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

OTHERS PRESENT: Brad Hawkins-Clark- Planning Director, Sissy Stewart – Administrative Assistant, and Jennifer Kharrl - Development Services Department Staff; David Hargraves- Prosecuting Attorney.

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

Item One-A Temporary Hardship Permit request by Kathy Strickland to allow the placement of a temporary manufactured home for Kathy Strickland. The property is located at 3605 Van Duessen Road. 7N, 1W, Section 30.

No ex parte or conflicts of interest were reported.

Letters read into the record:

Southwest District Health Department.

Rod DeArmond- Mr. DeArmond wants assurance that the home will be removed after the need is no longer there.

Loretta O'Brien-3605 Van Duessen Road.

I am the daughter of Kathy Strickland. I am not sure what else to say except for what is on the application. I reside at the property and my mother will be living in the trailer.

J.B.-What type of foundation will the home be placed on?

Loretta O' Brien-A temporary one, whatever is required.

Fred Nussbaumer-Will you be responsible to contact the County when the need is no longer there?

Loretta O' Brien-Yes.

Chairman Wilkerson opened the public portion of the hearing.

No comment.

Chairman Wilkerson closed the public portion of the hearing.

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David Poole-Made a motion to approve the Temporary Hardship with the following stipulations:

- ?? The permit is subject to an annual review.
- ?? The permit is non-transferable.
- ?? The manufactured home must be removed when the need no longer exists, or if the property transfers or sold.
- ?? The applicant must obtain a Manufactured Home Placement Permit for the placement of the manufactured home on a temporary foundation.
- ?? Applicant must meet any applicable requirements of the Impact Agencies listed in the staff report.
- ?? Southwest District Health must approve the septic system before issuance of the Temporary Certificate of Occupancy.

The motion received a second.

Vote: Unanimous.

Item Two-A Rezone request by Josh and Esther Halone to rezone approximately 5.09 +/- acres from A-2 Rural Transitional Agriculture to R-3 Rural Residential. The property is located at 1111 West Idaho Boulevard. 6N, 2W, Section 1.

No ex parte or conflicts of interest were reported.

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

Terri Barrus representing Josh Halone –2360 U.A. Avenue.

This property is less than six acres and the plan is for the applicant to split off a two-acre piece and keep the remainder with the home. My research shows that there are some R-3 zones around this parcel, and several parcels that are less than five acres. This parcel does comply with the Comprehensive Plan.

Chairman Wilkerson-Our staff report shows that the properties adjoining this parcel is zoned A-2, but what you are saying is some areas not adjacent to this property are less than five acres.

Terri Barrus - One parcel 320 feet south and caddy corner is zoned R-3.

J.B.-Terri, are your clients here tonight?

Terri Barrus-No, they could not attend.

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David Poole-So your plans are to split the property long ways using the road frontage.

Terri Barrus - I believe the plan is to have a driveway at the west side of the property and square it up in the back.

David Poole- A flag lot?

Terri Barrus - Yes, and whatever the County requires for a driveway is what he will do. And with him only going for one split with under six acres, he will create two 3-acre parcels or something along those lines.

David Poole- Are you aware of any splits creating problems with the irrigation district?

Terri Barrus -No.

J.B.- You say you are asking for only one split when in fact you asking for a rezone that will allow more than one split.

Terri Barrus -No, because we have just less than six acres, so we can only create two parcels with the rezone we are asking for.

Chairman Wilkerson-The current use is stated as residence and pasture on the application, is it pasture now?

Terri Barrus - Yes, it is.

Chairman Wilkerson opened the public portion of the hearing.

Chris Atkinson-1155 W. Idaho Boulevard.

I am in favor of this rezone. I am next to this property and I piped the ditch that is actually on his property. As far as the drainage goes it won't be a big issue for him. He will just need a new place to dump it back in because of how the property lies.

Chairman Wilkerson- That property is not level, what side did you pipe?

Chris Atkinson- On the West end at the bottom end.

Chairman Wilkerson closed the public portion of the hearing.

J.B.- Brad, how does this comply with the Comprehensive Plan?

Brad Hawkins -Clark-County Residential Impact Area.

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J.B.- My only concern is if the A-2 zone surrounds the property, and it is in the impact zone, and if we don't have a plan we will be opening a can of worms. I am opposed to breaking it down, it is agriculture land it is being used that way. If we approve this we lose that agriculture land. Where do we draw the line if we approve this?

Steve Ethington- The Comprehensive Plan states that the County Residential Impact Area is intended to allow Rural Residential development and I think it is all around there already.

Brent Jensen- We have heard numerous testimonies that people in these areas who purchase small acreage and because of this process you are describing they now are high density. This rezone will place another residence directly East of a feedlot.

J.B.- Transitional Agriculture, I see it being five acres not two acres. Do you know how close the feedlot is to this property?

Brent Jensen- It is due West of this property.

J.B.- Earlier this year we talked about a buffer zone when it comes to feedlots and new residences; it continues to be a concern of mine.

Steve Ethington- It seems to me that the County Ordinance states that there are different zones and the Comprehensive Plan states where we want to future residential growth. I think we need to respect the current Comprehensive Plan and a 2-acre lot is a buffer zone.

J.B.- I don't disagree, but we promised the CAFO owners a buffer zone and if we approve this it is one more house next to a feedlot. I think we are going back on our words if approve this.

Chairman Wilkerson- I want to remind the Commission that there is no CAFO Ordinance in place at this time.

Brent Jensen- I do disagree in the sense that this area is not the place for high density.

Jim Hutchins- We did promise that we would do our best to keep residences away from feedlots. Under the Comprehensive Plan we are in now, I don't think we can deny this.

Steve Ethington- One more time I would like to say there is a lot of homes being built there and we have approved high density there in the past.

Chairman Wilkerson- Just further to the West, and East of Jackson it is zoned one acre.

David Poole- We have an Ordinance in effect and we need to base our decision on what the books say now.

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Steve Ethington -Made a motion to recommend approval of the Rezone for Josh and Esther Halone to rezone approximately 5.09+/- acres as the request complies with the Comprehensive Plan.

The motion received a second.

Vote:

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

Opposed- Fred Nussbaumer and J.B.

Motion to recommend approval of the application by a 4 to 2 vote.

Item Three- A Special Use Permit request by Sawyer/Smith, LLC. to allow the operation of a family guest ranch. The property is located 3800 East Black Canyon. 7N, 1W, Section 15.

No ex parte or conflicts of interest were reported.

Letters read into record:

Southwest District Health Department.

Idaho Transportation Department.

Dick Smith-3333 W. Central Ave.

I do have some pictures and drawings to show you. We would like to build an old western town with some shops not for retail. We have intentions to remodel the old ranch house. We want to stay with an old ranch theme. The shops will be just for looks with old props resembling products. Some stores won't have an opening to get in, just windows to look through.

Brent Jensen-Mr. Smith, so your intentions are for guests to stay.

Dick Smith-We will handle Cherry Gulch Boy's Ranch families. It will be a horse and cattle operation.

Brent Jensen- How many guests do you anticipate at one time?

Dick Smith- We might have as many as 35 daytime guests and 10 to 20 nighttime guests.

Brent Jensen-I am somewhat familiar with the property, and I think what you want to do is admirable. However, I am concerned with the increase of traffic and low visibility to accesses on and off of Highway 52.

Dick Smith- We do have a great access from Spring Creek Road. We would like to widen the road so trailers can get through and even turn around. I do intend to meet again with the

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Idaho Transportation Department, there has never been a culvert in place in that area and we intend to place a culvert.

Brent Jensen- Will you use the same access as the Boy's Ranch?

Dick Smith-Yes.

Jim Hutchins-Is this the same parcel as the Boy's Ranch, or is this a separate parcel?

Dick Smith-Sawyer/Smith LLC, Originally purchased 615 acres of deeded property and the Boy's Ranch purchased 220 acres of that.

David Poole-How many acres are there in your drawing's here?

Dick Smith- There is about twenty acres. We want to keep the structures close together so we can keep the pasture ground.

Steve Ethington- How many feet is your facility going to be from the Boy's Ranch?

Dick Smith- It will be approximately 3500 feet from the bunkhouse.

Fred Nussbaumer- What plans do you have for a water and sewer system?

Dick Smith-We have to follow Southwest District Health Department requirements.

Brent Jensen-How many structures do you anticipate?

Dick Smith- No more than a dozen.

Chairman Wilkerson opened the public portion of the hearing.

Judy Woodie- 5758 Van Duessen.

I have some real concerns about the water issues up there. I have forty acres next to this property with a natural spring. I have concerns where the water will be coming from if they start drilling wells. They do not have enough water in that area for people and cattle, that area is very dry and arid. There has been a lot of development in that area. Unless they have water to irrigate they might be able to feed the livestock after a good rain in the spring for about thirty days. That ground does not produce, it has to have water.

Chairman Wilkerson-Are there any wells?

Judy Woodie-Absolutely not, there have been no wells.

Jim Hutchins-Does the spring fluctuate down as the season progresses?

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Judy Woodie- It is a fairly consistent spring we use it just to water the cattle, but no irrigating.

Dick Smith- We do have permits on five springs plus a well at the ranch house. The livestock are fed by hay everyday. We do not plan on irrigating. The horses will be out running but they will come to the ranch to eat.

Brent Jensen- What are your plans for the horses? Do you intend to drill a deep well?

Dick Smith- We currently have a well and we water over twenty head of horses. We have never run out of water. We would like to drill a deep well at the headquarters but not in the pasture areas.

Jim Hutchins- Do you intend to have landscaping that would require water?

Dick Smith- Yes, there will be tree's planted and a lot of rock landscaping, maybe a very little lawn in front of the ranch house. All of the landscaping will be drought tolerant and need little water.

Chairman Wilkerson closed the public portion of the hearing.

J.B.- I am impressed with the research and preparation he has done. I think this operation will be beneficial to the County.

Brent Jensen- I also think it is a good idea but, I think the concerns that were addressed are valid.

Discussion among the Commission.

Brent Jensen- Made a motion to approve the Special Use Permit for Sawyer/Smith LLC. to allow the operation of a family guest ranch with the following stipulations:

- ?? The permit is subject to an annual review.
- ?? The permit is non transferable.
- ?? Any signage must comply with the Gem County Sign Ordinance.
- ?? Applicant must meet Gem County Building and Setback requirements.
- ?? Applicant must comply with all applicable Impact Agency requirements.
- ?? All new public roadways shall be designed and constructed in accordance with Gem County Road Department.

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The motion received a second.

Vote: Unanimous.

Item Four- A Special Use Permit request by Gary and Martha Cunningham to allow the operation of a processing facility for wine making. The property is located 5900 Pearl Road. 6N, 1W, Section 24.

No ex parte or conflicts of interest were reported.

Letter read into record:
Southwest District Health Department.

Gary Cunningham—5900 Pearl Road.

This application is for a processing building to process vineyard grapes to produce wine. There will be no wine tasting. The fruit won't be ready to process for a year. We are actually about one year ahead because of the State liquor requirements so we won't even begin construction until 2007.

J.B.- Is this a new label operation?

Gary Cunningham- Yes, a new winery. We have to go through the Special Use permit process to get a Label.

Chairman Wilkerson- The application states that you have 270 acres, how much of that will be for grapes?

Gary Cunningham- Actually, I have about 1000 acres of deeded land. I am not sure where that number came from. We have the potential to do 300 acres in vineyards.

Sissy Stewart- The reason for the acreage discrepancy is when we are dealing with large acreage the Assessor's office narrows down where the approximate operation will exist.

Fred Nussbaumer- Will you be bringing in grapes from other farmers?

Gary Cunningham- No, this is private use only.

David Poole- Will this be a wholesale operation?

Gary Cunningham- Yes, it will be distributed through the normal distribution channels.

Chairman Wilkerson- Do you see an increase in the number of employees?

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Gary Cunningham-No, there is only two times a year that we would require extra staff. And it is at separate times of the year and it will vary by the year and season.

Chairman Wilkerson opened the public portion of the hearing.

No comment.

Chairman Wilkerson closed the public portion of the hearing.

Brent Jensen- I think it is a great use of Agriculture land.

Steve Ethington- It seems to me that since this is the A-1 prime Agriculture zone and it will be wholesale only that a Special Use Permit may not be needed.

Brad Hawkins-Clark- The matrix chart doesn't list everything and it is my understanding that if it isn't listed on the chart then a Special Use Permit is required.

J.B.- Made a motion to approve the Special Use Permit for Gary and Martha Cunningham to allow the operation of a processing facility for wine making with the following stipulations:

- ?? The permit is subject to an annual review.
- ?? The permit is non transferable.
- ?? Any signage must comply with the Gem County Sign Ordinance.
- ?? Applicant must meet Gem County Building and Setback requirements.
- ?? Applicant must comply with all applicable Impact Agency requirements.

The motion received a second.

Vote: Unanimous.

Regular Meeting:

Item One – Approval of Minutes of November 14, 2005.

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

Motion received a second.

Vote: Unanimous.

The minutes were approved and signed.

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Item Two – Items from the Public.

John Evans- 1103 E. Phillips.

I have a concern on the interpretation of the Impact Area. The impact area is for the future growth and you guys are trying to stop it. Maybe we need to get back with the City and decide where the impact area should be. We have been working on a Comprehensive Plan for a long time now, and we do have an Impact Area in place today. It sounded to me like you didn't want to allow residences in the Impact Area?

J.B.- No, that wasn't our decision at all. We are not trying to stop the growth, we were just concerned with the existing operation next to the property.

John Evans-You are calling Atkinson's the existing feed lot? And how many other dairies are there around? And he is next to A-1 Prime Agriculture Zone.

J.B.-One of the stipulations for the new CAFO is that there will be a buffer zone, and if this were in effect today then this application probably would have been denied.

John Evans-How many are in a CAFO? And how many did they have?

Jim Hutchins - They are an existing AFO operation and have been there for a good many years.

David Hargraves-The County Residential Impact Area is interpreted for rural residential. The Urban Residential area is more for higher density.

J.B.-If there is a CAFO on the border than we would not allow residences in the buffer zone, so the decision will be based on individual applications.

Item Three – Items from the Planning and Zoning Office.

A. Recent Board of Commissioners P&Z Decisions.

The Rezone's for Bruce Egbert, Melvin Rowley, Clay Scofield, J-2 Ventures, Janette Drew and Siller Farms were all approved by the board of County Commissioners.

Item Four – Items from the Zoning Commission.

Steve Ethington-What does the agenda look like to come forward to us for Ordinance changes?

Brad Hawkins -Clark- We have a list of seven different Ordinances that are at some point already being drafted or need to be started. I have a draft schedule of where those

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are at and when they will be complete. The Subdivision Ordinance is the furthest along and we hope to wrap up staff's draft within six weeks. Definitely by the end of the six month moratorium we need to have the Subdivision Ordinance and parts of the Comprehensive Plan done and in effect.

Steve Ethington-Have you talked about the CAFO and where is it? We have worked on it for a long time, and put a lot of work into it. We are just curious why it hasn't been passed.

Brad Hawkins-Clark- My understanding is that Shadow Butte Development Corporation has been looking at it but not from a CAFO standpoint but at an Economic Development stand point pretty carefully. And where they would like to see the CAFO's sited in the County.

Chairman Wilkerson-I want to know why it is sitting in limbo?

David Hargraves-One reason is some of the language needs to be changed.

Steve Ethington-It is a little frustrating on our end that we put all this work into a project and then it just sits there.

David Poole- If we need some corrections, we need to get on top of it. If there are some language corrections we need to get after it instead of letting it sit.

David Hargraves-To rework that language, it is just a matter of finding the time to work it in.

J.B.- Wasn't there a State Mandate on the CAFO?

David Hargraves-Yes.

J.B.-And what was the date on it?

David Hargraves- July of 2004.

J.B.- Again we did our thing how come it is sitting?

Brad Hawkins-Clark- Very good point, what they told me is basically from the moratorium standpoint it wasn't justified in the resolution although it was listed as an Ordinance that needs to get done. This is great feedback for me know.

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J.B.-It is affecting the decisions we make. We are not allowed to project that a CAFO is coming, but in reality we told the people in the public hearings that we would protect the CAFO. We are making decisions that may not be protecting CAFO's so we are not living up to our word. We went through a lot of hard work on this and their lack of diligence is impacting some of our decisions.

Steve Ethington- This goes to our Attorney, there was a comment made by one of the Commissioners in the paper that with the current Ordinance we cannot deny a rezone. I want to know what that means?

David Hargraves-As long as one of the criteria is met you can't deny it. I think what they want to see is a way to tighten the rezone process up.

Jim Hutchins-My thoughts also we need to get rid of the word "or" from the criteria to meet. Basically if they comply with the Comprehensive Plan then we have to approve it regardless of what the neighbors may say. We are wasting our time even reviewing these applications if everything has to be approved that complies with the Comprehensive Plan.

J.B.-Can we have one of these two guys discuss the "and/or" issue with the Commissioners? How can we get that question addressed?

David Hargraves-That is being worked on at this time.

Brent Jensen- By whom, staff or recommendations from the Board?

David Hargraves-There will be staff putting it together. I still have questions on how to tighten up the standards.

Chairman Wilkerson- I have some questions on the Janette Drew rezone that we recommended approval with some stipulations. The County Commissioners didn't address our stipulations or put into the Ordinance.

Brad Hawkins -Clark- From my standpoint, you can't condition rezones.

Chairman Wilkerson- I have to beg your pardon, because I can go home and pull several rezones with stipulations.

Brad Hawkins -Clark- Under the State Statute, you need to have a Development Agreement to condition a rezone. They were very clear that they supported your conditions, they were not comfortable attaching them to an Ordinance.

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David Hargraves-As far as dedicating roadway, it only comes to play when we are looking at a Minor Subdivision.

Chairman Wilkerson- To me if the long-term plan is to have an 80-foot easement for a roadway then we should look at it at the time of the rezone, otherwise we are not planning for the future.

Brad Hawkins -Clark- We will have to have a Development Agreement for that.

Chairman Wilkerson- I have one other question, we had discussions amongst ourselves and we would like to go back to having site visits. I know you have a letter from the Supreme Court because there were some legal problems due to site visits, but I think that came from a member having exparte communications. For this Commission to make a good decision we want to go back to conducting site visits. The City still has site visits.

David Hargraves-I have given you my legal advice and I hope that you would follow it. If want further interpretation I will do my best to research it for you.

Chairman Wilkerson- Who would like to go back to conducting site visits from a public thoroughfare?

Vote: Unanimous.

David Hargraves- One thing to address, the reasons your decisions are met with SUP applications and the key points. I can see you struggle with that every time. Brad and I have discussed a way to make it easier on you so you don't have to go through each point.

Brent Jensen- We appreciate that.

Steve Ethington- We appreciate you being here David.

David Hargraves- I want to compliment you tonight on your discussion, I think your discussion is great you are looking at the standards and wrestling with the issues.

Item Five – Adjourn.

J.B.- Made a motion to adjourn.

The motion received a second.

Vote: Unanimous.

MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
JANUARY 9, 2006

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Chairman Wilkerson closed the meeting at 9:00 p.m.

Chairman

Secretary