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NOTICE OF PUBLIC HEARING

THE GEM COUNTY BOARD OF COMMISSIONERS WILL HOLD A PUBLIC HEARING ON MONDAY, JULY 24, 2023, AT 6:00 P.M. AT THE GEM COUNTY COURTHOUSE, 415 EAST MAIN ST., EMMETT, ID IN ADDITION TO A ZOOM MEETING/CALL TO HEAR THE FOLLOWING REQUESTS:

A REZONE REQUEST BY HESS PROPERTIES TO REZONE 23.81+/- ACRES FROM A2 RURAL TRANSITIONAL AGRICULTURE (5 ACRE MINIMUM) TO R2 RESIDENTIAL TRANSITIONAL (1 ACRE MINIMUM) AT 3700 WILLS ROAD, T 06N, R 01W, SECTION 20. RP06N01W201200. THE GEM COUNTY PLANNING AND ZONING COMMISSION HAS RECOMMENDED DENIAL OF THE REZONE.

A PRELIMINARY SUBDIVISION PLAT (CHERRY HEIGHTS) APPLICATION BY HESS PROPERTIES TO REQUEST APPROVAL OF 37 BUILDABLE LOTS ON APPROXIMATELY 68.9+/- ACRES, LOCATED ON WILLS ROAD T 06N, R 01W, SECTION 20. RPO6N01W201805. THE GEM COUNTY PLANNING AND ZONING COMMISSION HAS RECOMMENDED APPROVAL OF THE SUBDIVISION.

THE APPLICATIONS AND LEGAL DESCRIPTIONS ARE AVAILABLE FOR REVIEW BY CONTACTING THE DEVELOPMENT SERVICES DEPARTMENT VIA EMAIL (OMOCNIK@CO.GEM.ID.US) OR PHONE 208-365-5144.

WRITTEN CORRESPONDENCE IS HIGHLY RECOMMENDED AND MUST BE SUBMITTED TO THE DEVELOPMENT SERVICES OFFICE (109 SO. MCKINLEY AVE., EMMETT, ID.) NO LATER THAN 12:00 P.M. MONDAY, JULY 17, 2023. WE HAVE A MAIL SLOT IN OUR DOOR FOR CONVENIENCE. WRITTEN CORRESPONDENCE WILL BE GIVEN TO BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION AND IS THE BEST WAY TO SHARE YOUR COMMENTS AND CONCERNS.

THE MEETING LINK AND CODE FOR CALLING IN WILL BE LISTED ON THE DEVELOPMENT SERVICES PAGE AT WWW.GEMCOUNTY.ORG/DEVELOPMENT-SERVICES/ FOR ANYONE WISHING TO ATTEND THESE MEETINGS. IF YOU DO NOT HAVE ACCESS TO THE WEB PAGE, YOU MAY CALL THE DEVELOPMENT SERVICES OFFICE AT 208-365-5144 PRIOR TO THE MEETING TO GET A MEETING LINK OR CALL IN CODE.

PUBLISH JULY 5, 2023

Jennifer Kharri
Planning Director



GEM COUNTY
Planning and Zoning Commission
Recommendation to Board of County Commissioners

*(This recommendation is to be used in conjunction with the Staff Report
for the same application.)*

Application/Project Name: Rezone Application – File #RZ-22-014

Applicant Name: Hess Properties

Date of Planning and Zoning Commission Public Hearing(s): May 8, 2023

Date of Board Public Hearing: July 24, 2023, 6:00 PM

Summary of Public Oral Testimony:

- In Favor: Stephanie Hopkins (applicant), Lance Ranstrom, Joe Pachner, Spencer Kofed
- Opposed: Kayla Jacobsen, Betty Williamson, Ken Williamson, Steve Weston, Michael Boling, Wayne Andrews, Katrina Andrews, Debbie Kimball, Adrienne Illingworth, Laura Cloherty, Nadine Burak, Lou Dorosa, John Cloherty, Gary Bacon, Peter Dill, Dale Crank, Ron Carr
- Neutral: Cathy Ballard

Staff Recommendation: Approval.

Staff Reason(s) and Findings for Recommendation: Recommended approval based on the 5 required findings from Gem County Code 11-15 being met with the thought that Wills Road would be mitigated with the proposed adjacent subdivision by the same applicant.

Planning and Zoning Commission Recommendation: Recommended denial. (Unanimous)

Planning and Zoning Reason(s) and Findings for Recommendation:

Recommended denial based on finding number 5, of the 5 required findings from Gem County Code 11-15, not being met due to the condition of Wills Road there will be additional costs to current residents with this rezone. See the attached recommendation. For further analysis see the Staff Report.

Outstanding Issues for Board of County Commissioner Meeting: The applicant has proposed an agreement with Gem County to improve Wills Road to mitigate the concerns. The Board should consider if finding 5 could be met with the proposed mitigation measures.



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

**OFFICE OF THE ADMINISTRATOR
PLANNING & ZONING**

PHONE (208) 365-5144

WEBPAGE

www.gemcounty.org

BEFORE THE PLANNING AND ZONING COMMISSION

GEM COUNTY, IDAHO

In Re: REZONE APPLICATION #RZ-22-014)	
For Hess Properties)	
from A-2, Rural Transitional Agriculture)	RECOMMENDATION TO BOARD
to R-2, Residential Transitional)	OF COUNTY COMMISSIONERS

I.

RECOMMENDATION

The applicant, Hess Properties, LLC, on property owned by Cherry Heights Development, LLC, sought approval to rezone their property (see **Exhibit A**) from A-2 Rural Transitional Agriculture (5-acre minimum) to R-2 Residential Transitional (1-acre minimum). The property proposed to be rezoned is 23.8+/- acres in size, and lies fully within the Priority Growth Area 1 of the County Residential Area, as designated on the Future Land Use Map in the Comprehensive Plan. The property is located at 3700 Wills Road and identified in Township 6 North, Range 1 West, Section 20, of the Boise Meridian, Gem County Idaho and Gem County Assessor's records as RP06N01W201200.

The matter came before the Gem County Planning and Zoning Commission (hereafter referenced as Commission) on the 8th day of May 2023, for the purpose of hearing the Rezone

Application submitted by the applicant. Staff submitted a staff report for Commission consideration. There was public testimony given in favor, neutral and opposition.

Pursuant to section 11-15-4 of the Gem County Code, the Commission didn't find adequate evidence of each of the Standards for Granting of Zoning Ordinance, a copy of which is attached hereto as **Exhibit B**. Based on the findings outlined in **Exhibit B** of this Recommendation, the Commission voted unanimously to recommend denial of the application based on finding 5 not being met.

A motion was made by Commissioner Vickery to recommend to the Board of County Commissioners denial of the rezone. That motion was seconded by Commissioner Jones and the vote was as follows:

The final vote of the Rezone application was:

Commissioner Vickery Yea

Commissioner Jones Yea

Commissioner Heimlich Absent

Chairman Eichelberger (If applicable in case of tie vote)

CERTIFICATE OF SERVICE

I hereby certify that on this 10 day of July, 2023, I served a true and correct copy of the foregoing RECOMMENDATION upon

NAME

Hess Properties

ADDRESS

15031 Spyglass Ln.
Caldwell, Id 83407

By depositing a copy thereof in the United States mail, with first class postage prepaid.

Stephanie Crays

Stephanie Crays, Development Services Coordinator

EXHIBIT A

**LEGAL DESCRIPTION
Hess Properties RZ #22-014**

EXHIBIT B

REQUIRED FINDINGS FROM ZONING ORDINANCE HESS PROPERTIES REZONE (RZ-22-014)

According to Title 11, Chapter 15, Section 4, “No map amendments (rezones) shall be recommended for approval by the Commission or granted by the Board of Commissioners unless the following findings are made by the Commission or Board”: (Commission findings are in *italics*.)

1. The requested amendment complies with the Comprehensive Plan text and Future Land Use Map;

Based on the Comprehensive Plan analysis provided in Section 5 of the accompanying staff report, the Commission finds the majority of the applicable policies support an R-2 rezone in this area. In the Commission’s estimation, the Comprehensive Plan Future Land Use Map relevant policies does support the rezone application to R-2 since the parcel falls within the County Residential Area, Priority Growth Area 1.

2. The requested amendment is not materially detrimental to the public health, safety, or welfare;

The Commission finds an R-2 zone would allow approximately nineteen (19) additional dwellings (after dedication of new roads) on the subject parcel beyond what is permitted today. The potential increased septic use may be viewed as detrimental to the health, safety, or welfare when located on one (1) acre minimum lot sizes, but has not yet been verified by SWDH. SWDH will require a subdivision engineering report (SER) to determine soil types and feasibility for the septic systems and drainfields and will require perc tests for all building permits. The Engineering Report, including well log research, was required of the applicant as part of the rezone and Development Agreement on the adjacent property (phase 1) which will include this property (proposed to be phase 2) as part of the SER to determine well and septic impacts.

At build-out of the entire project (as proposed), staff estimates traffic to be increased substantially to the surrounding streets. Wills Road is identified as a Local Road and will require a 30-foot right-of-way dedication at the time of development. Also impacted will be Old Freezeout Road. To help the County more accurately assess traffic impacts on the public streets in the area, a Traffic Impact Study was required of the applicant as part of the rezone and Development Agreement on the adjacent property (phase 1) which included this property (proposed to be phase 2) and was approved by the County Engineer.

3. The subject property meets the minimum dimensional standards of the proposed zoning district;

The minimum lot size in the proposed R-2 zone is one-acre. The subject area to be rezoned is currently 23.81 acres in size. The site complies with the minimum size and setbacks of the R-2 zone. The subject site could be developed to comply with the minimum dimensions for an R-2 zone.

4. The uses allowed under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area;

A list comparing the allowed uses, as listed in the GCC 11-5-5 Matrix Chart, in the proposed R-2 zone with the existing A-2 zone is shown in Section 6 of the accompanying staff report. More intense uses are allowed with or without a SUP in the current zone than in the proposed R-2 zone. There are a few special uses allowed in the R-2 zone that would not be harmonious with the existing rural residential character of Wills Road, such as convenience stores and a hospital, but since these require special approval from the County as well as neighbor notification, they are not found to change the essential character of the area in and of themselves. As such, the Commission finds the uses allowed in an R-2 zone are compatible with the intended character of the area. This is largely due to the mining and entertainment land uses allowed in the A-2 zone with a SUP which are prohibited in the R-2 zone. The specific uses are listed according to each zone as allowed outright, prohibited or allowed with a Special Use Permit.

5. The effects of the proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

The public service agencies/providers that responded to this rezone application were the Road and Bridge Department. Their comments show an adverse impact if this rezone application is approved.

The Commission finds that the impacts of development of 23.8 +/- acres of R-2-zoned land into one-acre parcels is expected to generate demands on public services beyond the current service demands and will have additional costs to current residents specific to Wills Road, therefore, this finding cannot be met.



MASTER PUBLIC HEARING APPLICATION

GEM COUNTY DEVELOPMENT SERVICES

109 SOUTH MCKINLEY, EMMETT, IDAHO 83617 WWW.GEMCOUNTY.ORG PHONE: (208) 365-5144

TYPE OF APPLICATION: (PLEASE CHECK ALL THAT APPLY.)

- | | | |
|--|--|---|
| <input type="checkbox"/> APPEAL | <input type="checkbox"/> PLANNED COMMUNITY | <input type="checkbox"/> SUPPLEMENTAL AMENDMENT |
| <input type="checkbox"/> COMPREHENSIVE PLAN TEXT AMENDMENT | <input checked="" type="checkbox"/> REZONE | <input type="checkbox"/> VACATION |
| <input type="checkbox"/> COMPREHENSIVE PLAN MAP AMENDMENT | <input type="checkbox"/> SPECIAL USE PERMIT | <input type="checkbox"/> VARIANCE |
| <input type="checkbox"/> DESIGN REVIEW | <input type="checkbox"/> SPECIAL USE PERMIT (MINERAL EXTRACTION) | <input type="checkbox"/> ZONING TEXT AMENDMENT |
| <input type="checkbox"/> DEVELOPMENT AGREEMENT | <input type="checkbox"/> SUBDIVISION, PRELIMINARY | |
| <input type="checkbox"/> PLANNED UNIT DEVELOPMENT | <input type="checkbox"/> SUBDIVISION, MODIFICATION | |

PROJECT NAME: Cherry Heights No. 2

SITE INFORMATION:

(This information can be found on the Assessor's property information assessment sheet.)

Quarter: SW Section: 20 Township: 6N Range: 1W Total Acres: 23.81

Subdivision Name (if applicable): Cherry Heights No. 2

Lot: na Block: na

Site Address: 3700 Wills Rd.

City: Emmett

Tax Parcel Number(s): RP06N01W201200

Current Zoning: A2 Current Land Use: County Residential

PROPERTY OWNER:

Name: Cherry Heights Development

APPLICANT:

Name: Hess Properties

Address: 2775 W Navigator Dr. Ste. 110

Address: 15031 Spyglass Ln.

City: Meridian State: ID Zip: 83642

City: Caldwell State: ID Zip: 83607

Telephone: _____

Telephone: _____

Email: _____

Email: _____

I consent to this application and allow Development Services staff to enter the property for site inspections related to this application.

I certify this information is correct to the best of my knowledge.

Authentisign

[Signature] 11/01/22

[Signature]

Signature: (Owner)

Date Signature: (Applicant)

Date

R2 22-014

OFFICE USE ONLY

File No.:

Received By: SC

Date: 11-7-22

Fee: 710

Receipt No: 2023-00040

November 2, 2022
Project No: 21-129

Ms. Jennifer Kharri
Planning Director
Gem County
109 South McKinley
Emmett, ID 83617

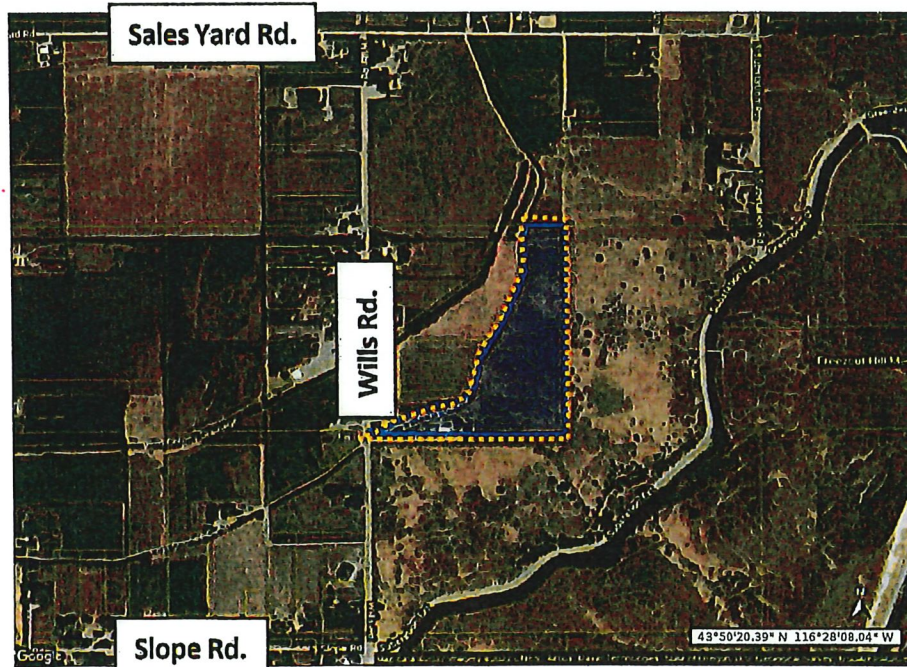
**RE: Cherry Heights No 2 Subdivision – Gem County, ID
Rezoning Application.**

Dear Ms. Kharri:

On behalf of Hess Properties, LLC, we are pleased to submit the attached rezoning application and required supplements for Cherry Heights No 2 Subdivision.

Site & Background Information

The subject property is an approximately 23.81-acre parcel, identified as Parcel No RP06N01W201200, located east of Wills Road between Sales Yard Road and South Slope Road in Gem County. The subject property is currently zoned A-2 (Rural Transitional Agriculture) and is designated on the Gem County Future Land Use Map as a County Residential Area and lies within Priority Growth Area 1. Adjacent properties to the north and west are zoned A-2 (Rural Transitional Agriculture). The property to the southeast, Parcel No RP06N01W201805, was rezoned to R-2 (Residential Transitional) by the Board of County Commissioners on October 16th, 2018, and is subject to Development Agreement Inst. No 321365, which was entered into on May 6th, 2019.



Background Information

A property boundary adjustment for parcels RP06N01W201200 and RP06N01W201805 has been tentatively approved to accommodate a configuration aligning with the proposed Cherry Heights No 1 and No 2 Subdivisions. The total acres of parcel RP06N01W201200 (Cherry Heights No 2) will be 23.81 acres after the adjustment, and the total acres of parcel RP06N01W201805 (Cherry Heights No 1) will be 68.90 acres. The purpose of the property boundary adjustment was to create a parcel configuration to accommodate the integrated development of both phases of the proposed Cherry Heights Subdivision. The first phase of the subdivision has already received rezone approval, but the configuration of the property did not coincide well with the lot sizes and layout planned by the developer. As such, the property boundary adjustment was configured to accommodate a layout for the first phase that would be cohesive with the second phase of the project.

The subject application requests a rezone of parcel RP06N01W201200 to accommodate a future subdivision request for the second phase of the project.

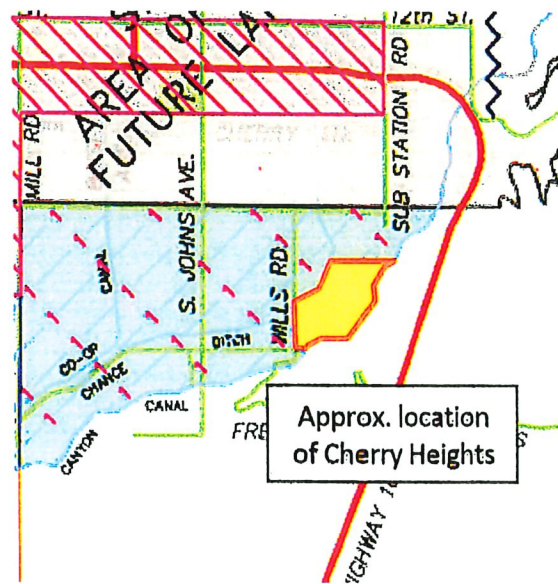
A preliminary plat application is forthcoming on parcel RP06N01W201805 for the first phase of the Cherry Heights Subdivision. Cherry Heights No 1 will be comprised of 37 single family residential lots and 1 common lot for a total of 38 lots. If this rezone request for parcel RP06N01W201200 is approved, we will be following up with a preliminary plat application for Cherry Heights No 2, the second phase of the Cherry Heights Subdivision.

We held a neighborhood meeting on Tuesday, October 25, 2022 for our preliminary plat application for Cherry Heights No 1. This meeting was attended by at least two dozen neighbors, who expressed numerous concerns about the overall Cherry Heights Development. In this narrative, we will discuss how we have addressed these concerns for the second phase of the development

Comprehensive Plan

The subject property lies within a County Residential Area, specifically Priority Growth Area 1. Consistent with Gem County's Comprehensive Plan, this rezone will ensure that development of this parcel does not detract from the rural character of the area and does not burden the Gem community with the cost of development. In Priority Growth Area 1, densities at 1 unit per 1 acre are allowed.

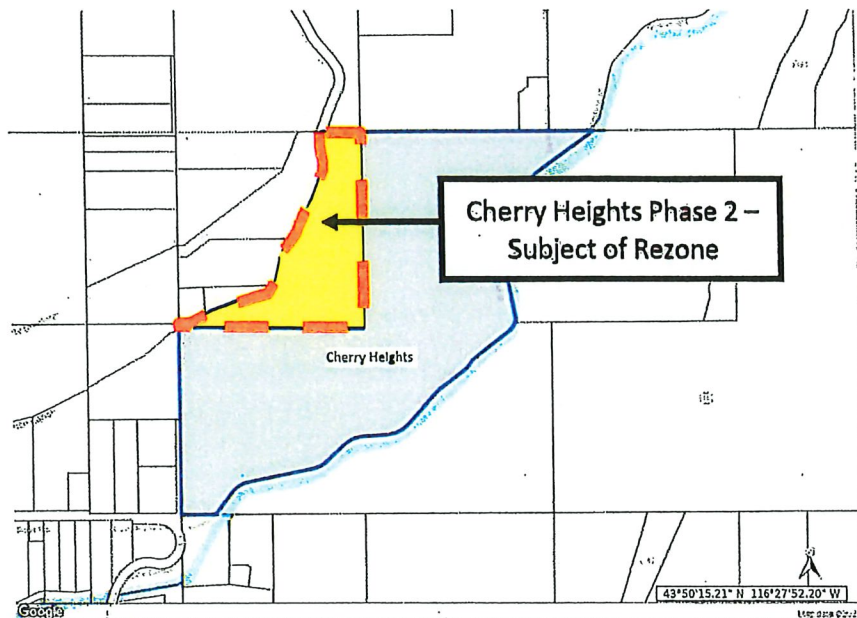
Cherry Heights will help the Gem community achieve many of its Comprehensive Plan goals and policies. The Housing Element of the Comprehensive Plan encourages development that conserves open space, reduces unnecessary cost, and provides current and future residents with quality housing choices. Both phases of the Cherry Heights Subdivision have been designed to conserve open space and integrate with their surroundings. Housing Policy 3.1.8 encourages rural residential development in areas where it is compatible with existing agricultural and ranching development. We have designed Cherry Heights with single-family homes on large, 1-acre lots to complement the existing agricultural character and without detracting from the natural beauty of the area.



Further, Residential Land Use Policy 12.13 encourages the provision of quality and diverse housing, as well as creative subdivision designs, of all prices for present and future residents. We have met with neighbors and coordinated with numerous agencies to ensure the lots provided within this development will provide a foundation for high quality homes and will not negatively impact neighboring properties. We have also utilized frontage along the Black Canyon Canal to provide residents with access to open space near their homes.

Rezone

The proposed rezone will accommodate the second phase of the Cherry Heights Subdivision, which will propose single-family homes on 1-acre lots. We have designed the Cherry Heights Subdivision to be harmonious with and appropriate for the existing agricultural character of the area. Single-family homes on large 1-acre lots would not change the essential character of the area and will provide housing options to future residents seeking a rural lifestyle. Additionally, the



development is being designed to utilize frontage along the Black Canyon Canal as open space, providing residents with scenery and recreational opportunities that draws on the area's agricultural heritage.

We have conducted numerous studies prior to submitting this application to ensure that the Cherry Heights Subdivision will not be detrimental to the public, health, safety, or welfare of the community. At the neighborhood meeting held on October 25, 2022, neighbors expressed several concerns, including how growth in the area would impact traffic on Wills Road. A Traffic Impact Study (TIS) completed by CR Engineering, Inc. in June 2022 found that this development is anticipated to have minimal impacts on the existing transportation system. Neighbors also expressed concerns about whether the soil in the area is appropriate for septic systems. At this time, Atlas Technical Consultants, LLC is conducting a nutrient pathogen (NP) study to ensure that the soils, geologic conditions, and water resources in this area can accommodate the number of proposed septic systems. Another concern expressed by neighbors was how the number of new wells would affect the area's water supply. We are working with well companies familiar with this area to ensure that there is adequate supply to accommodate this development. If approved, this zone change will not negatively impact the delivery of public services in this area or impose additional costs upon current residents of Gem County. We are currently coordinating with the Gem County Fire District #1 to obtain a waiver for the proposed block length and road length within the development. Additionally, we are working with the Fire District to address any additional requirements for mitigation.

Conclusion

Cherry Heights No 2 is being designed to ensure consistency with Phase 1 and compatibility with adjacent land uses and anticipated development in the area. We have taken steps to mitigate the public's concerns with the initial rezone and the first phase, and these changes will be carried over into the second phase; all studies that have been conducted or are underway include both phases. Cherry Heights No 2 will provide quality and diverse housing options to residents of Gem County. Residents will enjoy proximity to a full-service community in Emmett as well as access to recreational opportunities across the County.

Should you have questions or require further information to process these applications, please feel free to contact me.

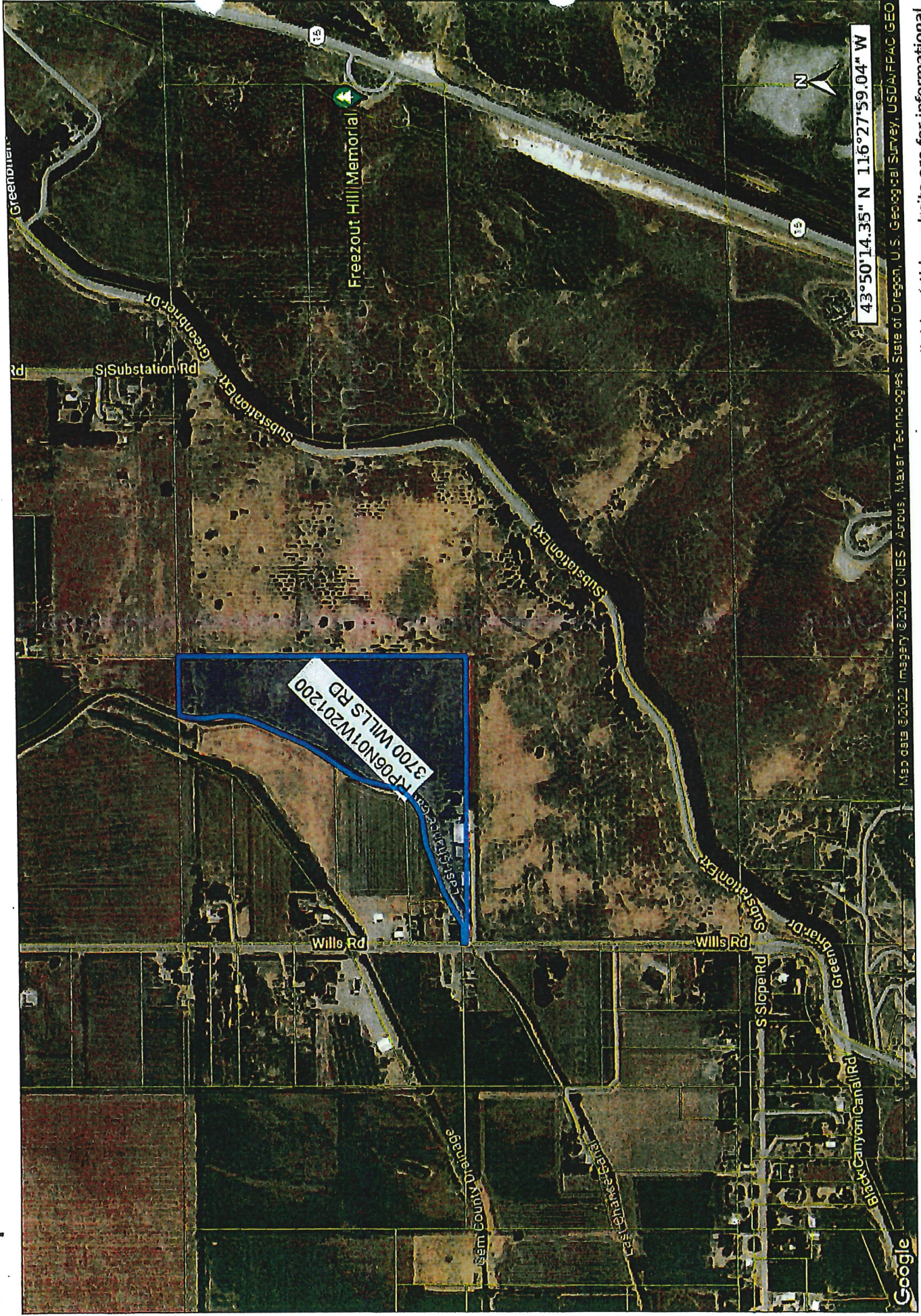
Sincerely,
KM Engineering, LLP



Cam Scott
Land Planner

cc: Hess Properties, LLC

Vicinity Map



Map data © 2022 Imagery © 2022 CNES / Airbus, Maxar Technologies, State of Oregon, U.S. Geological Survey, USDA/FAPAC GEO

Google



GEM COUNTY DEVELOPMENT SERVICES DEPARTMENT

109 S. MCKINLEY AVENUE EMMETT, IDAHO 83617

**OFFICE OF THE ADMINISTRATOR
PLANNING & ZONING**

PHONE: (208) 365-5144

WEB PAGE: GEMCOUNTY.ORG

STAFF REPORT

APPLICATION DESCRIPTION: REZONE (A-2 to R-2)

FILE NUMBER(s): RZ-22-014

PLANNING AND ZONING COMMISSION HEARING DATE: May 8, 2023, 6:00pm

PROPERTY OWNER: Cherry Heights Development, LLC
2775 W Navigator Dr Ste 110
Meridian, ID 83642

APPLICANT: HESS PROPERTIES, LLC

SITE LOCATION: 3700 WILLS ROAD

STAFF PLANNER: Jennifer Kharri

1. APPLICATION SUMMARY:

The applicant, Hess Properties, LLC, on property owned by Cherry Heights Development, LLC, is requesting a rezone of property located at 3700 Wills Road. The application proposes a change from A-2, Rural Transitional Agriculture (5-acre minimum lot size), to R-2, Residential Transitional (1-acre minimum lot size). The application states the reason for the request is use the property for residential purposes and would be phase two of the Cherry Heights Subdivision. (Subdividing the property is a separate application and must be preceded by a rezone.) The property proposed to be rezoned is 23.8 acres in size and lies fully within Priority Growth Area 1 of the County Residential Area, as designated on the Future Land Use Map in the Comprehensive Plan. There is an existing single-family dwelling and outbuildings on site.

2. APPLICATION & PROPERTY FACTS:

A. Site Address/Location:

The property is located 3700 Wills Road and is within Township 6N, Range 1W, Sections 20 & 21 (Tax Parcel #RP06N01W201200).

B. Current Owner(s): Cherry Heights Development, LLC

2775 W Navigator Dr Ste 110
Meridian, ID 83642

C. Applicant(s): Hess Properties, LLC

D. Present Zoning: A-2, Rural Transitional Agriculture (5-acre minimum)

E. Present Comprehensive Plan Designation: County Residential Area, Priority Growth Area #1

F. Property Size: 23.8 acres

3. APPLICATION PROCESS FACTS:

A. Application Submittal:

The application for this item was received and deemed complete by the Development Services Department on November 7, 2022.

B. Notice of Public Hearing:

Notice of Public Hearing on the application for the Gem County Planning and Zoning Commission was published in accordance with requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-15-5 on April 19, 2023. Notice of this public hearing was mailed to property owners within 300 feet of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Gem County Code 11-7-6 on April 7, 2023. The physical property was posted for the public hearing on April 10, 2023. Requests for all impact agencies' reviews were mailed on April 7, 2023.

Gem County Development Services received a reply letter from the following public impact agencies: Gem County Road and Bridge Department and ITD.

Public hearing notices were mailed to twenty two (22) parcels in the immediate vicinity. Five letters of opposition were received for the Commission public hearing.

C. Relevant Ordinances and Required Actions:

The subject application will in fact constitute a rezone as determined by Gem County Code. By reason of the provisions of the Gem County Code Title 11, Chapter 15, a public hearing is required before the Planning and Zoning Commission and the Board of County Commissioners on this matter.

D. History of Previous County Actions on Property: None.

E. Companion Applications: There are no companion applications to the Rezone. (Any future land divisions will require a subdivision plat application and any new buildings will require building permits.)

4. LAND USE

A. Existing Land Use(s): Single-family residential and irrigated pasture land.

B. Description of Character of Surrounding Area: The immediate vicinity includes a combination of active and inactive agricultural lands and single-family residential properties. The entire vicinity contains irrigated and/or irrigatable lands (Last Chance Ditch and Emmett Irrigation District). R-2 and R-3 zones are scattered throughout the A-2 zone.

C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	County Residential Area, Priority Growth Area #1	A-2, Rural Transitional Agriculture and R-3, Rural Residential	Irrigated pasture land; rural residential; Last Chance Ditch
South of site	County Residential Area, Priority Growth Area #1	R-2, Residential Transitional	Irrigated pasture land; proposed Cherry Heights Subdivision
East of site	County Residential Area, Priority Growth Area #1	R-2, Residential Transitional	Irrigated pasture land; proposed Cherry Heights Subdivision
West of site	County Residential Area, Priority Growth Area #1	R-2, Residential Transitional and R-3, Rural Residential	Irrigated pasture land; rural residential/ Last Chance Ditch

D. Physical Constraints and Opportunities:

1. Wastewater and Domestic Water:

- a. Water: The site currently has a domestic well. Under today's Zoning Ordinance, future lots in the proposed R-2 zone may install individual wells, subject to Idaho Department of Water Resources standards.
- b. Septic: The site currently has an individual septic system and drain field. Under today's Zoning Ordinance, future lots in the proposed R-2 zone may apply for individual septic systems, subject to approval by Southwest District Health.

2. Vegetation: Pasture, shrubs and trees

3. Floodplain: The parcel lies outside of any FEMA mapped Floodplain.

4. Canals/Ditches/Irrigation: The property is served by Emmett Irrigation District and the Last Chance Ditch runs along the northern and western property line.

E. Subdivision Plat Information: If the rezone is approved, the intention is for this to be phase 2 of the Cherry Heights Subdivision.

F. Streets and/or Access Information:

The site has approximately 40 feet of frontage on Wills Road. The Road & Bridge Department submitted comments regarding the increased traffic concerns for future development.

5. COMPREHENSIVE PLAN POLICIES & GOALS [Staff comments and analysis are shown in *italics*.]

Staff finds the following policies in the Joint Comprehensive Plan are applicable to this application:

The Comprehensive Plan Future Land Use Map identifies the subject property as **County Residential Area, Priority Growth Area 1**. The County Residential Area is set aside for

primarily residential development. The long-term vision for this planning area is to maintain the uniquely rural character and to preserve non-conforming uses. The Priority Growth Area 1 allows densities down to one (1) unit per one (1) acre, or as the Zoning and Subdivision Ordinances currently allow.

The proposed R-2 zone designation would allow a minimum one (1) acre lot size for primarily residential uses. As noted in Section 4, several properties in the immediate vicinity are already zoned for 1-acre and 2-acre minimum lots. The proposed R-2 zone complies with the purpose of the County Residential Area and Priority Growth Area 1 policies.

The following policies have been set forth in the Housing Chapter of the Joint Comprehensive Plan (Chapter 3) and generally support the application:

3.8 - Rural residential and small ranchette type development shall be encouraged in areas where it is compatible with existing agricultural and ranching development.

If approved, the rezone may allow one –acre lots or larger on the subject parcel if approved through the subdivision process. Rezoning may have the effect of “encouraging” development since it establishes a change to the minimum lot size. After receiving public testimony, the Commission and Board should determine if the proposed R-2 zone is compatible with the area.

The following policy has been set forth in the Natural Resources and Hazardous Areas chapter of the Joint Comprehensive Plan (Chapter 6) and generally supports the application:

6.8 - Ensure that new development includes Health District approved site utilities to protect the quality of water in the county.

If the rezone is approved and the applicant proceeds with a subdivision application, Southwest District Health will be notified and new development will need to comply with their standards.

The following policies have been set forth in the Land Use chapter of the Joint Comprehensive Plan (Chapter 12) for future growth and are found to be relevant to this application:

12.1 – Respect the responsibilities and rights of land ownership.

12.3 – Ensure due process of land development is clear and concise and avoid unnecessary delays for citizens and businesses.

The applicant/property owner met with Development Services staff to review the application process for both rezoning and subdividing.

12.7 – Support agriculture and business by buffering agriculture and business from incompatible land use encroachment.

There are existing small-scale agricultural uses in the vicinity of this parcel. The application does not explicitly address how adjacent agricultural uses would be buffered through this development.

6. ZONING ORDINANCE

- A. Purpose Statement of Zone: Gem County Code 11-4-4A lists the purpose of the R-2 zone as follows: "To provide lands for the development of single-family dwellings." The R-2 zone has a one (1) acre minimum lot size requirement.

The applicant's intent is to create a residential subdivision which would be a second phase to Cherry Heights Subdivision proposed to the south of this property. (If the rezone is approved, a Standard Subdivision application must be filed to subdivide the property). The requested zoning would support this type of development. The subject site is large enough for such development, therefore this criteria is met.

B. Permitted Uses:

The subject site is currently zoned A-2 (5-acre minimum) and allows the following types of uses, either outright or as a Special Use Permit:

Agriculture, kennel, mining, utilities, some manufacturing, limited trade, entertainment and recreation, aircraft transportation, government services, limited private services (e.g. auto repair, construction yards), group quarters, various housing/residential uses, including halfway houses and single-family residential.

The proposed R-2 zone allows the following uses, either outright or as a Special Use Permit:

Commercial food stand, utility buildings, convenience store, park and ride lot, botanical garden/arboretum, health club, libraries, government services, parks, schools, swimming pools, sports arena, hospitals/clinics, bed and breakfast, daycare facilities, group quarters, single-family residential, multifamily residential, and manufactured home parks.

With the exception of a health club and a hospital (only allowed through a Special Use Permit in the R-2 zone) and duplex/multi-family residential uses allowed outright, staff finds the land uses in an R-2 zone to be more restrictive than uses allowed in the current A-2 zone. This is largely due to the mining and entertainment land uses allowed in the A-2 which are prohibited in the R-2 zone.

7. REQUIRED FINDINGS & STAFF ANALYSIS [Staff comments and analysis are shown in *italics*.]

According to Title 11, Chapter 15, Section 4., "No map amendments (rezones) shall be recommended for approval by the Commission or granted by the Board of Commissioners unless the following findings are made by the Commission or Board":

1. The requested amendment complies with the Comprehensive Plan text and Future Land Use Map;

Based on the Comprehensive Plan analysis provided in Section 5 above, staff finds there are several policies which support an R-2 rezone for the property. In Staff's estimation, most of the Comprehensive Plan Future Land Use Map relevant policies do support the rezone application to R-2 since the parcel falls within the County Residential Area, Priority Growth Area 1.

2. The requested amendment is not materially detrimental to the public health, safety, or welfare;

Staff finds an R-2 zone would allow approximately nineteen (19) additional dwellings (after dedication of new roads) on the subject parcel beyond what is permitted today. The potential increased septic use may be viewed as detrimental to the health, safety, or welfare when located on one (1) acre minimum lot sizes, but has not yet been verified by SWDH. SWDH will require a subdivision engineering report (SER) to determine soil types and feasibility for the septic systems and drainfields and will require perc tests for all building permits. The Engineering Report, including well log research, was required of the applicant as part of the rezone and Development Agreement on the adjacent property (phase 1) which will include this property (proposed to be phase 2) as part of the SER to determine well and septic impacts.

At build-out of the entire project (as proposed), staff estimates traffic to be increased substantially to the surrounding streets. Wills Road is identified as a Local Road and will require a 30-foot right-of-way dedication at the time of development. Also impacted will be Old Freezeout Road. To help the County more accurately assess traffic impacts on the public streets in the area, a Traffic Impact Study was required of the applicant as part of the rezone and Development Agreement on the adjacent property (phase 1) which included this property (proposed to be phase 2) and was approved by the County Engineer.

3. The subject property meets the minimum dimensional standards of the proposed zoning district;

The minimum lot size in the proposed R-2 zone is one-acre. The subject area to be rezoned is currently 23.81 +/- acres in size. A right-of-way dedication for future widening of Wills Road and Substation Road will reduce the net, developable acreage of the property but it does not change the fact that the site still complies with the minimum size and setbacks of the R-2 zone. The subject site could be developed to comply with the minimum dimensions for an R-2 zone.

4. The uses allowed under the proposed zoning district would be harmonious with and appropriate for the existing or intended character of the general vicinity and that such uses would not change the essential character of the same area;

A list comparing the allowed uses, as listed in the GCC 11-5-5 Matrix Chart, in the proposed R-2 zone with the existing A-2 zone is shown in Section 6 of this report. More intense uses are allowed with or without a SUP in the current zone than in the proposed R-2 zone. There are a few special uses allowed in the R-2 zone that would not be harmonious with the existing rural residential character of Wills Road, such as convenience stores and a hospital, but since these require special approval from the County as well as neighbor notification, they are not found to change the essential character of the area in and of themselves. As such, staff finds the uses allowed in an R-2 zone are compatible with the intended character of the area. This is largely due to the mining and entertainment land uses allowed in the A-2 zone with a SUP which are prohibited in the R-2 zone. The specific uses are listed according to each zone as allowed outright, prohibited or allowed with a Special Use Permit.

5. The effects of the proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within Gem County's planning jurisdiction have been considered and no unmitigated adverse impacts upon those services will impose additional costs upon current residents of Gem County's planning jurisdiction.

The public service agencies/providers that responded to this rezone application were the Road and Bridge Department. Their comments show an adverse impact if this rezone application is approved.

The impacts of development of 23.8 +/- acres of R-2-zoned land into one-acre parcels could be expected to generate demands on public services beyond the current service demands.

If the applicant submits a subdivision request, all agencies/providers will review for compliance with their regulations at that time.

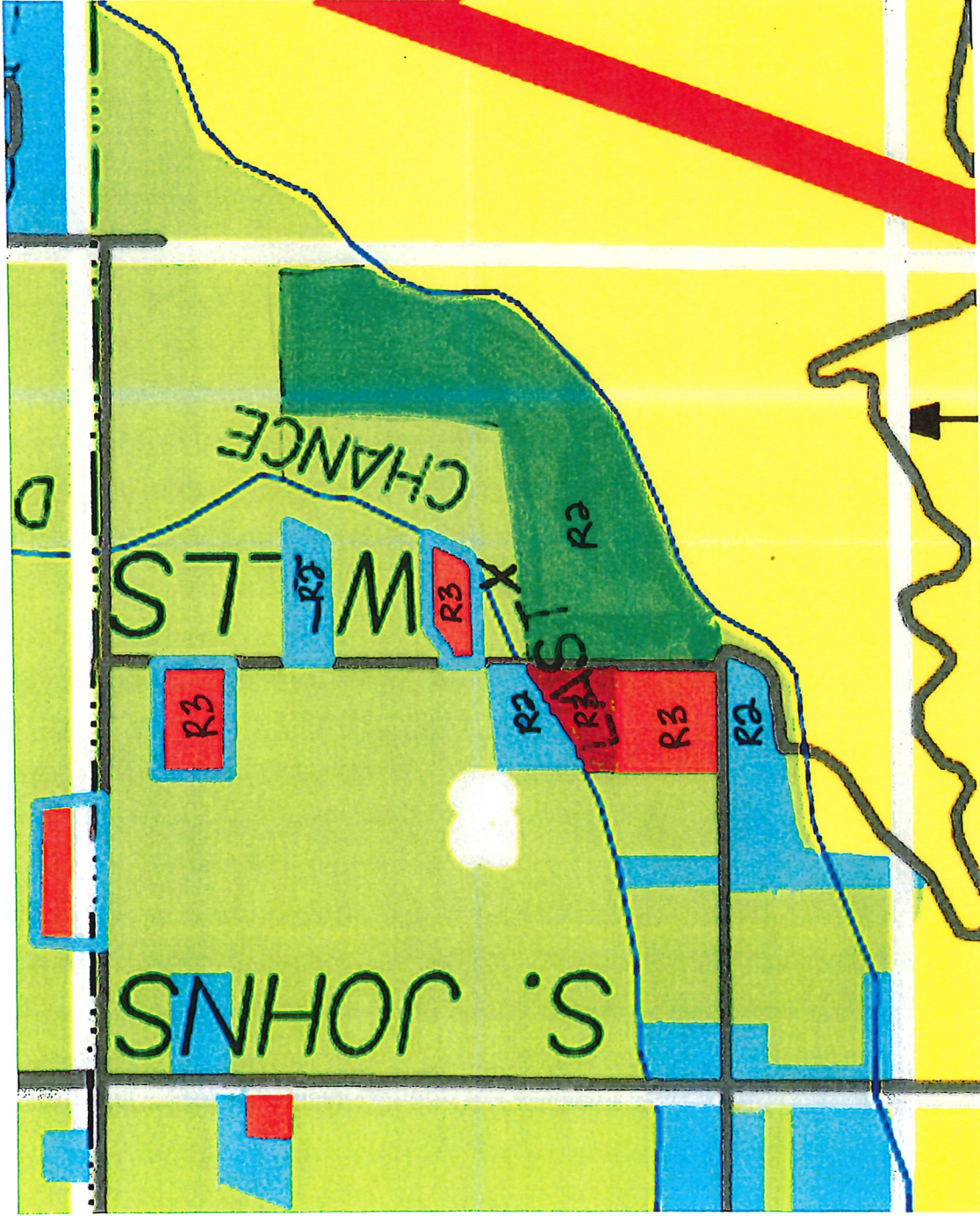
8. IMPACT AGENCIES NOTIFIED

Gem County Road Department
Gem County School District #221
Gem County Mapper
Idaho Department of Transportation
Gem Rural Fire District #1
Last Chance Ditch

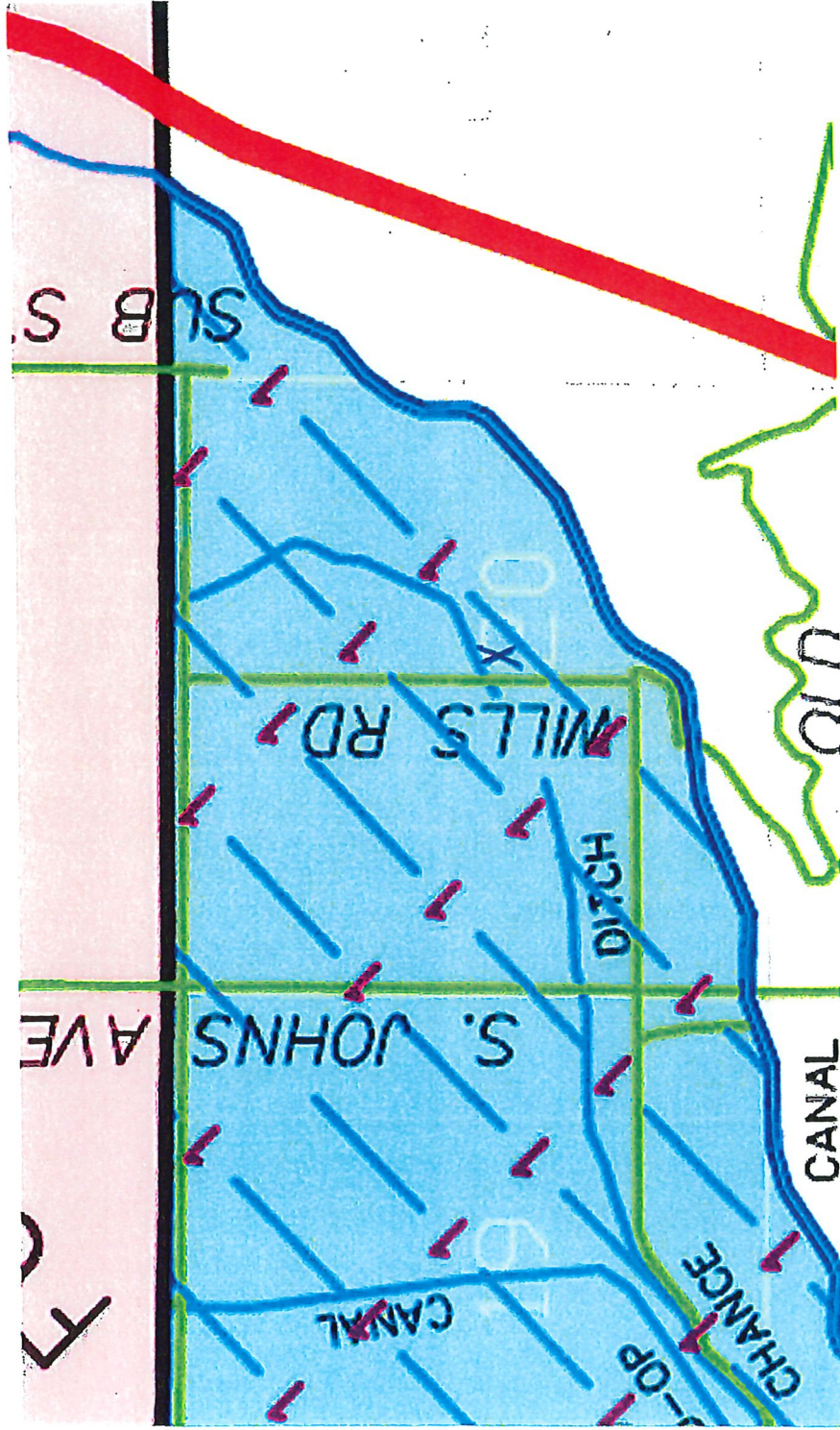
9. STAFF RECOMMENDATION

Staff finds that the proposed rezone application meets all of the required findings from the Zoning Ordinance listed in Section 7 of this report and conforms with the overall intent of the applicable Comprehensive Plan policies and Future Land Use Map. The R-2 zone appears to be appropriate for this location at this time. Based on the information presented to date and available to staff, we support this application. The Commission must rely upon any additional testimony provided during the public hearing when making its recommendation to the Board of County Commissioners.

ZONING MAP



FUTURE LAND USE MAP DESIGNATION



Theresa Schaad
2160 Cherry Lane,
Emmett, ID 83617

Gem County Planning and Zoning Commission

April 26, 2023

Dear Chairman and Board Members of Gem County Planning and Zoning Commission,

Thank you all for serving our community. I know you are very busy with many things on your agenda and its impossible to know every detail. I love this community; I love growth and people! I believe you have its best interests at heart in your decisions.

I'd like to address the Cherry Heights subdivision.

I hope you will give concern, study and answers in 3 areas:

Issue # 1. I request a county road and traffic study, beyond the developer, on the roads that will see increased traffic. Wills, are very narrow, almost shoulderless and in poor repair. Not TODAY, but if this subdivision is built, there will be MANY heavy equipment vehicles traveling as well as future daily increased traffic on those and entrance roads such as Cherry Lane, Substation Rd and S. Johns.

Forbes.com says Idaho and Wyoming tied for the highest rate of car ownership nationwide, with 96.2% of households in both states reporting access to at least one vehicle in 2021.

Car ownership rates by state from Motley website shows this for 2022 for Idaho:

State	Percentage of households with at least one vehicle	Average number of vehicles per household
Idaho	96.1%	3.0

These factual numbers will impact Emmet's roads far more than the developers "estimate"

Issue #2 is existing and future wells, protection for existing homeowners. The KM / developers state there is enough water for THEIR development but what about the existing homes with wells in the area with increased us and no more agriculture to replenish the ground water supply. What is YOUR plan to protect your citizen's existing wells in the area? Will the City or County dig new wells in a timely manner at NO further expense to homeowners in the area? Will the developer? Has there been any accurate water studies? How will you protect existing citizens?

Boise/Kuna have seen wells drying up due to rapid development and have a long waiting list and ridiculous expense for new wells needed for existing homeowners. Middleton as well has experienced this.

BOISE, Idaho (CBS2)(KBOI) — Some wells in Southwest Boise are drying up. It's not because of the hot dry summers, but **in part because of development in the Boise area.**

KTVB 7 quotes "The development and growth of the area have impacted the wells. "As more and more subdivisions go in, less and less farmland is there. With less farmland, the aquifer doesn't get replenished," said Nick Estes, a nearby resident who just had a well dug before the company left town.

The above problems WILL occur HERE. I am presuming you fully understand land facts and am eager to hear your plan to protect existing wells and land/homeowners.

Issue #3 is a request to do a land study, in terms of layers and ability of the land to absorb rain, runoff, water, septic, etc. that will affect the homes. Please keep the zoning at 5-acre parcels to help prevent future problems for existing residents.

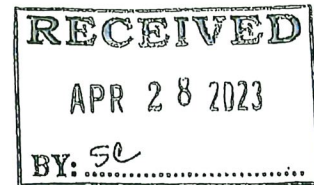
Thank you so much for your consideration to make growth compatible with existing residents! I will be part of the meeting via zoom to allow for others to fill the chairs.

☺

A handwritten signature in cursive script that reads "Theresa Schaad". The signature is fluid and elegant, with a long, sweeping underline.

Theresa Schaad

April 27, 2023



Gem County Planning and Zoning Commission

Re Wills Road development

Dear Commissioners,

We live at 2222 South Johns Avenue. We have serious concerns about the proposed development off Wills Road.

We are very concerned about water quality for the existing homes nearby and for this development if septic systems are installed at this density and with this topography. We are also very concerned about traffic affecting existing homes and this development. To add 37 or 60 homes to the traffic flow on Wills road and/or Substation, or the Canal Road, will be intense. The entrance near the southwest corner of the site near the complex intersection of Wills Road, the Canal Road and South Slope looks to create traffic congestion and accident risk. Currently there are approximately 70 homes accessing Substation directly. The increase by this development is remarkable and complicating for existing residents. If approved, this request sets a precedent and if the pattern continues it looks quite unmanageable. Who will pay to re-do this set of old roads?

The county has been through a long process preparing a new comprehensive plan. Hours and hours have been spent discerning what density and development approaches would benefit the county and protect existing neighbors. While the Cherry Heights application precedes the new comprehensive plan and may not be subject to it, your task as Planning and Zoning is to determine what is wise and appropriate. All the reasons why the new comprehensive plan chose a less dense zoning for the area including this parcel are still wise and appropriate for applications not governed strictly by the new plan. Please reject the application or ask them to revise it to meet the current comp plan which is a good plan going forward.

Sincerely,

Peter and Susan Dill

Susan Dill *Peter Dill*

Stephanie Crays

From: Deborah Weaver <dmfweaver@yahoo.com>
Sent: Thursday, April 27, 2023 12:54 PM
To: Stephanie Crays
Subject: Re: Development at 3700 Willis Road

I am writing to voice my opposition to the new development/rezone. This breaking up of large pieces of rural transitional agriculture ground needs to stop. The water table here will not support so many wells/septics in a relative small parcel. I have friends who have no water pressure on Star Lane and others in the Sand Hollow area who have had to drill new wells. We built a new house 2 years ago - drilled a new well and had to go down twice the depth of our old well (on the same property and are sucking up lots of sand (requiring expensive filters, etc.). Services such as law enforcement/EMS/road department are stressed to deal with the new developments that have already been put in.

Please reconsider leaving it 5 acres - even at that it's a lot of wells/septics. Our water is not unending.

Thank you,

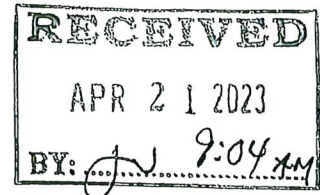
Deborah Weaver
4185 County Line Road
Emmett, ID. 83617

Gem County Development Services Department

109 S. McKinley Ave. Emmett Idaho 83617

Office of the Administrator

Planning and Zoning



Attention: Olivia Mocnik Associate Planner

Regarding: Cherry Heights application to rezone A2 to R2

To maintain the small-town character & rural feel, it is a mistake to rezone the foothills from A2(5 acre) to R2(1 acre). The proposed subdivision, Cherry Heights, will spread urbanization into the rural county lands ultimately decreasing values of existing properties.

Other concerns include the 37 lots will put a stress on the aquafer, the septic systems will be leaching into the ground effecting ground water for existing properties, increased traffic on Wills Road. and S. Substation Road will affect the rural perception existing in the county today.

Community designing and planning needs to recognize the special qualities of Emmett that you can see when driving down the Freeze-Out Hill on Highway 16. From the Memorial Site, the Cherry Height Subdivision would not fit into the overall feel of our valley.

Sincerely, Donna Martin

2615 S. Substation Road (208-963-2995)

Stephanie Crays

From: Robbie Roberts <robnkitti@gmail.com>
Sent: Monday, April 17, 2023 4:27 PM
To: Stephanie Crays
Cc: Robbie Roberts; tyler@hesspropertiesidaho.com; lane@beaconidaho.com
Subject: Cherry Heights Application

Hi Stephanie,

Robbie Roberts, former Economic Developer for the City of Emmett here. I am writing in response to the Cherry Heights application and have serious concerns about the developer's responses relative to the availability of well water for the properties within this application.

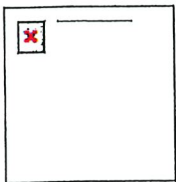
I've reviewed both of the packet's documents and the developer has not answered whether a recognized expert believes there is sufficient groundwater to prevent loss of well water availability to existing properties near the development. Sorry, but asking local well companies to verify that there is sufficient water availability is a conflict of interest as these companies benefit from drilling new wells. An Idaho state-recognized authority needs to verify that sufficient water capacity exists that will provide sufficient water for the development and not harm existing water capacity for existing properties adjacent to the development.

The Water Rights Statement contains language that is unfamiliar to me; however, it appears that this is limited to water taken from the adjacent Black Canyon canal for landscaping purposes.

Until an Idaho state-recognized authority determines that there is sufficient well water capacity to accommodate the new development without negatively affecting the well water capacity of existing properties adjacent to the development, I would ask Planning & Zoning to reject the application until such guarantees can be verified.

Many thanks for the efforts of the Planning & Zoning Commission and the work by the Gem County Development Services department as Gem County is seeing new growth!

All the best...



Robbie Roberts

(208) 631-1530 | robnkitti@gmail.com

"All we have to decide is what to do with the time that is given us."

Gem County
Road & Bridge Dept.
402 N. Hayes Ave.
Emmett, ID 83617



Neal Capps, Director
Phone: 208-365-3305
Fax: 208-365-2530
Email: gcrb@co.gem.id.us

April 27, 2023

Jennifer Kharri
Development Services
109 S. McKinley Ave.
Emmett, ID 83617

RE: Cherry Heights Rezone (Hess Properties LLC)

Dear Jennifer,

Gem County Road & Bridge Department (GCRB) has reviewed the Rezone Application of Hess Properties LLC, a proposed 38 lot subdivision located at 3700 Wills Road. Please see attached letter (Exhibit A).

If you have any questions, please contact me at 208-365-3305.

Thank you,

A handwritten signature in blue ink, appearing to read "Neal Capps", written over a horizontal line.

Neal Capps, Director
Gem County Road & Bridge

Gem County
Road & Bridge Dept.
402 N. Hayes Ave.
Emmett, ID 83617



Neal Capps, Director
Phone: 208-365-3305
Fax: 208-365-2530
Email: gcrb@co.gem.id.us

April 27, 2023

Jennifer Kharri
Development Services
109 S. McKinley Ave.
Emmett, ID 83617

RE: Cherry Heights Standard Subdivision (Hess Properties LLC)

Dear Jennifer,

Gem County Road & Bridge Department (GCRB) has reviewed the Subdivision Application of Hess Properties LLC, a proposed 38 lot subdivision located adjacent to Wills Road. The subdivision in question has proposed two access points, one located on Wills Road and the second located on South Substation Road. During the Rezone process this subdivision had a Development Agreement (DA) with several conditions needing to be completed prior to submitting for a Preliminary Plat. One of these DA conditions were to perform a Traffic Impact Study (TIS). The applicant hired CR Engineering Inc. for this task. The study area was Sales Yard Road, Wills Road, South Slope Road, and Substation Road. The TIS illustrated hours of peak traffic flow and geometry of the subdivision traffic flows. The TIS did not address the road conditions of Wills Road.

Wills Road is a narrow local roadway under the Gem County Functional Class Map. This roadway was constructed of asphalt to a width of 17 feet. The asphalt on this roadway is in poor condition, it has transverse, longitudinal, and alligator cracking. Additional traffic generated from said subdivision will cause added stress to this roadway. GCRB has evaluated the roadway structure of Wills Road and has calculated the approximate cost to rebuild and widen this roadway. The cost to widen Wills Road would be approximately \$726,385.00, for the road reconstruction. See (Exhibit A).

Gem County has adopted Impact Fees in the fall of 2022, these fees were added to the build permit at the time of construction. With the proposed 37 Lots, the impact fees would be approximately \$270,000.00. This impact fee money would go to projects listed on Gem County capital improvement program. Wills Road is currently not listed.

GCRB recommends the following conditions be added to the subdivision if approved.

1. Applicant shall apply for a driveway approach permit with GCRB.
2. Applicant shall provide mitigation measures to reconstruct Wills Road.
3. Applicant shall construct, and pave all roadways within the subdivision to Gem County Road & Bridge 2007 Highway and Street Standards for Design and Construction ordinance. Table 4 page 14 See (Exhibit B)
4. Applicant shall provide GCRB the material proctors for construction of the roadways.

EXHIBIT A

Gem Coun
Road & Bridge Dept.
402 N. Hayes Ave.
Emmett, ID 83617



Neal Capps, Director
Phone: 208-365-3305
Fax: 208-365-2530
Email: gcrb@co.gem.id.us

5. Applicant shall provide GCRB with compaction test results for all road materials, subbase, pit run, road mix and asphalt. The compaction tests shall be a minimum of 92%.
6. Applicant shall hire an experienced paving contractor with a Public Works licensed in the State of Idaho that can perform this type of construction.
7. Approach, and roadways shall meet Gem County standards upon completion

If you have any questions, please contact me at 208-365-3305.

Thank you,

A handwritten signature in black ink, appearing to read "Neal Capps", is written over a horizontal line.

Neal Capps, Director
Gem County Road & Bridge

Gem Coun
Road & Bridge Dept.
402 N. Hayes Ave.
Emmett, ID 83617



Neal Capps, Director
Phone: 208-365-3305
Fax: 208-365-2530
Email: gcrb@co.gem.id.us

Fabric – 30 rolls \$860.00 per roll -	\$11,466.00
Pit Run – approximate 7,600 tons at \$16.00 per ton -	\$121,600.00
Road Mix – approximate 2,500 tons at \$28.00 per ton -	\$70,000.00
Asphalt – approximate 2,450 tons at \$105.00 per ton -	\$257,250.00
Excavation – approximate 13,000 square yard -	\$80,000.00
Drainage/Box Culvert -	\$120,000.00
10% Overage -	\$66,035.00
Total -	\$726,385.00

TABLE 4

CLASS OF ROADS	SUBBASE OR BALLAST	BASE COURSE	PLANT MIX PAVEMENT	PAVEMENT WIDTH	RIGHT OF WAY WIDTH (FT)
LOCAL ROADS	12"	4"	3"	24'	60'
MINOR COLLECTOR	16"	4"	3"	30'	80'
MAJOR COLLECTOR	18"	4"	4"	36'	100'
MINOR ARTERIAL	24"	4"	4"	36'	100'

ROAD STRUCTURE SECTIONS MAY VARY FOR POOR SOIL CONDITIONS. CHANGES TO THESE SECTION REQUIREMENTS WILL BE BASED ON A GEOTECHNICAL REPORT PREPARED BY A REGISTERED PROFESSIONAL ENGINEER OR GEOLOGIST.

GEM COUNTY ROAD STRUCTURE SCHEDULE

Stephanie Crays

From: Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>
Sent: Thursday, April 13, 2023 12:34 PM
To: Stephanie Crays
Subject: RE: Rezone 3700 Wills Rd

Good Afternoon, Stephanie -

After careful review of the transmittal submitted to ITD on April 13, 2023 regarding Rezone 3700 Wills Rd, the Department has no comments or concerns to make at this time. We anticipate that a development at that location will have little direct impact onto SH-16.

Please let me know if you have any questions or concerns.

Thank you!



Niki Benyakhlef
Development Services Coordinator

District 3 Development Services
O: 208.334.8337 | C: 208.296.9750
Email: niki.benyakhlef@itd.idaho.gov
Website: itd.idaho.gov

From: Stephanie Crays <scrays@co.gem.id.us>
Sent: Thursday, April 13, 2023 8:56 AM
To: Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>
Subject: RE: Rezone 3700 Wills Rd

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Good Morning, Niki

I know right, but yes this is the REZONE they are submitting two different applications one is the Rezone and the other is the Subdivision PP, Now that we have a New Associate Planner hired Olivia Mochik. I will most likely not be sending you any Minor Sub, or Subdivision PPs anymore. Mine will be Rezones and SUPs Lucky you. You have 2 of us now LOL. Hope this helps. Olivia did say you already emailed her for hers, now I just need my letter sorry....

Happy Thursday!!!!

Be Blessed

LAST CHANCE DITCH COMPANY

PO BOX 428 / 118 N Commercial Ave
Emmett ID 83617

President: Ron Kay
Treasurer: Karen Fraley
Secretary: Valerie Padgett
Director: Ken Williamson
Director: Blake Hasbrouck

Phone: (208) 365-1902
Fax: (208) 365-1903
Email: lastchanceditch@gmail.com



April 27, 2023

GEM COUNTY DEVELOPMENT SERVICES
ATTN: OLIVIA MOCNIK, DEVELOPMENT SERVICES COORDINATOR
109 S MCKINLEY AVE
EMMETT ID 83617

Re: FILE # 99-22-014_ CHERRY HEIGHTS DEVELOPMENT

To Whom It May Concern:

Upon review of the proposed rezone, Last Chance Ditch has no objections to the application but will require the following conditions be met:

- 6ft Chain link fence must be place along canal side 20' from top of canal
- There is to be no Storm Water or Irrigation water allowed in the Last Chance Canal.
- No structures, trees/vegetation, or other interferences within 20' of any irrigation drains and water delivery laterals to allow for ditch right of way for management and maintenance matters.

Additional questions should be directed to me at 208-890-7331 or via email to lastchanceditch@gmail.com.

Respectfully,

Doyle Fackler,
Ditch Manager

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of June 2023, I served a true and correct copy of the foregoing upon:

PROPERTY OWNER LIST WITHIN 300 FEET

Cherry Heights #2
T06N, R01W, Section 20

Sands Orchards Inc
2950 E. 12th St.
Emmett, ID 83617

Danny Nebeker
4156 Old Freezeout Rd
Emmett, Id 83617

Dean Wilkinson
4080 Old Freezeout Rd
Emmett, ID 83617

Patrick Palmer
3979 Wills Rd
Emmett, Id 83617

Garcia Combs
3957 Wills Rd
Emmett, Id 83617

Paul Derig
1518 E. South Slope Rd
Emmett, ID 83617

Wayne Andrews
3680 Wills Rd
Emmett, ID 83617

Paul Long
3787 Wills Rd
Emmett, Id 83617

D6 Trust
3623 Wills Rd
Emmett, ID 83617

Toni Jo Bucciero
3624 Wills Rd
Emmett, ID 83617

Donald Wyatt
3540 Wills Rd
Emmett, ID 83617

Cherry Heights Development LLC
2775 W Navigator Dr Ste 110
Meridian, ID 83642

Carl Moyer
3414 Wills Rd
Emmett, ID 83617

Edward Illingworth
3411 S Substation Rd
Emmett, ID 83617

Ken Williamson
3010 Wills Rd
Emmett, ID 83617

Stella Hembree
11074 W Edge Hill Dr
Boise, Id 83709

David Smith
3710 S. Substation Rd
Emmett, Id 83617

Steven Burak
1495 E. Sales Yard Rd
Emmett, Id 83617

Johnnie Edmunson
1806 Highway 16
Emmett, Id 83617


BLM Bureau of Land Management
1387 S. Vinnell Way

Emmett, Id 83617

Vance Beckner
3645 Butte Rd
Emmett, Id 83617

Craig Woods
987 E. South Slope Rd
Emmett, ID 83617

By depositing a copy thereof in the United States mail, with first class postage prepaid.

A handwritten signature in dark ink, appearing to read 'Stephanie Crays', written over a horizontal line.

Stephanie Crays
Development Services Coordinator

SUMMARY MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
May 8, 2023

Page #1

NOTE: AN AUDIO RECORDING OF THE FULL PROCEEDINGS IS AVAILABLE THROUGH THE DEVELOPMENT SERVICES DEPARTMENT. THE EXHIBITS LISTED HEREIN CAN BE FOUND IN THE RESPECTIVE FILES AT DEVELOPMENT SERVICES DEPARTMENT.

MEMBERS PRESENT: Dan Eichelberger, Debra Jones, Justin Vickery.
Members Absent: Stacy Heimlich.

OTHERS PRESENT: Planning Director – Jennifer Kharri, Development Services Coordinator – (Moderator) Stephanie Crays, Director Road and Bridge-Neal Capps.

6:15 P.M.

REGULAR MEETING

1. **CALL TO ORDER:** Chairman **Eichelberger** opened the public meeting at 6:15 PM., held in the Commissioner Chambers and via Zoom.
2. **ROLL CALL:** Dan Eichelberger- present, Debra Jones – present, Justin Vickery– present. Stacy Heimlich absent.
3. **REVIEW AGENDA:** Commission reviewed the agenda as written.
4. **APPROVAL OF MINUTES of April 10 and May 8, 2023 –not ready.**

PUBLIC HEARING – ACTION ITEMS

ACTION ITEM # 1

A REZONE REQUEST BY HESS PROPERTIES TO REZONE 23.81 +/- ACRES FROM A2 RURAL TRANSITIONAL AGRICULTURE (5 ACRE MINIMUM) to R2 RESIDENTIAL TRANSITIONAL (1 ACRE MINIMUM) AT 3700 WILLS ROAD.

Director Kharri- Cherry Heights Development, LLC, is requesting a rezone of property located at 3700 Wills Road. The application proposes a change from A-2, Rural Transitional Agriculture (5-acre minimum lot size), to R-2, Residential Transitional (1-acre minimum lot size). The application states the reason for the request is to use the property for residential purposes and would be phase two of the Cherry Heights Subdivision. The property proposed to be rezoned is 23.8 acres in size.

SUMMARY MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
May 8, 2023

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Applicant:

Stephanie Hopkins-KM Engineering 5725 N. Discovery way, Boise, ID. She presented a PowerPoint. They have a rezone on #1 that got approved. They want to rezone this to an R-2 1 acre minimum lot size. They have been working on this plan since 2021. They believe this supports the policies. This is close to city limits but still rural. They are in agreement with most everyone. They are trying to work through all the details. The traffic study was accepted. They are trying to respond to all letters and just hadn't gotten through all of them.

Favor:

Lane Ranstrom-6188 E. Path Dr. Nampa, ID. He is part of the ownership group. They just wanted to let the people know they are from Idaho, and they are Idaho natives, they understand growth is not wanted, but wanted everyone to know they will be using local builders. That they want this to be a good project. The type of homes will be nice homes.

Spencer Kofoed-8454 Brookhaven Place, Boise, ID. They have built some homes on South Slope. They are local home builders. They build very nice homes and they are from around here.

Neutral:

Cathy Ballard-3540 Wills Road, Emmett, ID. She doesn't want to hurt anyone, its okay if they build, but is concerned with water and road.

Opposed:

Kayla Jacobsen-999 E. Sales Yard Road, Emmett, ID. She talked about the acreage, the water wells and there should be a study done. This is going to pull so much water from irrigation. She wants it to stay 5 acres, they would not like to have 56 homes. She says it's very concerning about the septic, and the traffic that will be put in this area, and a concern that they will be building above them and what if their water and septic leak down to them, then what happens, she is very concerned.

Betty Williamson-3010 Wills Road, Emmett, ID. She has lived here for over 40 years, and has concerns. The property is on sand, she has concerns that homes will be falling apart because they build on sand. Her concerns are water, traffic, septic, well. She is concerned that they don't have enough EMS, Fire, police to protect them in the county. She does not want to live in a city, she

SUMMARY MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
May 8, 2023

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wants her zone to stay 5 acre, that's why the Commissioners zoned it that way, why are we changing it to 1 acre?

Ken Williamson-3010 Wills Road Emmett, ID. He is very opposed to this changing of zones, he doesn't understand why they are changing it to 1 acre lots. He has a big concern of water. The run off of Last Chance is a huge concern of his. Roads will have to be replaced when the run off comes down. Concerned about the spray that was done years ago that seeped into the ground. He has concerns about Wills Road, it's not wide enough. Concerns about septic going into Last Chance ditch.

Steven Weston-333 Wills Road, Emmett, ID. He has concerns about the wildlife that is up on Sales Yard, Substation, and the Black Canyon Canal when the subdivision is built, where these animals will go. Back in the day there was hazardous sprays that were sprayed that have gone into the ground and they had the water tested and for now it's clean and when this gets stirred up it's going to run down to their ground water.

Michael Bowling-4460 Old freeze Out Road, Emmett, ID. He came here to live in the country. Wills Road needs to be widened and people just speed down that road. He has concerns about traffic on all these roads. There is so much traffic, how can it be avoided? We need to preserve this area. There is a lot of things they need to look at and who is going to pay for this.

Wayne Andrews-3680 Wills Road, Emmett, ID. He has concerns about traffic, he moved to live in the country, he is worried about his well and septic system.

Katrina Andrews-3680 Wills Road, Emmett, ID. She was told it would be 5 acre lots, now it's gone to 1 acre why? The road is not big enough, trucks and cars cannot pass each other the road is not wide enough this is a safety issue. The water is a huge issue here, they really need to look at the big problem here.

Debbie Kimball-759 E. Sales Yard Road, Emmett, ID. She has concerns about the water wells. Concerns about the soil. The road study impact on Wills Road she would like to see study. She loves where she lives and really wants everyone to address these concerns.

Adrienne Illingworth-3411 S. Substation Emmett, ID. (online) She has concerns about the irrigation and that Emmett Irrigation has not gotten anything. Wills Road is going to be a big problem cars cannot pass with a big truck coming the other way this is a big safety problem. Concerns with EMS, Police being able to come when you have more of an area to cover with this many homes coming into the area.

Laura Cloherty-4452 Old Freezeout Road, Emmett, ID. (online) Concerns of what everyone else has said, about the water, septic and traffic. They should be on city water.

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Nadine Burak-1495 E. sales Yard Road, Emmett, ID (online) She is against the rezone for all the stated reasons.

Lou Darosa-2511 Fox Fire Lane Emmett, ID. He is concerned with the traffic, Wills Road is not big enough to handle all this traffic. He has concerns of why they have to build a subdivision. He has concerns about his well.

John Cloherty-4452 Old Freezeout Rd, Emmett, ID. (online) He is concerned about traffic and this is a huge safety issue. There is so many cars on the roads and they go so fast.

Gary Bacon-2670 S. Substation Road, Emmett, ID. How did we get here? The rezone is 5 acre lots and now we are talking 1 acre lots.

Peter Dill-2222 S. Johns, Emmett, ID. The county has been working on the Comprehensive Plan. Please be thinking about how this affects all. We need sound evidence on water studies. He has concerns about the traffic and the roads. He also has concerns of the intersections being used.

Dale Crank-2650 S. Substation Road, Emmett, ID. He wanted to go on record that he agrees with everyone here.

Ron Carr-2731 Orchard Lane, Emmett, ID. He has concerns about the traffic and water.

Applicant Rebuttal:

Stephanie Hopkins-5725 N. Discovery Way, Boise, ID. This property is compatible to the Comprehensive Plan. She is going to turn it over to Joe Pachner.

Joe Pachner-5725 N. Discovery Way, Boise, ID. The Geotech has begun its work. This will have to be inspected by the Southwest District Health. They understand that the water is a big concern. They have been in touch with the irrigation district. There will be a lot more meetings with the Road and Bridge Department. He talked about the soil and they are having test done.

Neal Capps-Road and Bridge Director, The road structure was brought up. The impact of Substation was brought up, they will continue their study. There is a lot to consider and look at.

Jennifer Kharri- Planning Director. Under todays code R2 zone allows for induvial wells and septic's so with that recommendation from the Department of water resources, until the Gem County Code is amended as a requirement it's not something we can require, we can suggest, and we can recommend.

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Commissioner **Jones** asked the question is there a buffer between the agricultural and the subdivision. She had a 2nd question the Wills Road was not addressed was it? She says they rely on Neal Capps a great deal.

Stephanie Hopkins-They will do and work with Neal on the Wills Road concerns, they will have a great amount of work to do with Road and Bridge.

Commissioner **Vickery** has concerns about Wills Road also.

Chairman **Eichelberger** closed public comments 8:14pm

Commission Discussion

Chairman Eichelberger read through the five required findings. This application complies with the 2007 Comprehensive Plan. Road and Bridge was talked about of Wills Road of the letter they received. Commissioner **Vickery** concern is the additional traffic on Wills Road and that it was not addressed. Commissioner **Jones** concern also with traffic on Wills Road.

Commissioner **Vickery** moved that they recommend for denial based on findings number five and a concern that the proposed rezone will have additional cost upon the current residents of Gem County planning jurisdiction specific to Wills Road.

Commissioner **Jones** seconded the motion.

Vote: Unanimous

ACTION ITEM #2

PRELIMINARY SUBDIVISION PLAT (CHERRY HEIGHTS) APPLICATION BY HESS PROPERTIES TO REQUEST APPROVAL OF 37 BUILDABLE LOTS ON APPROXIMATELY 68.9+/- ACRES LOCATED ON WILLS ROAD.

Director Kharri-Cherry Heights Development, LLC, has applied for a Standard Subdivision Permit Application to construct a single family residential development on approximately 68 acres located on Wills Road. The property is bare. The property is zoned R-2, Residential Transitional.

Applicant:

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Stephanie Hopkins-5725 N. Discovery Way, Boise, ID. They did a fair amount of work to make sure that all requirements were met. They designed the lots accordingly. They have been working with the irrigation and Road and Bridge. Proposing 38 lots, 37 buildable lot size is just over an acre. They will have a public road going through. There will be two access roads. There will be a pressurized irrigation system. They will work with the irrigation on the fencing.

Favor:

Spencer Koford-8454 Brookhaven Place, Boise, ID. He recently went to a presentation about wells in Canyon County and was saying how great it was. There is a lot of science to this.

Lane Ranstrom-6188 E. Path Dr. Nampa, ID. They are seeking information from the irrigation from the canal.

Neutral: None

Opposed:

Kayla Jacobsen-999 E. Sales Yard Rd Emmett, ID. She has concerns about the pressurized irrigation from Black Canyon. She has concerns about the septic system and giving them a choice. She has concerns about undeveloped roads.

Steven Weston-3333 Wills Road, Emmett, ID. He has concerns of the water study and has one been done. Concerns of the studies from Southwest District Health and wants to know about the results.

Ken Williamson-3010 Wills Road, Emmett, ID. Everything he said in the first meeting goes for this one. He also has concerns for the water.

Katrina Andrews-3680 Wills Road, Emmett, ID. The concerns they have is the water and what's going to happen with run off.

Wayne Andrews-3680 Wills Road, Emmett, ID. The concerns is the water from the irrigation from the run off. Also concerns are of the traffic. Everything he said before he stands by again on this one.

Michael Boling- 4460 Old Freeze Road, Emmett, ID. He has concerns about the canal.

Debbie Kimball-759 E. Sales Yard, Emmett, ID. She brought up about the two access onto Wills Road and that has not been brought up before. She also stated that everything that she said the first time goes for this one also.

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Adrienne Illingworth-3411 S. Substation, Emmett, ID (online). She is concerned about a gate going up.

Peter Dill-2222 S. Johns, Emmett, ID (online). His concerns are for more competent studies.

Applicant Rebuttal:

Joe Pachner-5725 N. Discovery Way, Boise, ID. They do not have a NPT study. They have not done a soil study, chemistry breakdown. The water rights issue is by the irrigation district not them. They have some work to do with Road and Bridge.

Chairman **Eichelberger** closed public hearing 9:24pm

Commission Discussion

Chairman **Eichelberger** read through the nine findings. Commission **Vickery** mentioned Wills Road being in poor condition stated by Keller Associates and wanted that noted. Chairman **Eichelberger** brought up soil condition.

Chairman **Eichelberger** made motion to recommend approval with the existing conditions of approval and adding a condition of a contaminate study from Southwest District Health that includes addressing concerns about potential contaminants in the soil from the orchard use and also adding that the road mitigation follows the recommendation of the letter from Road and Bridge.

Commissioner **Vickery** seconded the motion.

Vote: Unanimous

REGULAR MEETING

1. **ITEMS FROM THE PUBLIC:** none
2. **FROM THE PLANNING DIRECTOR/ADMINISTRATOR:** Director **Kharri**- The Board of County Commission and the City of Emmett will meet to sign the Area of City Impact Agreement then, the Board will sign the Comprehensive Plan.
3. **ITEMS FROM THE ZONING COMMISSION:** none
4. **ITEMS FROM /OR QUESTIONS FOR THE DEPUTY PROSECUTING ATTORNEY:** none

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5. UPCOMING MEETINGS: June 12, 2023 at 6:00pm

ADJOURN: Commissioner **Vickery** made a motion to adjourn
Commissioner **Jones** seconded the motion.
Vote: Unanimous.

Chairman Eichelberger

A handwritten signature in black ink, appearing to read "Don Eichelberger", is written over a horizontal line.