

NOTICE OF PUBLIC HEARING

THE GEM COUNTY BOARD OF COMMISSIONERS WILL HOLD A PUBLIC HEARING ON **MONDAY, NOVEMBER 27, 2023, AT 1:30 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 RICK MARSTON TO REZONE 38.85+/- ACRES FROM AI PRIME AGRICULTURE (40 ACRE MINIMUM) TO A2 RURAL TRANSITIONAL AGRICULTURE (5 ACRE MINIMUM) AT 2601 EAST BLACK CANYON HIGHWAY, T 07N, R 01W, SECTION 28. RP07N01W287350 AND RP07N01W287200. THE PLANNING AND ZONING COMMISSION RECOMMENDED APPROVAL WITH A DEVELOPMENT AGREEMENT.

THE APPLICATION AND LEGAL DESCRIPTION IS 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, NOVEMBER 20, 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 NOVEMBER 8, 2023

Jennifer Kharri
Planning Director

To Join the BOCC Hearing Marston Rezone (1:30 pm 11/27/23) use the following link information:

Join Zoom Meeting **by computer/tablet/smartphone:**

- Go to: <https://zoom.us>
- Click: "JOIN A MEETING"
- Enter the following information:

Meeting ID: 822 0743 9914
Passcode: 389329

Or follow this link:

<https://us06web.zoom.us/j/82207439914?pwd=bw12njUYZx59aOUM26NDgH29odz6vm.1>

Join Zoom Meeting **by phone:**

Dial by your location

+1 346 248 7799 US (Houston)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Washington DC)
833 548 0282 US Toll-free
877 853 5257 US Toll-free
888 475 4499 US Toll-free
833 548 0276 US Toll-free

Meeting ID: 822 0743 9914
Passcode: 389329

Tips for joining the meeting:

- If you join by phone: Dial the number, enter the meeting id then #, # for the next question, passcode then #
- You will be muted upon entry to the meeting. To unmute when asked to, press *6.



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-23-004

Applicant Name: Rick and Melissa Marston

Date of Planning and Zoning Commission Public Hearing(s): October 10, 2023

Date of Board Public Hearing: November 27, 2023, 1:30 PM

Summary of Public Oral Testimony:

- In Favor: Melissa Marston (applicant)
- Opposed: None
- Neutral: None

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.

Planning and Zoning Commission Recommendation: Recommended approval with a Development Agreement to limit the number of parcels to be created with a minor subdivision. (Unanimous)

Planning and Zoning Reason(s) and Findings for Recommendation: Recommended approval based on the 5 required findings from Gem County Code 11-15 being met. The Commission wanted to ensure that the applicant's intent is being met by recommending a Development Agreement to limit the number of parcels to be created. See the attached recommendation. For further analysis see the Staff Report.

Commission Changes to Staff Recommendation: Recommended approval with a Development Agreement to limit the number of parcels that can be created to a total of 3.

Outstanding Issues for Board of County Commissioner Meeting: None



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-23-004)
For Rick and Melissa Marston)
from A-1, Prime Agriculture)
to A-2, Rural Transitional Agriculture)**

**RECOMMENDATION TO BOARD
OF COUNTY COMMISSIONERS**

I.

RECOMMENDATION

The property owner, Rick and Melissa Marston, sought approval to rezone their property (see **Exhibit A**) from A-1 Prime Agriculture (40-acre minimum) to A-2 Rural Transitional Agriculture (5-acre minimum). The property proposed to be rezoned is 38.84+/- acres in size (comprised of 2 parcels), and lies fully within the Priority Growth Area 3 of the County Residential Area, as designated on the 2007 Future Land Use Map in the Comprehensive Plan. The property is located at 2601 E Black Canyon Highway and identified in Township 7 North, Range 1 West, Section 28, of the Boise Meridian, Gem County Idaho and Gem County Assessor's records as RP07N01W287350 and #RP07N01W287200.

The matter came before the Gem County Planning and Zoning Commission (hereafter referenced as Commission) on the 10th day of October 2023, for the purpose of hearing the Rezone

Application submitted by the applicant. Staff submitted a staff report for Commission consideration. The applicant testified in favor and there was no public testimony given.

Pursuant to section 11-15-4 of the Gem County Code, the Commission found 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 approval of the application.

A motion was made by Commissioner Vickery to recommend to the Board of County Commissioners approval of the rezone with a Development Agreement. 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

Chairman Eichelberger (If applicable in case of tie vote)

CERTIFICATE OF SERVICE

I hereby certify that on this 17 day of November, 2023, I served a true and correct copy of the foregoing RECOMMENDATION upon

NAME

Rick Marston

ADDRESS

2601 E. Black Canyon
Emt, Id 83617

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

Stephanie Cray

Stephanie Crays, Development Services Coordinator

EXHIBIT A

**LEGAL DESCRIPTION
MARSTON RZ #23-004**

Township 7 North, Range 1 West, B.M., Gem County, Idaho Section 28:
The NE $\frac{1}{4}$ of the SE $\frac{1}{4}$

EXHIBIT B

REQUIRED FINDINGS FROM ZONING ORDINANCE MARSTON RZ #23-004

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 A-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 A-2 since the parcel falls within the County Residential Area, Priority Growth Area 3.

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

The Commissions finds an A-2 zone would allow five (5) additional dwellings on the subject parcel beyond what is permitted today (as it sits today, there is a building permit available on the 33-acre parcel). However, the applicant’s intent is to only create two 5-acre parcels with a remainder that will remain agricultural and the Commission finds a Development Agreement is necessary to endure that the applicant’s intent is met. The potential increased septic use has not been viewed as detrimental to the health, safety, or welfare when located on five (5) acre minimum lot sizes, but has not yet been verified by SWDH.

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

The minimum lot size in the proposed A-2 zone is five-acres. The subject area to be rezoned is currently 38.47 acres in size. The subject site could be developed to comply with the minimum dimensions for an A-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 in the proposed A-2 zone with the existing A-1 zone is shown in Section 6 of this report. None of the uses permitted in the A-2 zone are different than the A-1 zone. As such, staff finds the uses allowed in an A-2 zone are compatible with the intended character of the area. 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 was Emmett Irrigation District – their comments will be enforced at the time of a subdivision application.

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

The impacts of development of 33+/- acres of A-2-zoned land into five-acre parcels could be expected to generate demands on public services beyond the current service demands with the potential addition of 5 parcels. The applicant's intent is to only create two 5-acre parcels with a remainder that will remain agricultural which will be included in the Development Agreement. The Board adopted an Impact Fee Ordinance which is used to off-set costs, to the public road system and other public services that are provided, caused by new homes and their traffic generation.

EXHIBIT 2
CONDITIONS
MARSTON RZ #23-004

General Terms

1. Nothing in this Agreement shall be construed as relieving Developer, or his successors, from further compliance with all other permit and code requirements for subsequent development of the Property.
2. Entering into this Agreement shall not prevent the County from applying new standards, regulations or conditions that do not conflict with the written commitments within this Agreement in any subsequent actions or applications made for development of the Property.
3. The allowed uses in the A-2 zone shall be as prescribed in Chapter 5 of the Gem County Zoning Ordinance.
4. Any and all new development of the Property shall be submitted to Gem County in accordance with the adopted ordinances and application processes at the time of the application.
5. The maximum number of Lots to be created shall not be more than three (3) total (two (2) new Lots) on parcel #RP07N01W287350.



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: Marston's

SITE INFORMATION:

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

Quarter: Section SE Section: 28 Township: 07N Range: 01W Total Acres: 33.8470

Subdivision Name (if applicable): _____

Site Address: _____ Lot: _____ Block: _____
City: _____

Tax Parcel Number(s): RP07ND1W28735D Current Zoning: A1 Current Land Use: Agriculture
RP07NO1W287200

PROPERTY OWNER:

Name: Melissa McBee Marston

Address: 2601 E Black Cny Hwy

City: Emmett State: ID Zip: 83617

Telephone: 208 631 4983

Email: _____

APPLICANT:

Name: Rick Marston

Address: 2601 E Black Cny Hwy

City: Emmett State: ID Zip: 83617

Telephone: 208-484-3072

Email: _____

melissamcbeemarston@gmail.com

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

Marston 810@gmail.com

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

Melissa McBee Marston

Signature: (Owner)

3/7/23

Date

Richard Marston

Signature: (Applicant)

3/7/23

Date

OFFICE USE ONLY

File No.: R223-004 Received By: SC Date: 3-7-23 Fee: 710.00 Receipt No: 2023-00164

Rick and Melissa Marston
2601 East Black Canyon Highway
Emmett, Idaho 83617
3/07/2023

Gem County Development Services
109 South McKinley
Emmett, Idaho 83617

Dear Gem County Development Services:

I am writing regarding rezoning application for parcel RP07N01W287350 and RP07N01W287200 with a letter of intent.

As owners of the property, we are requesting to be able to change from an A1 zoning to an A2 zoning. The purpose of this request is so that we can give each of our two children a 5-acre parcel out of the 33.85 acres. They would then be able to build a home of their own. The remaining 23.85 acres would be left as agriculture land. Right now, that parcel RP07N01W287350 is 33.85-acres and RP07N01W287200 is 5-acres. The 5-acre parcel that our personal house currently occupies, does not need to be adjusted other than changing it to A2.

Our requested rezone would meet all of the below requirements in the current Comprehensive plan.

- *Our requested rezone complies with the Comprehensive Plan text and Future land use map; and

- *It Complies with the requested amendment and is not materially detrimental to the public health, safety, or welfare; and

- *The subject property meets the minimum dimensional standards of the proposed zoning district; and

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

- *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.

3/07/2023

Page 2

We have included the legal description and other information that has been requested for the rezone application. If you have further questions or more information is needed, please do not hesitate to contact either of us.

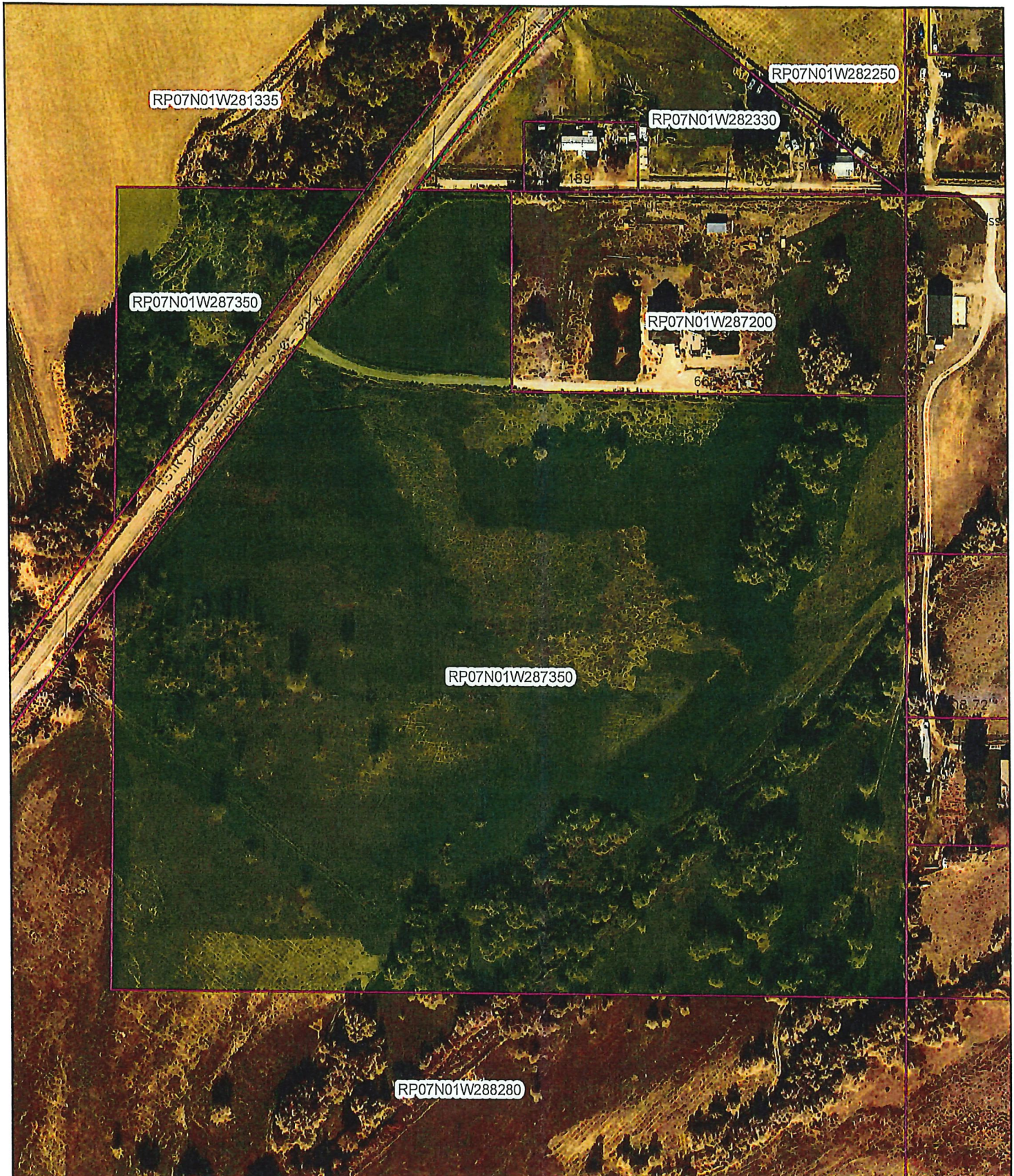
Sincerely,

Melissa McBeeMarston 208.631.4983 melissamcbeemarston@gmail.com

Rick Marston 208.484.3072 marston810@gmail.com

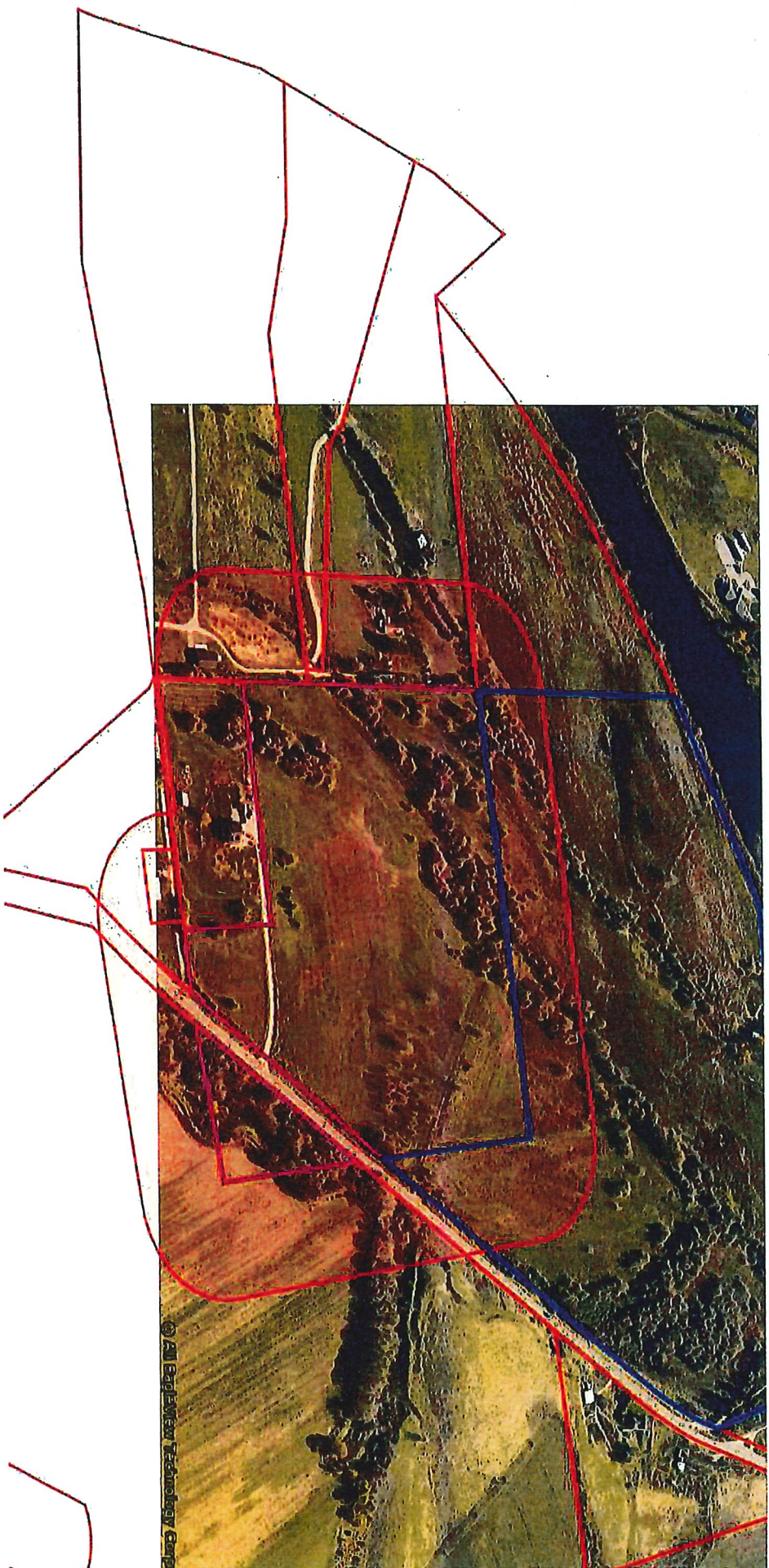
GEM COUNTY

RP07N01W287350



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Marston



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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-1 TO A-2)

FILE NUMBER(s): RZ-23-004

PLANNING AND ZONING COMMISSION HEARING DATE: October 10, 2023

PROPERTY OWNER: Melissa Shelly McBee Marston and Richard George Marston II
2601 E Black Canyon Highway
Emmett, ID 83617

APPLICANT: Same

SITE LOCATION: 2601 E BLACK CANYON HIGHWAY

STAFF PLANNER: Jennifer Kharri

1. APPLICATION SUMMARY:

The property owners, Rick and Melissa Marston, are requesting a rezone of their property located at 2601 E Black Canyon Highway. The application proposes a change from A-1, Prime Agriculture (40-acre minimum lot size), to A-2, Rural Transitional Agriculture (5-acre minimum lot size). The application states the reason for the request is to give each of their 2 children a 5-acre parcel and the remainder will be agricultural. (A Minor Subdivision is a separate application and must be preceded by a rezone.) The property proposed to be rezoned is 38.84 acres in size (comprised of two parcels) and lies fully within Priority Growth Area 3 of the County Residential Area, as designated on the 2007 Future Land Use Map in the Comprehensive Plan. There is an existing single-family dwelling located on the 5-acre parcel.

2. APPLICATION & PROPERTY FACTS:

A. Site Address/Location:

The property is located at 2601 E Black Canyon Highway and is within Township 7N, Range 1W, Section 28 (Tax Parcel #RP07N01W287350 and #RP07N01W287200).

B. Current Owner(s): Melissa Shelly McBee Marston and Richard George Marston II
2601 E Black Canyon Highway
Emmett, ID 83617

C. Applicant(s): Same

D. Present Zoning: A-1, Prime Agriculture (40-acre minimum)

E. Present Comprehensive Plan Designation: County Residential Area, Priority Growth Area #3

F. Property Size: 38.47 acres (comprised of two parcels)

3. APPLICATION PROCESS FACTS:

A. Application Submittal:

The application for this item was received and deemed complete by the Development Services Department on March 7, 2023.

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 September 20, 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 September 14, 2023. The physical property was posted for the public hearing on September 15, 2023. Requests for all impact agencies' reviews were mailed on September 14, 2023.

At the time this report was written, we received (1) response letter with comments from impact agencies- Emmett Irrigation District.

Public hearing notices were mailed to thirteen (13) parcels in the immediate vicinity. At the time this report was written there were no letters from the public submitted.

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.

4. LAND USE

A. Existing Land Use(s): Single family dwelling on irrigated agricultural land.

B. Description of Character of Surrounding Area: The immediate vicinity includes active agricultural lands and single-family residential properties.

C. Adjacent Comprehensive Plan, Zoning and Land Use:

	COMP PLAN DESIGNATION	ZONING DESIGNATION	LAND USE
North of site	County Residential Area, Priority Growth Area #3	A-1, Prime Agriculture and A-2, Rural Transitional Agriculture	Irrigated agricultural land; rural residential
South of site	County Residential Area, Priority Growth Area #3	A-1, Prime Agriculture	Irrigated agricultural land; dry grazing land
East of site	County Residential Area, Priority Growth Area #3	A-1, Prime Agriculture	Irrigated agricultural land; rural residential
West of site	County Residential Area, Priority Growth Area #3	A-1, Prime Agriculture	Irrigated agricultural land

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 3**. 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 3 allows densities at one (1) unit per five (5) acres (or as allowed under existing zoning) until 80% of the area within Priority Growth Area 2 is served or can be clearly demonstrated that it will be served by essential public facilities (as defined in the front of the Land Use Chapter).

The proposed A-2 zone designation would allow a minimum five (5) acre lot size for primarily residential uses. The proposed A-2 zone complies with the purpose of the County Residential Area and Priority Growth Area 3 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.

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:

6.7 – Preserve, protect and promote high quality standards for ground and surface water as an essential and limited natural resources throughout the community.

6.11 – Prevent contamination of groundwater from sewage and wastewater through appropriate

planning, treatment and through regulations.

6.14 Manage and prevent unsuitable uses along creeks, canals, drainage ways, ponds and rivers to protect water quality.

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 applying for an agricultural land division.

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

12.1.10 – Review all development proposals in areas that are critical to groundwater recharge and groundwater source to determine impacts, if any, to protect surface and groundwater quantity and quality.

12.1.11 – Growth should start at the community centers and radiate outwards in a logical, orderly fashion.

12.9.1 – Encourage management and land –use priorities that support agricultural lands.

6. ZONING ORDINANCE

- A. Purpose Statement of Zone: Gem County Code 11-4-2.A lists the purpose of the A-2 zone as follows: “Lands lying within those unincorporated portions of Gem County that are likely to undergo a more intensive urban development. The regulations governing this zone are designed to protect agricultural pursuits and provide guidelines for conversion to suburban development” The A-2 zone has a five (5) acre minimum lot size requirement.

The applicant’s intent is to only create two 5- acre parcels with a remainder that will remain agricultural. The requested zoning would support this type of division. The subject site is large enough, therefore this criteria is met.

B. Permitted Uses:

The subject site is currently zoned A-1 (40-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, limited services, various housing/residential uses, including halfway houses and single-family residential.

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

Agriculture, kennel, mining, utilities, limited manufacturing, limited trade, entertainment and recreation, commercial school, limited services, various housing/residential uses, including halfway houses and single-family residential.

Staff finds the SUP uses noted above are mostly the same for either the A-1 or A-2 zones. The biggest difference is the A-2 zone would allow for a Commercial School with a SUP, whereas it would not be allowed in the A-1 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 the majority of the applicable policies support an A-2 rezone in this area. In Staff's estimation, the Comprehensive Plan Future Land Use Map relevant policies does support the rezone application to A-2 since the parcel falls within the County Residential Area, Priority Growth Area 3.

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

Staff finds an A-2 zone would allow five (5) additional dwellings on the subject parcel beyond what is permitted today (as it sits today, there is a building permit available on the 33-acre parcel). However, the applicant's intent is to only create two 5-acre parcels with a remainder that will remain agricultural. The potential increased septic use has not been viewed as detrimental to the health, safety, or welfare when located on five (5) acre minimum lot sizes, but has not yet been verified by SWDH.

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

The minimum lot size in the proposed A-2 zone is five-acres. The subject area to be rezoned is currently 38.47 acres in size. The subject site could be developed to comply with the minimum dimensions for an A-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 in the proposed A-2 zone with the existing A-1 zone is shown in Section 6 of this report. None of the uses permitted in the A-2 zone are different than the A-1 zone. As such, staff finds the uses allowed in an A-2 zone are compatible with the intended character of the area. 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 was Emmett Irrigation District – their comments will be enforced at the time of a subdivision application.

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

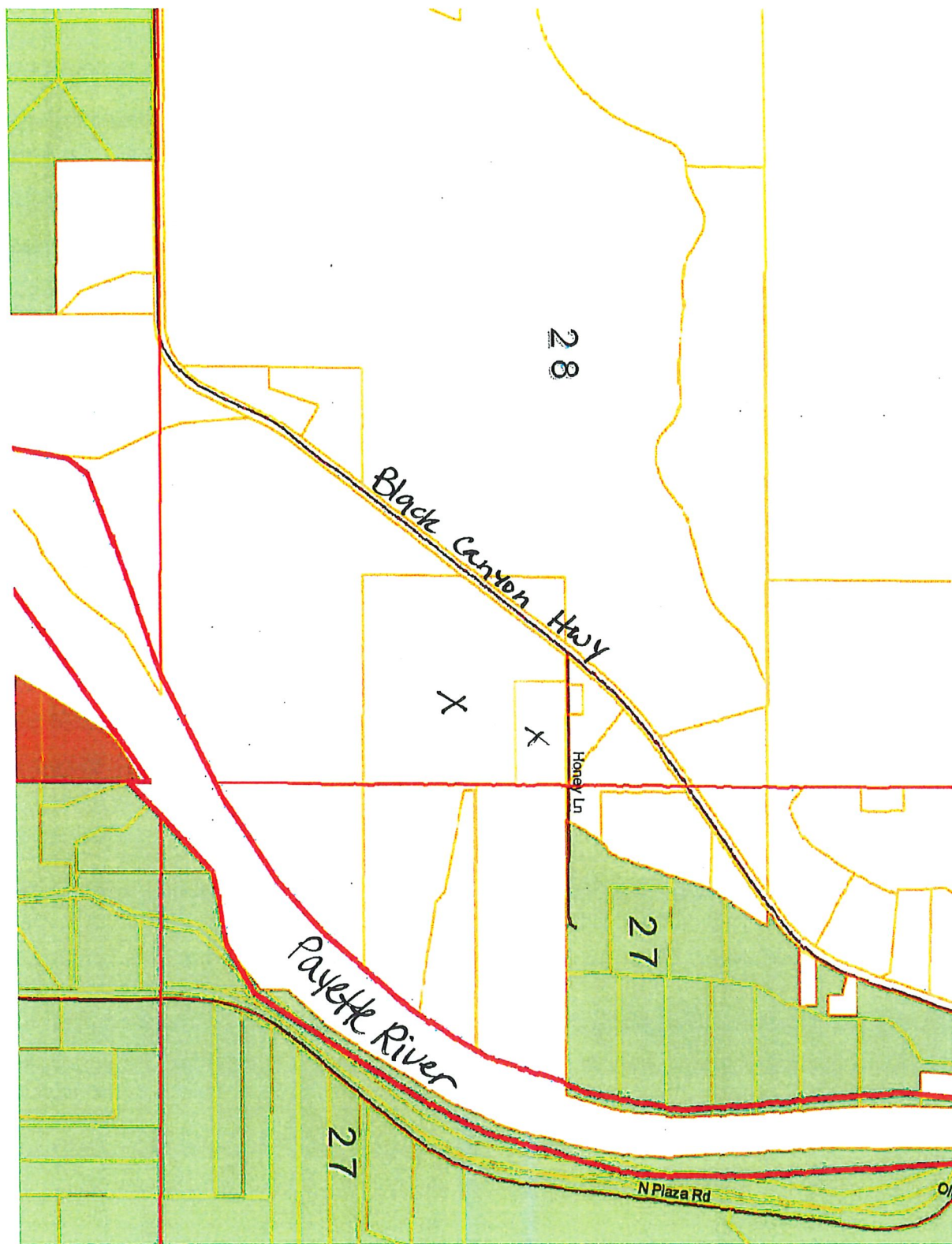
The impacts of development of 33+/- acres of A-2-zoned land into five-acre parcels could be expected to generate demands on public services beyond the current service demands with the potential addition of 5 parcels. The applicant's intent is to only create two 5-acre parcels with a remainder that will remain agricultural. The Board adopted an Impact Fee Ordinance which is used to off-set costs, to the public road system and other public services that are provided, caused by new homes and their traffic generation.

8. IMPACT AGENCIES NOTIFIED

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

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 A-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.



222 E. Park St.
Emmett, Idaho 83617



208-365-4582
Fax 208-365-1324

Serving the Valley Since 1910

Office: emmettirrigationoffice@gmail.com

District Manager: emmettirrigationshop@gmail.com

September 26, 2023

Re: Rezone

Parcels: 2601 E Black Canyon Hwy/RP07N01W287350

To Whom this may concern,

Emmett Irrigation District does not oppose the rezone requested for 2601 E Black Canyon Hwy/RP07N01W287350. Please note the requirements attached that are necessary prior to subdivision approval.

Project completion and inspection by EID will be required prior to final platting. If you have any questions please contact our District Manager, Andrew Griggs.

Andrew Griggs

District Manager
Emmett Irrigation District
Ph: 208-365-8983
emmettirrigationshop@gmail.com

222 E. Park St.
Emmett, Idaho 83617



208-365-4582

Serving the Valley Since 1910

emmettirrigationoffice@gmail.com Office
emmettirrigationshop@gmail.com District Manager

Date: _____

Re: Marston _____ Subdivision

Requirements:

1. EID Subdivision Application filled out and returned with all paperwork required and application fee for Board approval.
Fees as follows: \$400.00 covers 4 lots or less
\$100.00 per lot with 5 lots or more
2. Engineer certified irrigation delivery and overflow conduit system installed within the irrigation easements on the subdivision plat to each parcel, inspected by EID.
3. Copy of the Certified Irrigation Plan delivered to EID.
4. Water User's agreement, recorded with the county, if required.
5. Encroachment Application and all requirements fulfilled, if required.
6. After final plat is approved you will need to submit a copy to the Emmett Irrigation District Office so new parcels can be setup.
7. Warranty deed

Emmett Irrigation District board meets the first Tuesday of each month, for final approval, projects need to be on the Agenda 48 hours before start of meeting. (Agenda is posted the Friday before the meeting)

Andrew Griggs
District Manager
Emmett Irrigation District
Cell: 208-365-8983

Emmett Irrigation District

Subdivision Application

To be completed by Applicant- incomplete applications will not be considered

Subdivision Name: _____

Applicant/Developer: _____

Contact Person: _____

Mailing Address: _____

Phone: _____

Email Address: _____

Design Engineer: _____

Mailing Address _____

Phone: _____

Email Address: _____

For Emmett Irrigation District Use Only

Assessment # _____

Received

- ☐ Fee
- ☐ Irrigation Plan
- ☐ Warranty Deed
- ☐ Water Users Agreement (if required)
- ☐ Encroachment Application (if required)
- ☐ Preliminary Plat

Application Number: _____

Date Received: _____

Date Application Approved _____ Denied _____

Andrew Griggs
District Manager

CERTIFICATE OF MAILING

I hereby certify that on the 14 day of September, 2023, I served a true and correct copy of the foregoing upon:

PROPERTY OWNER LIST WITHIN 300 FEET

Marston
T07N, R01W, Section 28

William Fischer
2900 Honey Lane
Emmett, ID 83617

William Fischer
2850 Honey Ln
Emmett, ID 83617

Amy Delmore
2713 E. Black Canyon Hwy
Emmett, Id 83617

Rex Beaver
4210 W. Deer Trail Ln
Emmett, Id 83617

Andrew Wold
2719 E. Black Canyon Hwy
Emmett, ID 83617

Frank Mcbee
1566 Kathy St
Emmett, Id 83617

Curtis Graves
2723 E. Black Canyon Hwy
Emmett, ID 83617

State of Idaho
2175 S. Johns
Emmett, Id 83617

Desert Foothills wet LLC
1900 E Black Canyon Hwy
Emmett, Id 83617

Rex Beaver
3055 Honey Ln
Emmett, ID 83617

In God We Trust
2953 Honey Ln
Emmett, ID 83617

Rex Beaver
3001 Honey Ln
Emmett, ID

Dianna Jueschke
2990 Honey Ln
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 "SCrays", written over a horizontal line.

Stephanie Crays
Development Services Coordinator

SUMMARY MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
October 10, 2023

Page #4

Favor: None

Neutral: None

Opposed: None

Chairman **Eichelberger** closed public hearing 7:44pm

Commission Discussion

Chairman **Eichelberger** read through the findings. Commissioner **Vickery** agrees with Staff. Chairman **Eichelberger** this meets the requirements and recommends the Development Agreement and should be related to a water study and intent of division of the property.

Commissioner **Vickery** made a motion to recommend approval requiring a development agreement that only allows for a total of 3 lots and a water study.

Commissioner **Jones** seconded the motion.

Vote: Unanimous

ACTION ITEM #3

A REZONE REQUEST BY RICK MARSTON TO REZONE 38.85+/- ACRES FROM A1 PRIME AGRICULTURE (40 ACRE MINIMUM) TO A2 RURAL TRANSITIONAL AGRICULTURE (5 ACRE MINIMUM) AT 2601 EAST BLACK CANYON HIGHWAY, T 07N, R 01W, SECTION 28. RP07N01W287350 AND RP07N01W287200.

Director Kharri-The property owners, Rick and Melissa Marston, are requesting a rezone of their property located at 2601 E. Black Canyon Highway. The application proposes a change from A-1, Prime Agriculture (40-acre minimum lot size), to A-2, Rural Transitional Agriculture (5-acre minimum lot size). The application states the reason for the request is to give each of their 2 children a 5 acre parcel and the remainder will be agricultural.

Applicant:

Melissa Marston-2601 E. Black Canyon Hwy, Emmett, ID. They would like to rezone to a A-2 five acre minimum lot size. The purpose of this rezone is to give their 2 children a 5 acre parcel to build their own home, the remainder will stay agricultural.

SUMMARY MINUTES
GEM COUNTY PLANNING AND ZONING COMMISSION
GEM COUNTY COURTHOUSE
October 10, 2023

Page #5

Favor: None

Neutral: None

Opposed:

Deborah Brendsel-2700 E. Black Canyon Hwy, Emmett, ID. There has been a lot of changes along this highway. She would request drain fields, water, and irrigation. She thinks it great to give to the children.

Chairman **Eichelberger** closed public hearing 8:03pm

Commission Discussion

Chairman **Eichelberger** read through the findings. They discussed the development agreement and to limit to two 5 acre parcels.

Commissioner **Vickery** made a motion to recommend for approval with a Development Agreement limiting total of two 5 acre parcels.

Commissioner **Jones** seconded the motion.

Vote: Unanimous

REGULAR MEETING

1. **ITEMS FROM THE PUBLIC:** none
2. **ELECTIONS OF OFFICERS-** The commission unanimously voted for: Chairman- Debra Jones, Vice Chairman- Dan Eichelberger, and Sergeant of Arms- Justin Vickery.
3. **FROM THE PLANNING DIRECTOR/ADMINISTRATOR:** none
4. **ITEMS FROM THE PLANNING AND ZONING COMMISSION:** none
5. **ITEMS FROM /OR QUESTIONS FOR THE DEPUTY PROSECUTING ATTORNEY:** none
6. **UPCOMING MEETINGS:** November 13, 2023 at 6:00pm