Don Wilkerson-Due to the congestion on the streets, you would have to provide one parking space completely dedicated to the daycare.

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Sacheen Wright- I have a garage the can fit two cars, if I move a fence over a little bit I can accommodate three cars so I can make sure there is always a space reserved.

Don Wilkerson-You mentioned that you currently have four to five children. What do see as your maximum amount of children?

Sacheen Wright- I don't want to go over five.

Don Wilkerson-Would you exceed eight?

Sacheen Wright-Never.

Fred Nussbaumer-Do you know what the State says about the adult to child ratio?

Sacheen Wright-Twelve children per adult, it may be different for infants.

Fred Nussbaumer-How many infants do you care for?

Sacheen Wright-I don't watch any infants and I'm not planning on taking any in.

Fred Nussbaumer-You are not planning on having any other help?

Sacheen Wright-No, my mom may come and help occasionally.

Fred Nussbaumer-Are you under state regulations now?

Sacheen Wright-You are only required to get a daycare license if you exceed six children that are not your own.

Don Wilkerson-You may have to get a state license if you exceed five children, do you plan on doing that?

Sacheen Wright-Yes, sir.

Chairman Ethington opened the public portion of the hearing.

Nancy Wright- I am her mother. I do come a couple of days a week to help Sacheen. I will do housework and help with the kids. I don't know how to address the sewer issue. I have known Sacheen all her life and I have seen from an early age that she had a gift with children. She had a daycare in a new subdivision in Emmett. All of the parents have followed her out to Letha even though it has cost them 36 miles out of the way. She has been gifted with two of the children that need extra help. When they came they were very problematic, they have responded very well to her. She said she would help with the sewer issue. Someone made a comment about the trucking company and I don't know what kind

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of company it would be but it is really junky. Their trucks leave before any children are there and one comes later in the day. This does not seem to be an issue. There is a violent sex offender in Letha and it is across the town from Sacheen. There has been word of a sex offender across the street. Sacheen did address the issue with the neighbor; he is not registered with the state. I do not think this has any merit.

Lee Rigdon-8411 W Idaho Boulevard.

The letter says there would be a negative impact on the ponds, which means there will be no impact to the ponds whatsoever. That's what the word negative means. It does not mean what she is doing is negative.

Don Wilkerson-Can you explain the last sentence of your letter?

Lee Rigdon-I was apprised of a sex offender record. We felt Sacheen was not aware of this.

Ben Boswell-1350 Emmett Avenue.

Where I live, my house is not within three hundred feet of her property but my pasture is. I want to know who would be responsible if someone were to be injured on my property.

Chairman Ethington-You definitely need to have homeowner's insurance as far as any legality, I cannot speak in regards to anything legal. She will be responsible to take care of the kids and keep them on her property.

Ben Boswell-I do have homeowner's insurance.

Chairman Ethington-There is an annual review on the special use permit.

Fred Nussbaumer-Is your fence the only one between the properties?

Ben Boswell-She has a wooden fence and I have an electric fence. I'm not against what she wants to do; I just want to make sure we are protected.

Sacheen Wright- There are a lot of dogs that run loose in the neighborhood. When we first moved into the house we were in the process of building the fence. Our two dogs did chase chickens. I would not call them aggressive. What we have done to correct this is I gave one of the dogs to my mother in Garden Valley and when my mom comes down to visit I put the dogs in a kennel during the day. Not because they have shown aggressive behavior, but my younger dog is a jumper so it is better to pin them up during the day when kids are there. The sex offender problem, I did pull a printout of the sex offenders, there are thirty-eight in this area. One does not live across the street from me his address is not on the list, the other one lives on the other side of Letha. For the most part he kids are contained in the house or yard. Sometimes we will go on a walk where there is no traffic or houses. The traffic problems, with the four or five kids I watch two of them are siblings and the other two are siblings. I'm not bringing a lot of traffic in the

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neighborhood. I am on the corner of two dead end streets. There is not excessive traffic. It is not a highly congested street. I don't know about a crime problem, I do see a police presence that I am happy to see that they are out there and patrolling.

Fred Nussbaumer-What breed are your dogs?

Sacheen Wright-I have a chow and a pit.

Fred Nussbaumer-You do have a pit bull?

Sacheen Wright-Yes, she is a very sweet dog. She is a puppy and she's never been aggressive.

Fred Nussbaumer-But she is a pit bull.

Sacheen Wright-Yes, she is still a pit bull and that is why she is kept in a kennel. She is not out running around.

Fred Nussbaumer-What kind of liability do you have on your homeowners insurance? Do you have a clause on there to protect them in your business?

Sacheen Wright-Yes, when we got the dog we did check on that. I could not quote the clause, but again the dogs are kept away from the children. They are not there most of the week, and when they are they are kept away from the children in a fenced in area also in a kennel.

Fred Nussbaumer-Both of your dogs have a reputation of being aggressive. I have a concern with those breeds of dogs. I would not feel safe bringing my children to you.

Sacheen Wright-I understand. She has never bitten anybody.

Fred Nussbaumer-There is always a first time.

Sacheen Wright-For a while I decided to give her up. I put up flyers in the pet store and at Albertsons; I did not have any calls on her. The pet adoption league was overcrowded with dogs. I did this not because there has ever been a problem, but I felt that it was my responsibility to provide a safe environment. That is why she lives with my mom and is kept in a kennel when she is down here.

Don Wilkerson-We don't have a vicious dog ordinance in this county. I do express my concerns along with Fred. I am sure the people that deal with you are aware of the situation.

Sacheen Wright-Yes.

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Don Wilkerson-It is your responsibility if a child gets injured.

Sacheen Wright-I take it very seriously.

Chairman Ethington closed the public portion of the hearing.

David Poole-There was a lot of thought put into the staff report that we need to address if we approve this permit.

Don Wilkerson-I agree with Mr. Poole also in the staff recommendations they have site-specific recommendations that should cover everything. One item I would like to add is prior to approval the applicant must construct a fence around the pool that meets Gem County standards.

Chairman Ethington-Does everyone agree on the eight children limit?

David Poole-It sound like she is not attempting to go to eight, but it does give her room to wiggle if she needs to make exceptions.

David Poole - Made a motion to approve the Special Use Permit for Sacheen Wright to allow the operation of a daycare because it does comply with the Special Use Permit Standards with the following stipulations:

- ?? A six-foot fence must be placed around the swimming pool with a lock before operating under the Special Use Permit.
- ?? The daycare facility shall have no more than eight (8) children under the age of 14 on the premises at any given time between 7:00am and 6:00pm.
- ?? 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.

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?? 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.

?? 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 1450 Pennsylvania Avenue.

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

The motion received a second.

In Favor: Don Wilkerson, Jim Hutchins, David Poole.

Opposed: Fred Nussbaumer.

Vote: 3 to 1.

Regular Meeting:

Item One- Continued Subdivision Ordinance.

David Poole- I feel that the pendulum has swung a little too far on this. I have lived in the county long enough to know we need to gain a little bit of control with all the development, as far as our management on subdivisions goes. However, whenever we start talking about four or less having to go through these hoops, I feel we are getting a little bit overboard. I recommend that we do not pass this on to the Board of County Commissioners. I think we need to find another slot in there, I know we have some issues regarding contiguous properties. If I want to split off a piece for my family I can't do this without going through a minor subdivision. I think this is a costly way to do a one-time split. I understand the reason for this and I understand the reason to try to control urban growth. I think the pendulum has gone the other way, and I don't know what the answer is.

Chairman Ethington-Have you looked at the minor subdivision requirements?

David Poole-Yes, I have tried to digest this. They do require a significant amount of expense and time.

Chairman Ethington-A little bit of platting on the planning process.

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David Poole-If I want to do a lot split for twenty-acres, some of this gets a little carried away.

Chairman Ethington-You said you see a need for control and orderly transition in development. What would be the magic bullet?

David Poole-We all know there is no magic bullet. It's just trying to come up with the compromises that will work. I don't think we are pulling away a person's right to split his property. We are allowing them to split provided they follow this ordinance. The problem with that being we tried the Administrative Split that created a monster in itself. What we are trying to do is find a way to maintain control. I don't have an answer to the magic bullet.

Chairman Ethington-The splits aren't recorded. You don't have the easements and roads that are required on a full plat.

David Poole-But, you still have to go through the platting procedure for one split.

Chairman Ethington-The minor is streamlined a little bit more than the standard as far as the time goes. The survey cost with a simple split division is \$1600.00, record of survey for 4 parcels once you go to a plat it will go up to \$2300.00.

David Poole-If you are talking about a single split it's getting back to the cost. We want to allow a building permit on the 150 acres if I am splitting 300 acres. Will I have to engineer a septic system more than what is required from the Health Department?

David Poole-We have to do a mylar, we have to go into detail just to split a piece of property.

Chairman Ethington-I don't believe you have to on a minor.

David Poole-I just read that today.

David Hargraves-It is. The way this is drafted it defines a subdivision as dividing of parcels into two or more lots. Once you call it a subdivision, Idaho Code requires that it is platted.

Chairman Ethington-Do you have to come up with the same amount of quantities and sizes as a major subdivision?

Don Wilkerson-Whether it is a two-lot subdivision or a two hundred-lot subdivision you still have to go through the same process.

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David Hargraves-You will have to file a final plat. I haven't dealt a lot with final plats; they do have to follow Idaho Code. As far as the process for a minor subdivision, the Local Planning Act allows the local jurisdictions to adopt a subdivision ordinance that require permits to develop a subdivision. Before that subdivision permit can be approved it has to go to the Planning and Zoning Commission for recommendation and then the Board of County Commissioners. Once that permit is approved at some point the final plat has to be recorded and that is a process that has to go through the Planning and Zoning Commission and the Board of County Commissioners.

David Poole-The final plat has to be drafted and recorded. That is where we get the engineer involved and we start drafting that final plat.

David Hargraves-As far as the process goes what this ordinance tries to do is make this parallel process with a minor subdivision process.

Chairman Ethington-We had talked about going through one split without having to subdivide. He read a letter into record.

Discussion on letter.

Chairman Ethington-I think since our County is going to be hammered by all the development coming over the hill, we need to get on board to control the growth.

David Poole-Some of that discussion that we are talking about is where a forty-acre parcel cannot be split because it is prime agriculture or a twenty acre parcel can't be split into four more parcels because it is not an original parcel. That is where some of that is coming from.

Chairman Ethington-Regardless if you have the splits, you still have to follow the zoning requirements. If it is a forty acre zone you can't split off ten acres.

David Poole-Most of that is covered in this discussion. If you have a twenty-acre parcel in a forty-acre zone that is pre 1978, the property can't be split without changing the zoning. The Zoning Ordinance covers most of that. The same things have to be done for a minor or standard subdivision whether I want to split three hundred acres in half or a subdivision to build three hundred homes. If we are going to do a subdivision for building residential homes I agree we have to follow the standard subdivision rules because we have to have that control. If we are going to do a subdivision we are missing the boat. For instance I have two pieces of property that have a border, does this mean if I split either one of these or both of those properties that they have to be considered one piece of property instead of two?

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Chairman Ethington- If you have two or three different legal descriptions or tax lots those lots all have to be put on the table. If you have three forty-acre lots and only want to subdivide one forty the other two have to be put on the table.

David Poole-They have to be surveyed and put on the plat.

David Hargraves-That is correct.

Chairman Ethington-You address the forty acres you want to do, the idea is to become familiar with the surrounding area to know the potential development.

David Poole-If my neighbor owned it or I put it in another corporation name it wouldn't have to be there.

Chairman Ethington-What is the negative part?

David Poole-I have to get the entire piece surveyed and platted just to split two forty-acre parcels from each other. The cost is the negative side.

Chairman Ethington-What is the positive side?

David Poole-We still have control of the property. I still feel the pendulum has swung too far the other way. That is my opinion.

David Hargraves- There was talk about allowing a one-time split provision. Many jurisdictions have that any land division is a subdivision, but I've seen exceptions like the one time split provision. There is not one currently in this draft but, David would that address your concerns?

David Poole- It would for the people that are not trying to profit or turn a forty acre parcel into four ten acre parcels.

Chairman Ethington-Where do we draw the line? You might have a legitimate concern, but on the old ordinance where we had the conditional use permit they sold the land to their six-year old daughter who then sold it for profit and gave it to her father.

David Poole-I understand the monsters that are developing. It is really hard to draft something that cannot be misused. The one time split is another thing that probably could be misused.

David Hargraves-We have discussed contiguous parcels, it's tough to address every possible situation.

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David Poole- If I am going to go into this for profit, I understand we need to control that. We need to control air and water quality and the land use. I am just saying are we coming down too hard on the other side? I am trying to find a compromise.

Jim Hutchins-We have all sat here and watched these one time splits be abused. We all need to be on the same playing field. We have got to control this growth. We have water problems, I think we need to level this playing field and make everyone follow the same rules. I think everything should be a subdivision.

Chairman Ethington-Jim, what do feel about the one time split? You still have to follow zoning requirements.

Jim Hutchins- I think a one-time split is still a division. It still should be taken care of. It also allows for impact fees to be assessed.

David Poole-I think the impact fee will be addressed when the residence is put there. Most of the impact fees are addressed to building permits, not the land.

Jim Hutchins-I agree to that. It is still a division of the land; the one time thing is abused. Everyone should do the same thing.

Chairman Ethington-I want to talk about impact fees. Where do you put impact fees? It seems like the place to put the fees would be in the subdivision process. It is not addressed in the Subdivision Ordinance.

David Hargraves-I think it does have a clause. I think the general flavor of it is that open spaces could be dedicated also easements and rights of ways, but also mitigation fees as well.

Chairman Ethington-That is just a broad statement, saying basically you can do it. The State Statue shows you how to do it. It gives the county the opportunity to have impact fees in a designated area. If you have one split or five hundred splits would each split have an impact fee. How do we address this? I think the public had some good point on impact fees.

David Hargraves-I can tell you that the Commissioners have looked into the road studies.

Chairman Ethington-That is probably one of the most important ones. I would like to see something addressed on the impact fees.

Jim Hutchins-The verbage in here says you have easements for irrigation and water; there are a lot of instances in the County right now about drainage issues. These issues can be addressed in a subdivision. With a split you cannot control these things. I feel that this subdivision is the way to go.

David Hargraves-We need to address the contiguous parcel issues. Planners have told me that the subdivision ordinance can help control that type of thing.

Don Wilkerson-David, where do the impact fees need to originate from?

David Hargraves-I think they need to be right up front with the application.

Don Wilkerson-Where does it say what the fees will be and where they start. Who sets the fees, at this level or at the County Commissioners?

Chairman Ethington-Does it say in the Ordinance?

David Hargraves-The Statue says you can use mitigation fees.

Chairman Ethington-It is very vague in the Subdivision Ordinance. Everything else is so precise.

Jim Hutchins-My understanding is the Board of County Commissioners are the only ones that can set a fee.

Don Wilkerson-Ada County has impact fees and it is a set fee. Who sets those fees?

Jim Hutchins-My understanding is the Board of County Commissioners are the only ones that can set a fee. I don't believe we as a board can set fees.

Chairman Ethington-The way I understand impact fees; they have to be a designated fee for a designated service. Whether it be schools or roads. It is quite complicated.

David Poole-I think the collection of impact fees will be by the County.

Don Wilkerson-Impact fees can't be used for operation costs or other things. They have to be used mainly for capital improvements.

Chairman Ethington-That is a question David has to figure out, at one point it wasn't that way. It was only for designated capital improvements. It would be nice if it were for a general use.

Don Wilkerson-I think it goes into a pot and the County can use it for improvements for roads, sewers, schools, or whatever.

Don Wilkerson-I wasn't party to the April 20th hearing but I have read some input from the public. Most of the comments have been on splits. The reason for the moratorium is to get

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control of the development throughout Gem County and one of those is the splits. If we continue to allow people to split their property as they wish, we will have uncontrolled development. We need to bite the bullet someplace and it will be painful. I agree that if you split more than two lots it should be a subdivision.

Chairman Ethington-You said two lots. Are you in favor of the one free split?

Don Wilkerson-I believe it says two or more lots should be a subdivision.

David Hargraves-To address the concerns of those who would like to take one split the ordinance could be drafted to say a one time split would not count for a subdivision.

Don Wilkerson-Or could be amended on down the road.

David Poole- If I can get some clarification on some of the definitions. I think this draft is leaving room for a split of land that is not going to be used for building.

David Hargraves- If that was to happen; the parcel would still have to meet the Zoning Ordinance requirements.

David Poole-Does it allow a split on something that is not going to get a building permit?

David Hargraves-I think that is what it would mean. If it is for agricultural purposes only, there would not be a building permit available.

David Poole-If I sold the land to my son, it wouldn't work?

David Hargraves-I think it is to sell or for building development. Building a house on it would be building development.

Chairman Ethington-Someone mentioned about the splits that have been recorded during the moratorium. Brad gave us a memo that states that the moratorium did not stop the Recorder's office. That does not however mean that building permits will be available to those lots. That decision needs to be made by the Commissioners with the advice from legal counsel prior to the lifting of the moratorium.

David Poole-The division of land still went on, but the building permit may not be available depending on what action is taken on the Subdivision Ordinance. There are some questions on that being a retroactive law.

Chairman Ethington-That is for legal counsel.

David Poole-If we pass this ordinance, are we going to open a can of worms?

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Chairman Ethington-According to what we have been told the County has every right to impose these laws.

Chairman Ethington-It wasn't addressed in the last amendment. I think the place to put clarification of clustering is in the Subdivision Ordinance. David, do you have any comments on the clustering of the subdivisions?

David Hargraves-It is one of those recently suggested possibilities. I haven't seen the details.

Chairman Ethington-It seemed like a pretty good idea, I don't understand the recommendation not to put it in here.

Don Wilkerson-I don't think Brad was against putting in the ordinance. It just takes time.

Jim Hutchins- The draft reads that it would be advantageous for the clustering to be kept away from agricultural land.

Chairman Ethington-Did anyone see the sidewalk requirements?

David Poole-I am not a proponent of sidewalks, I think they are just another impervious surface.

Chairman Ethington- Originally in the hilltop development we had discussed skyline development. I think it's getting too restrictive. If we were more concerned about people coming into the valley and seeing nothing but houses on the skyline then I think we should keep it real simple. I don't know what the magic number is. I've been in valleys where the beauty of the valley is intermixed with homes.

Don Wilkerson- I think the hilltop ordinance will be a tough one. You may sit on one side of the valley and see a home, but not see it on the other side of the valley.

Fred Nussbaumer-We mentioned the twenty seven hundred foot elevation limit. There are probably some areas where it would be suitable to build higher than twenty seven hundred feet.

Chairman Ethington- I don't think elevation footage would be the answer.

Don Wilkerson-From memory I think streets within a subdivision can be paved with a three-foot wide strip borrow pit, they can be curbed and they can be without sidewalks.

David Poole-Some of the engineering that goes behind that, if you have an impervious surface where you have to control runoff you have to send it somewhere. If you don't have curbs and gutters to put it in then it goes where you don't want it.

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Don Wilkerson- Streets that have frontage to homes were curbed, guttered, and had sidewalks. Streets to the clubhouse were not.

David Poole-I think the rural subdivisions are trying to get away from curbs and sidewalks.

Chairman Ethington-Are you for one split?

David Poole-How do we avoid it getting misused?

David Hargraves- Do you think some of the design and platting standards for the minor subdivision could be loosened?

David Poole- I think they could be depending on where the property is located. The local health department will determine a lot of that. We do have some issues we need to discuss, I concur. I have been involved with the County for several years. When we try to relax things too much it is taken advantage of. I think we need to consider the way we handle the control. I like living in this area because it is a rural area and there is not a lot of rules and regulations.

Chairman Ethington-The problem is the growth that is coming. Without proper control it is going to be crazy.

David Poole-We tried to handle it by the zoning in the past, more than the Subdivision Ordinance. That did not work.

David Hargraves-To address your concerns about minor subdivisions having too many platting requirements it may be beneficial to have staff take a look and see if some of the design standards and platting requirements are necessary for a minor subdivision. Some of those may be able to be relaxed.

David Poole-There are several in here that could be relaxed. I think we need to somehow give the zoning administrator the opportunity to make those decisions. The demands will be different with different soil conditions and water conditions. I still have problems with it.

Chairman Ethington-What would you change?

David Poole-I need some more time to realize what the impact is going to be.

Chairman Ethington-Where do you draw the line? Second split, third split or easing up on some of the requirements. You have to have it or don't.

David Poole-I don't know. If you hire a trained administrator that has the knowledge some of the job should be left up to the administrator. Some of the things should not be required

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for the minor subdivision. Topography map may be required even in a four lot subdivision you may need it, that should be up to the administrator.

Chairman Ethington-Nothing is a perfect document. If we understand the general idea of what we are trying to accomplish like the impact fees and clustering are not being up to snuff. Those may be things we can address later and amend.

David Poole-What pressure are we under in Gem County?

Chairman Ethington-We have the moratorium that will be lifted. We have to err on the side of the public good.

Don Wilkerson-Before the moratorium is lifted does the Comprehensive Plan need to be approved? If this Ordinance and the Comprehensive Plan need to be approved by June 26th, is right around the corner. There is a lot of doubt with this Commission on how this document should be put together. Maybe we need to continue it and go back to the administrator with questions on impact fees, one time splits, and clustering to make sure it is a complete document. The County Board of Commissioners may have to extend the moratorium.

Chairman Ethington-What is the legality on that?

David Poole-As part of our job, I don't mind having to wait another month to have another meeting. We do need to address these things.

Don Wilkerson-We need Brad's input.

Chairman Ethington-We need to put down on record the things we want him to look at. Impact fees, clustering, and one time splits.

David Hargraves-Another one I had written down was the possibility of redrawing for minor subdivisions. When you call something a subdivision there are certain statues that kick in. We can change the design standards and platting requirements, but we cannot get around the Idaho code.

Don Wilkerson-We can maybe leave minor subdivisions alone, by going through it the old way if it's less than five lots. Idaho Code says subdivisions are five lots or more, but the county can make it tighter. We can leave minor subdivisions alone and not go through the process of engineers, mylars, etc.

David Poole-If you use the term subdivision, there is an Idaho Code that kicks in.

David Hargraves-If you don't call four splits a subdivision then subdivision requirements would not apply. It would basically be the Subdivision Ordinance you have now.

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Chairman Ethington-My opinion is to giving them one split. The whole idea of doing this is to keep control.

David Hargraves-If you don't call this a subdivision I don't know what kind of control you have.

David Poole-You have to use the term subdivision to get the teeth and the rules.

Don Wilkerson-Are we sure about that? In Idaho Code 50 chapter 15 defines any subdivision as five or more splits. If you do less you can still call it a subdivision it's just not under the requirements of the Idaho Code.

Chairman Ethington-If you designate two splits as a subdivision then you have to follow the statues for a subdivision.

David Hargraves-If you define a subdivision as two or more then the statues automatically kicks in, then you have to get a subdivision permit.

Chairman Ethington-We need to find out what the least amount of requirements are on a subdivision. Then on a minor follow the lesser requirements.

David Hargraves-These design and platting standards in this draft ordinance are more than what are required for the Idaho Code. If so maybe some of those can be removed, if it makes sense.

Chairman Ethington-We wouldn't want to remove the headaches involved. We still want to include the recordings, etc.

Don Wilkerson-Maybe we could have the standards for subdivisions and standards for minor subdivisions and lighten the load on minor subdivisions.

David Poole-What day do we want to continue this to?

Don Wilkerson-If we try to make June 26th then we will have to have a special meeting.

Jim Hutchins-If we change this draft, do we have to go to public hearing?

Chairman Ethington-Everything has been brought to the table in the last meeting, if we were listening to some of the concerns then I don't think it would.

Jim Hutchins-If there is a change to draft I think it would.

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David Hargraves-To make a material change to a draft, you have to have another hearing or if the Board of County Commissioners is going to have one then you would not have to. The public would still be able to comment.

Chairman Ethington-We are not adding anything we are taking a little bit away.

David Poole- So there is an opportunity for more public input.

Don Wilkerson-Made a motion to continue the meeting for May 22, 2006 at 7:00 P.M. Review Impact fees, clustering, one time splits, platting standards for minor subdivisions, and sky lining.

Motion received a second.

Vote: Unanimous.

Item Two – Vacate #288 by James Carley. (Withdrawn).

Item Three – Approval of Minutes of April 10, 2006 and April 20, 2006.

David Poole-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.

Nancy Merrill-I wanted to give you information on impact fees. Impact fees have to be done with a capital improvement plan. Impact fees can only be used for capital improvement they can't be used for the operation of maintenance, planning, or anything like that. It has to be an actual physical thing.

Chairman Ethington-Is it generic? Can you have it all on one group of roads or schools?

Nancy Merrill-You can have separate ones for roads, parks, and sewer.

Chairman Ethington-Does it have to be a designated school or can it be a general school?

Nancy Merrill-You have to look at efficient fees. You have to look in your county to see where you are efficient in. They bring in someone to do the plan for you. An impact fee is for the impact on the people that are coming in. You want to be able to provide adequate facilities for your future development. You have to spend what you collect within a five-year period. If you don't spend it then you lose it. It is a really complex

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thing to put together. It is probably not something you would be able to put together before Comprehensive Plan changes. You should think extensively about putting the recommendation in to get a consultant and immediately go forward with any impact fees you feel necessary. So you can capture those dollars with the few subdivisions that are coming.

Chairman Ethington-Which entity in the state has done the most work on this.

Nancy Merrill-We had one with the City of Eagle that you are welcome to.

David Hargraves-There is a proposal on the table for the Board of County Commissioners for road improvements.

Nancy Merrill-The process is the same for each one.

David Poole-Where we are continually confronted with new schools, school impact fees should be addressed.

Nancy Merrill-There are several ways to do that so your existing citizens are not paying for the growth.

Chairman Ethington-You have five years to use it, so if you start collecting it now do we have to build a school in five years?

David Poole-Or, you have to improve a school.

Nancy Merrill-Or, you put in the Subdivision Ordinance that for every so many acres and lots you have to buy a site for a school. You start setting those things out to see what your needs are for the future. As far as getting an impact fee completed and implemented by the time the comprehensive plan is done would be pretty tough, but a recommendation from the Planning & Zoning should carry a lot of weight.

Chairman Ethington-Have you guys done any environmental impacts? To study the ground water.

Nancy Merrill-We do all the time. There is information available on this.

David Hargraves-It's not the quantity of the water, but the quality in this valley.

Don Wilkerson-Does the city of Eagle have impact fees for sewer and water?

Nancy Merrill-We have development impact fees for water. We have a hookup fee and a service charge. We also have a new ordinance that states the water has to stay with the

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land. The developers were coming in and buying the land and then selling the water rights to the land.

Chairman Ethington-I did not know you could sell off water rights in this state.

Nancy Merrill-You can. But you can no longer do it in Eagle. If you are developing that land you have to have water with it.

Chairman Ethington-I think it depends on what district you are in.

Nancy Merrill-The other thing you can use instead of impact fees if you want to get to it quick is to have an evaluation on what your needs are and come up with what is called an adequate public facilities fee. It is not an impact fee it is a contract between the developer and the county. It is an agreed upon amount of what the costs for the services that will need to be provided. There is a set amount determined by the staff on what your needs are. That may be something you can use in lieu of or until you get the impact fees. You can't have impact fees until you have an ordinance. The State of Florida has done it quite well.

David Hargraves-Who is your consultant?

Nancy Merrill-Michael Mouler.

Don Wilkerson-Ada County Highway District is involved because they build and maintain all the roads. Is the City of Eagle enforcing pressurized irrigation?

Nancy Merrill-Yes, that is very important

Chairman Ethington-Thank you for your input.

Item Five – Items from the Planning Director.

Jennifer Kharrl-Brad wanted me to let you know that the joint workshop after the Comprehensive Plan hearing will be on May 16, 2006 at 6:00 p.m. at the City Hall. There is a comment sheet available at our office and there will be a comment sheet available at the sign in table at the hearing. Each Comprehensive Plan committee will have a three-minute overview of their chapter at the beginning of the hearing. If you have anything you would like to prepare for the hearing let Brad know. There is a possibility of having two hearings in the month of August due to the lifting of the Moratorium.

Item Six– Items from the Deputy Prosecuting Attorney.

David Hargraves-I just want to discuss how to make your decision making efficient and still cover all your points.

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Chairman Ethington-I think David Poole did an excellent job.

David Poole-We can make changes to the staff report. If that is not available that is the time to table it.

David Hargraves-When you are just making a recommendation to the Board of County Commissions it is not as important. All we are trying to accomplish is doing it in an efficient way.

Fred Nussbaumer-When we make a motion and it is passed on to you and Brad for the final wording, we don't see the copy of the final wording.

Chairman Ethington-It should be in the minutes.

David Hargraves-You are not getting a copy of the written decision is what you are saying. You make an oral decision and you don't get it in writing.

Fred Nussbaumer-You fill in the blanks and we don't get a copy back of what we said. For example with the Masco situation, the reason I wanted his name as the only contractor was he is the only one that has the contract with the County. The farmer does not hold the contract so if Masco leaves the job and brings in another contractor, the County does not have any recourse to the new contractor.

David Hargraves-You want to make sure that everything is discussed as part of the written decision.

Fred Nussbaumer-In the final wording when we do a motion we need to see what the final draft is.

David Hargraves-You should be getting a copy. That would be easy enough to do.

Fred Nussbaumer-If we are responsible for our decisions then I think we need to know what we decided with a final determination.

Chairman Ethington-We should just be able to e-mail it.

David Hargraves-That can be a little tricky, it would be beneficial to give staff direction on what you think needs to be in the decision. Then staff can come back with a proposed decision to make sure all the bases are covered in case anything was left out.

Chairman Ethington-Once you e-mail it to us it is pretty much a done deal.

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David Hargraves-Unless staff comes up with a written proposed decision that you can adopt if you have a chance to review it and make sure it contains everything.

David Poole-Is there any reason when this is put together by staff that prior to it going to the applicant it can be e-mailed to us for review?

David Hargraves-You've already made your decision now you want to review it.

David Poole-We've already made our decision so we want to see how it got pinned. So we can say yes or no as to how it was written up.

Fred Nussbaumer-You said the final motion we make here goes to the County Commissioners, right?

David Poole-It depends, this one is final, the ones we refer to the Commissioners are not quite as delicate as the ones we are doing a final decision on.

David Hargraves-When you make a decision, the decision has to end up in writing. Getting from your brains to the staff brains and onto paper there is a translation. Sometimes things get lost in translation.

Chairman Ethington-We should be able to review for a twenty-four hour period to make sure everything is done.

David Hargraves-We talked about the rules of procedures. I have been to some training where they suggested that sometimes that could be a burden. You get lost in the procedures; don't let that become a stumbling block.

Item Seven –Items from the Zoning Commission.

Don Wilkerson-Jennifer and I talked about a plan on special use permits. Do we require a plan from the applicant on the Special Use Permit?

David Poole-Like a plot plan map.

Don Wilkerson-We think it should be this boards decision that on Special Use Permit applications they provide a map.

Chairman Ethington-What does the statute say?

Don Wilkerson-The application says that you have to have a map. It helps to visualize what they are after.

David Poole-Since we are not allowed a site visit.

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Chairman Ethington-Maybe Brad felt it wasn't important.

Don Wilkerson-Do we want the applicant to provide us with a plot plan on a Special Use Permit?

Jim Hutchins-Just a sketch on a piece of paper anything to show us what we are looking at.

Chairman Ethington-Since we don't have a site review, we need to have as much information as we can

David Hargraves-You want to have enough information in the records to make a decision. You can require that whether it's asked for in the application or not.

David Poole-Tell Brad we require it.

Don Wilkerson-Follow the requirements of the applications.

Chairman Ethington-The last meeting we had, where we turned down the gentlemen for the gravel pit on Star Road. Does the State have to comply with our ordinance?

David Hargraves-The State does not have to comply with our ordinance. I thought it was the other way around. I will look it up.

David Hargraves-The State of Idaho shall comply with all plans and ordinances adopted under this chapter unless otherwise provided by law.

Chairman Ethington-They don't really give you a reference.

Item Eight –Adjourn.

David Poole- Made a motion to adjourn.

The motion received a second.

Vote: Unanimous.

Chairman Ethington closed the meeting at 9:45 p.m.

Chairman

Secretary

MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
May 8, 2006

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