

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 (online), Debra Jones and Justin Vickery.

MEMBERS ABSENT: None.

OTHERS PRESENT: Planning Director – Jennifer Kharri, Associate Planner – Michelle Barron (Moderator), Development Services Coordinator – Stephanie Crays, and Deputy Prosecuting Attorney – Tahja Jensen (online).

6:00 P.M.

REGULAR MEETING

1. **CALL TO ORDER:** Chairman **JONES** opened the virtual public meeting at 6:05 PM. via Zoom, held in the Commissioner Chambers.
2. **ROLL CALL:** Debra **JONES** – present, Justin Vickery– present and Dan Eichelberger (online) – present.
3. **REVIEW AGENDA:** Commission reviewed the agenda as written.
4. **APPROVAL OF MINUTES of NOVEMBER 8, 2021**
Commissioner **VICKERY** approved the minutes as written.
Commissioner **EICHELBERGER** seconded the motion.
Vote: Unanimous.

PUBLIC HEARING – ACTION ITEMS

ACTION ITEM # 1

**REZONE #RZ-21-012 – STEVE AND ZENDI MEHARRY-
A-2 (5 ACRE MINIMUM) TO R-2 (1 ACRE MINIMUM)-485 SOUTH SLOPE ROAD.**

Director Kharri-The applicant is asking for a rezone from an A-2 to R-2 to create a one acre minimum. The property does lie within the priority growth area #1of comprehensive plan and that does allow for a one acre rezone, if the five required findings are met. Tonight the commission is making a recommendation. The County Commissioners will hold a public hearing after the recommendation to make that final decision.

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Applicant:

Steve Meharry and Zendi Meharry- 485 West South Slope-They have five acres reserved, two acres for the home that is currently their home and two other plots that are there.

Zendi spoke stating dividing the property for single dwelling homes. Steve spoke stating, when they applied they did not know they had an easement to the drive to the west of their property. The Road and Bridge had concerns if this was approved that all of the drives would go to that easement so that's already in place.

Favor: None

Neutral: None

Opposed:

Jim Durance (online) - 2165 W. South Slope. He understands that the planning board takes in many factors. How this effects the water is a strong narrative. They should look into the amount of septic's that are being added, and is there an effect on their drinking water. Adding more homes will cause a problem.

Deric Patterson (online) - 525 W. South Slope. Mr. Meharry is trying to subdivide a preexisting subdivision it's called Panarama Ranches. This subdivision has rural CC&Rs which includes, one primary resident on each lot. Mr. Meharry is trying to split up his lot to add additional residences for his own profit and this as an issue. The easement Mr. Meharry is talking about is news to him, he is the property owner. Mr. Meharry thinks he can have an easement and that is something he is not aware of. He has looked through his records and does not find anything. He has 360ft. of frontage to the road and Mr. Meharry wants 60 feet of it. There is a covenant part of the CC&Rs that denied him the right to add additional primary residents to his lot. It does allow him to use that 60 feet strip to access his land. He is very concerned about irrigation and drinking water.

Vice Chairman **Jones** closed public hearing at 6:15pm

Commission Discussion

Commissioner **Vickery** discussed it is their job to enforce CC&Rs.

Commissioner **Eichelberger** it is still considered but just not through CC&Rs.

The Commissioners discussed the 5 required findings. Commissioners said it meets all requirements.

Commissioner **Eichelberger** how do they get a clear answer on the easement he does not feel that it was answered.

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Director **Kharri** the only way to know is to see a recorded document that says such. Commissioner **Eichelberger** so could that be required for a development agreement? Director **Kharri** absolutely that could be part of the condition that they prove it.

Vice Chairman **Jones** there is a letter from Road and Bridge of concern to the easement. **Steve Meharry** Mr. Patterson is correct I do not have an easement of his entire driveway it's only 40ft. They would have two separate driveways coming down to where they join South Slope.

Director **Kharri** the septic study that is only required on a standard subdivision for five lots or more, it's a subdivision engineering report, if this is a concern, it could be added to a development agreement.

Commissioner **Vickery** make it clear to the applicant that what happens at this meeting right now does not relieve them of any legal obligations they have, those are still in place.

Vice Chairman **Jones** the commission is aware of their concerns. To be clear the development agreement can include a water study, proof of easement of access, address Road and Bridge letter, irrigation concerns and the septic.

Director **Kharri** if the Zoning Commission is headed for a denial they would need to bring it back to those five findings to determine which one of those findings that cannot be met.

Commissioner **Vickery** they are met strictly as a rezone he feels that it meets the criteria. The five findings have been met.

Commissioner **Eichelberger** according to the five findings he agrees. He recommends approval with the development agreement with the things we talked about.

Commissioner **Eichelberger** made a motion to recommend to the board for approval for rezone **RZ-21-012** with requirements which includes a water study, a clarification of proof of easement access, Road and Bridge letter, and validation from irrigation.

Commissioner **Vickery** seconded the motion.

Vote: Unanimous

ACTION ITEM #2

MATT CHURCH- BIG ROCK QUARRY MINERAL EXTRACTION ON HIGH VALLEY ROAD, OLA. – SPECIAL USE PERMIT #SUP-21-009

Director Kharri-This is a Special Use Permit however it's a little different from the normal Special Use Permit. The findings are very specific for mineral extraction. The commission is making their decision on these findings. Staff has left a few questions on those findings they are A,C,E,H, and I. If there is a way to condition or mitigate that can be added to the conditions of approval. Five letters were submitted in favor and five letters submitted in opposition. Staff has

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proposed twenty-two conditions of approval if the Zoning Commission does approve. Tonight the commission is making a final decision.

Applicant:

Matt Church-136 Brownlee Road, Horseshoe Bend, Idaho 83629-They have a preexisting rock pit they are wanting to reopen. The phases have changed on photo showing phase 1 goes to phase 3, phase 2 goes to phase 1 and phase 3 goes to phase 2. They are trying to stay away from the neighbors more. They will bring in a rock crusher eventually. Three to six weeks the crusher would sit working, until they got a stock pile. They talked to Road and Bridge about access.

Sharon Pratt-10900 Liberty Road, Sweet, Idaho-The applicant is aware of the concerns that have been addressed and in his application it shows effort.

Commission **Vickery**-Wanted Mr. Church to give him some background of his knowledge running a rock quarry.

Matt Church- He grew up logging and ranching, then his dad bought a rock crusher worked for him for 20 plus years. He has been around this business and knows how it all works.

Favor: none

Neutral:

Amber Egbert (online) - 1333 W. Central Road
She doesn't feel this is going to affect her property.

Opposed:

Steve Miller (online) - 23049 High Valley Road, Ola, Idaho
We enjoy the wildlife and would like the pond to be left untouched. There are four wells near the pond that could be damaged with ground vibration, also with a shortage of water.

Dora Miller (online) - 23049 High Valley Road, Ola, Idaho
All of them will be impacted by this. They are already being impacted by all the logging trucks. She also has water concerns.

Carolyn Nichols (online) – 111 Knutson Dr. Sitka, Alaska 99834
She has concerns with traffic, noise, dust, and property values. She wants absolutely no blasting allowed.

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Also she wants Big Rock to compensate property owners for present and future homes, she also wants a bond to ensure damages to be paid for by Big Rock. She wants this permit to be unsaleable. People buy property here in Ola for peace and quit.

Linda Rau (online) – 22855 High Valley Road, Ola

The pit is so very close, it's just right across the road. Her main concern besides the noise, is dust. She is concerned with the value of her property with this rock pit that it is so close to her property.

Sharon Pratt -10900 Liberty Rd Sweet, ID

She thanked everyone for their concerns. A traffic study was done in 2019. As of today there are 12 logging trucks a day, this is expected for the next five years. They do not expect any more than 10-20 loads a month from the Big Rock Quarry. The dust with these new crusher's are very low there is water that runs with the crusher. The operation with the crusher is a limited amount of time, six weeks at most. Currently and no expectations to use explosives. To address the pond issues they have no use to use the pond. This area is growing substantially as all of Gem County. The comprehensive plan Chapter 13-1-4, this is approved use in the Agricultural A3 Zone.

Commissioner **Eichelberger**- Had a question for Jennifer does blasting require further permitting?

Director **Kharri**-This permit would not allow for blasting. There are a lot of requirements for this.

Vice Chairman **Jones** closed public hearing at 7:25 pm.

Commission Discussion

Reviewed findings from the staff. Discussed at this time this can be approved and these concerns can be mitigated, there's nothing but continued growth, not only in the valley, but up on that mountain. How that's managed is important. Traffic does not have a negative impact, hours of operation seem adequate. Hours of operation 7:00-5:00 pm Monday-Friday, special use permit is non transferrable. Permit is a class 3 active for 3 years not greater than 10 years. Berms are to be placed prior to applicant starting. No blasting. Gem County Road and Bridge letter to be addressed. Submit a letter of approval for the access road for Fire District #2.

A copy of the Reclamation plan to Development Services. The state plan will prevail. Water must be available on site used to control dust. Applicant will abide by Idaho Department of Lands and any other applicable State or Federal Departments. The Zoning Commission will review the status at five year anniversary.

Commissioner **Vickery** Made a motion to approve SUP-21-009 with the conditions of approval #9 be removed, #22 no financial guarantee is required at this time for this Special Use Permit.

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Commissioner **Eichelberger** Seconded the motion

Vote: Unanimous

ACTION ITEM #3

EXTENSION/REVIEW OF SPECIAL USE PERMIT #SUP-17-006 MICHAEL BRATCHER-RV PARK AT 2002 N. WAHINGTON AVENUE.

Director Kharri- This Special Use Permit was set to expire in August, there was a little bit of extension given for covid-19 reasons. This is brought before you for an extension otherwise it goes away and the approvals go away also. There have been violations on the property, there have been RVs that have been lived in. Mr. Bratcher has been working with our Code Enforcement officer in the last year to get this cleaned up. There are trailers still there as of last week. The packet was very large, but you all needed to have everything up to this point.

Applicant:

MICHAEL BRATCHER- 850 Santa Lane. Mr. Bratcher spoke of two specific reasons he is here today, he brought the material, but if he would have known he would have come with this in detail. He spoke of emails that he got from Southwest Health District in June, stated he was busy, got another email nothing was done, got another email in March, he noticed something was not right with the sewer system. Southwest Health District gave permit without looking at work. Code Enforcer sent him a letter, he knew the neighbors were wondering what is going on, why is this taking so long? Received letter from Joe stating redesign is necessary, letter dated in April, his letter was given to Southwest Health District didn't get what he needed until June, he requested Southwest Health District to come to the site and measure and look at it. They did come out. He called for an inspection to Southwest Health District and this person know longer works for Southwest Health District. He showed a letter to the Code Enforcer from the engineer. He stated supply letters coming in that materials are delayed July, August, September no supplies. Stated that without electrical permit he couldn't do anything. He got everything done once he got all the stuff he needed done in four or five months. He stated that there was RVs on the property when he purchased the property and people were living in them. He received another letter from Code Enforcer stating that he needed to evict the RVs. He said Covid-19 was in effect and you can't evict anyone, then Covid-19 rules were lifted and it was Thanksgiving. Now that the park is finished he is waiting on the engineer. He doesn't see any reason to evict anyone. He would like to address the 30 day max stay stipulation. He doesn't understand why he can't have a longer staying time, while when in Idaho there is over 200 RVs that have longer staying times. He was giving reasons of other RV Parks of long term open times.

Favor: none

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Neutral: none

Opposed:

Kurt Fuchs (online) – 2098 N. Washington Avenue

He was concerned with the septic. Also there are 10 RVs on one wall, 5 in the middle, and 3 on the other wall and 4 to 6 tent spaces, this was to keep the septic system low, there was to be a dump station on site on the West end with a 1000 gallon is that implemented? The septic won't stand up to this.

Michael Bratcher – 850 Santa Lane

Originally they started out with 31 spaces, the reason some of those are dry camp is do reduce sewer usage. The new system is over 2500 gallon per day it can handle it. It ended up being 12 hook-ups the rest are dry camp. We more than meet the requirements for the septic system.

Commissioner: **Eichelberger:** Asked if this business was suspended.

Director Kharri: This business is not suspended, this is something the Zoning Commission would have to do.

Commissioner: **Eichelberger:** Regarding the first letter from the Code Enforcer about the RVs that have to be removed, do you have documentation of your attempts to remove them?

Michael Bratcher: Yes he believes he does. Very nasty towards him.

Commissioner: **Eichelberger:** No, he wants legal documentation where you attempted to evict someone, and it was blocked by a legally entity.

Michael Bratcher: He just looked it up online to verify the Government issued the no eviction order and he did some extensive research on this.

Commissioner: **Eichelberger:** One of the stipulations of the Special Use Permit was that no operations, zero operations would be taken place on that property until these proper permits were purchased and he had clearance for occupancy, he never got any, so how did those RVs end up on that property?

Michael Bratcher: When he purchased the property the front half was already occupied with rental units

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Commissioner **Eichelberger**: As soon as he got a Special Use Permit there would be no operation permitted on this property until these were approved and you had occupancy you did not and you do not.

Michael Bratcher: The way he took that honestly is that the existing stuff that was there was okay since he was developing the back half.

Commissioner **Eichelberger**: He is interpreting this stuff however it fits the need for him at the time, he has changed his septic system and so now he says that he is more than qualified with the septic system, there is no documentation of that. There isn't any indication that he is making serious efforts to comply with either the code enforcement officer or the conditions of this Special Use Permit approval. He feels like he is making up his own rules as he goes. He is not satisfied with his answers.

Director Kharri: We do have a copy of the septic permit, so that's why on that condition it does say it was completed. So the ones that say not completed, a couple of them do refer to zoning compliance certificate which is engineering, basically the storm water drainage that the county engineer would need to look at, the landscaping would be just what was submitted on his site plan that goes along the sites and the frontage that he already planned.

Vice Chairman **Jones**: Ms. Jennifer the property he purchased already had RVs on the front property was this included in this Special Use Permit with those RVs as well?

Director Kharri: There are no grandfather rights that would have to have been permitted or with the Special Use Permit.

Veronica Bratcher: Wanted to request the 30 day be lifted, and they researched the long term. They would like that to be removed. Read off several places that have long term.

Deputy Prosecuting Attorney Tahja: There are documents that have been referred to that are not part of the record, so if the applicant wishes to request an amendment to include alteration of that condition that stay not be 30 days they need to ask that those documents be submitted to the record for consideration by the Zoning Commission, because right now all there is in the record that indicates some testimony which is public testimony not public testimony of the applicant, if they wish to submit that, then they need to make a motion to do that and the commission needs to consider it or not consider it and make it part of the record.

Commissioner **Vickery**: Our options are extend, renew Special Use Permit or if we do nothing it is revoked? Is there an option where we extend this testimony to another meeting additional documents are or are not allowed?

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Director Kharri: That is an option to table your deliberation or your discussion and ask for extra information typically those do not require a public hearing but if you're asking for a lot of information that the public would like to see and speak on you might want it to be a public hearing. In consideration it needs to be date specific. The Special Use Permit expires this month, there needs to be a decision made as soon as possible, you need to be very specific what you're asking for. Either you make your decision tonight or if you table it, revoke the permit or you are extending the permit, those are your two options.

Commissioner **Vickery:** Made a motion to close public hearing at 8:52 pm.

Commissioner **Eichelberger:** Second the motion.

Vote: Unanimous

Commissioner **Vickery:** Prior to the motion he would like to state that he feels that the applicant had done a lot to the property in making it nicer. He likes the idea of it being approved upon, but none of that is in question tonight he just wanted to go on record as saying.

Commissioner **Eichelberger:** He can appreciate that. He agrees there is some clean up happening there. However two years is a long time and he feels that there has been a lot of excuses and it is out of compliant. The options if this permit is revoked would be for the owner to take another look at his project, look at what it's going to actually take to implement it and apply for another Special Use Permit. He feels it could be done within reason may cost some money. Be much clearer about those obstacles.

Commissioner **Eichelberger:** Made a motion to revoke this Special Use Permit for being out of compliance.

Commissioner **Vickery:** Second the motion.

Vote: Unanimous.

REGULAR MEETING

1. **ITEMS FROM THE PUBLIC:** none

2. **ELECTION OF OFFICERS:** Commissioner **Vickery** made a motion to have Commissioner **Eichelberger** continue as Chairman for another year.

Commissioner **Jones** seconded the motion.

Vote: Unanimous.

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Commissioner **Vickery**: Made a motion to have Commissioner **Jones** continue as Vice Chairman for another year.

Commissioner **Eichelberger**: Seconded the motion.

Vote: Unanimous

- 3. ITEMS FROM THE PLANNING DIRECTOR/ADMINISTRATOR: Director Kharrl-**
We are hiring a new building inspector, the current building inspectors last day will be February 1st, 2022. The Comprehensive Plan steering committee has met and will continue to meet monthly.

- 4. ITEMS FROM/OR QUESTIONS FOR THE DEPUTY PROSECUTING ATTORNEY:**
Tahja Jensen- Legal questions will need to be submitted in advance. The roll in Zoning Commission meetings will be limited to basically holding you to Roberts Rule of Order and record things. Scripts will be worked on.

- 5. ITEMS FROM THE ZONING COMMISSION:** None

- 6. UPCOMING MEETINGS:**

a) **Next upcoming meeting is** : January 10th, 2022 at 6:00 PM

- 7. ADJOURN:**
Commissioner **Vickery**: Made a motion to adjourn.
Commissioner **Eichelberger**: Seconded the motion.
Vote: Unanimous.

Vice Chairman Jones

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