



# 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): RPO7ND1W28735D Current Zoning: A1 Current Land Use: Agriculture  
RPO7NO1W287200

## PROPERTY OWNER:

Name: Melissa McBee Marston

Address: 2601 E Black Cny Hwy

City: Emmett State: Id Zip: 83617

Telephone: 208 631 4983

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.

## APPLICANT:

Name: Rick Marston

Address: 2601 E Black Cny Hwy

City: Emmett State: Id Zip: 83617

Telephone: 208-484-3072

Email: \_\_\_\_\_

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.: \_\_\_\_\_ 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 proposed 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,

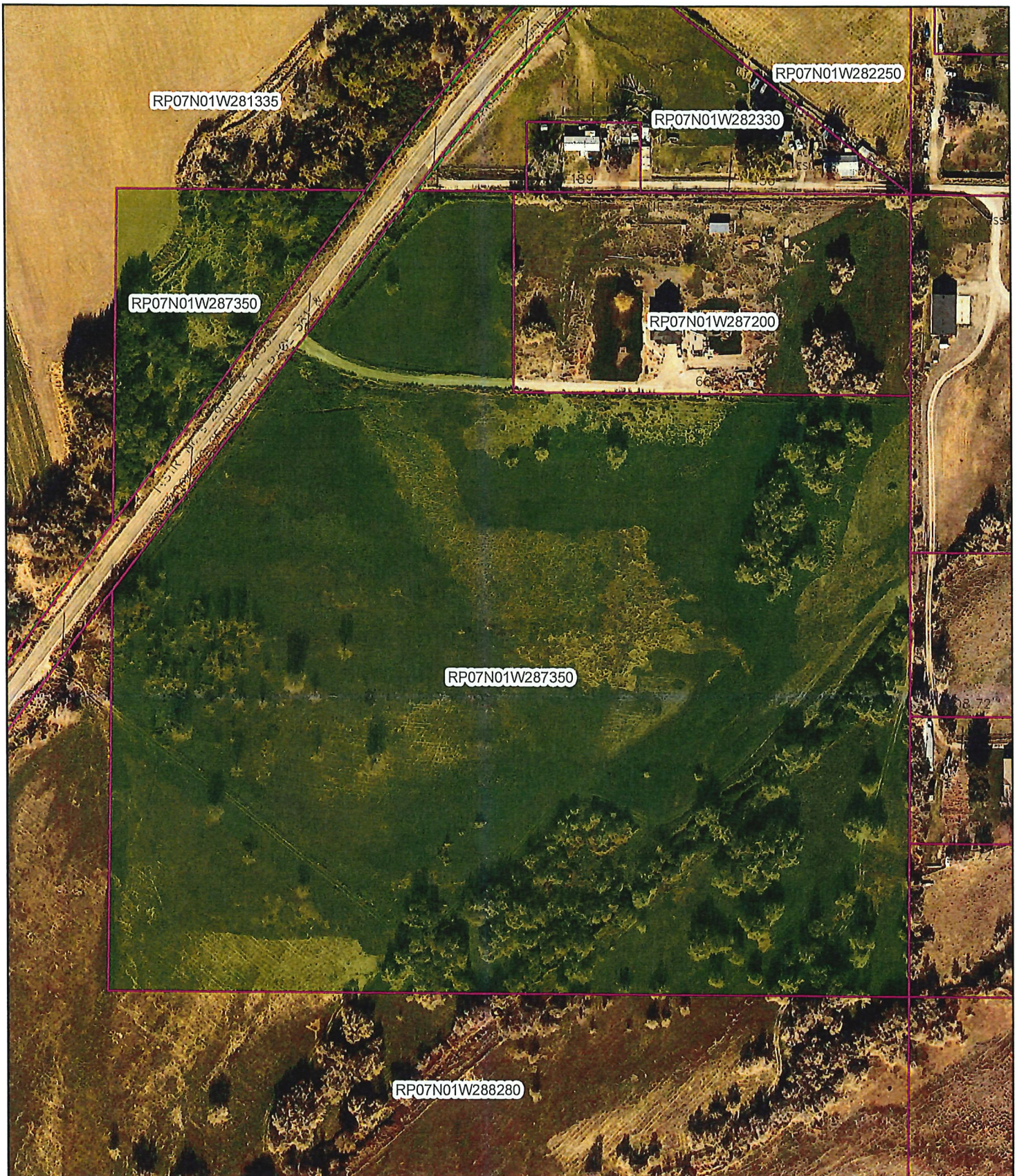
Melissa McBeeMarston 208.631.4983 [melissamcbeemarston@gmail.com](mailto:melissamcbeemarston@gmail.com)

Rick Marston 208.484.3072 [marston810@gmail.com](mailto: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](http://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 Kharrl

#### 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.*

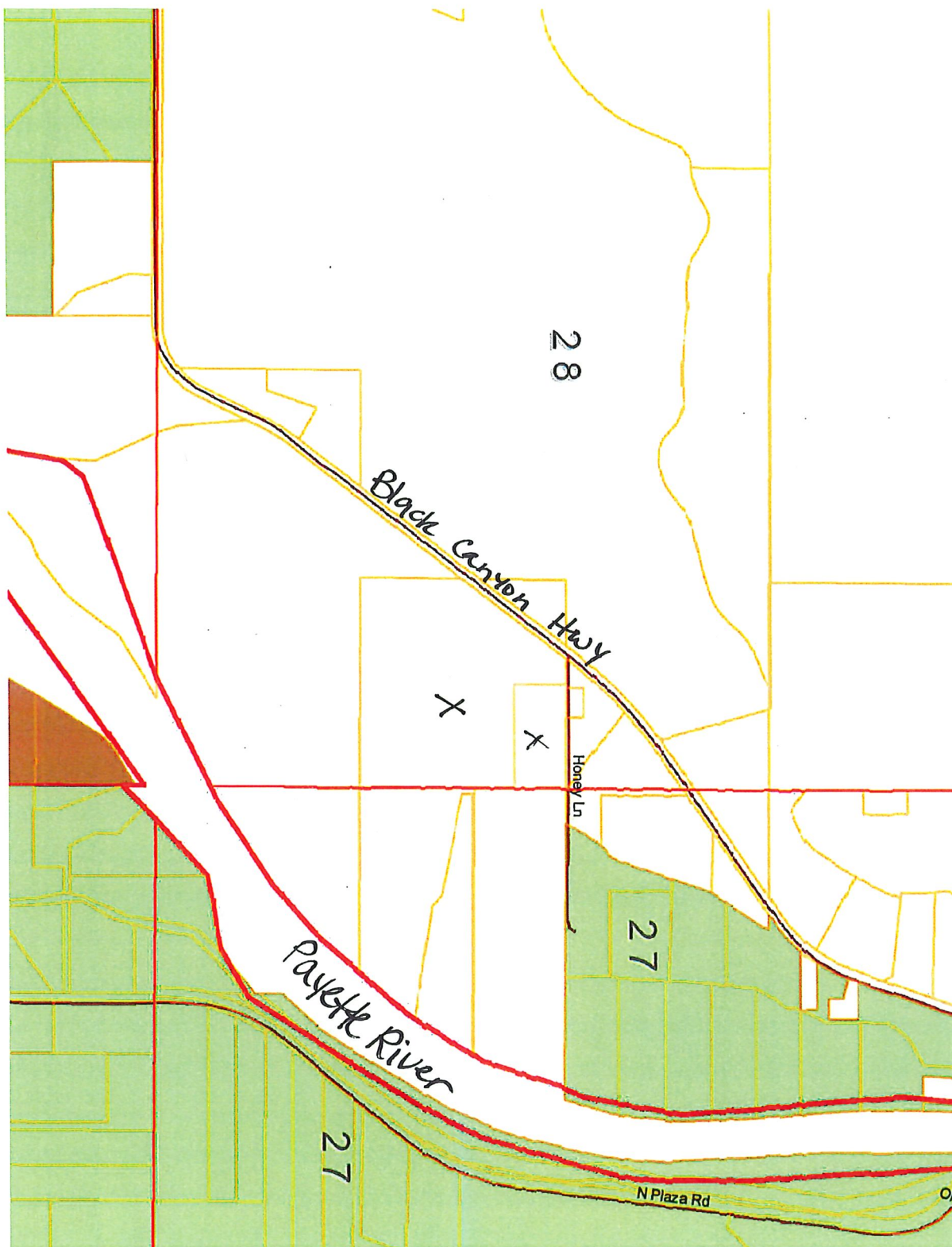
*The impacts of development of 33+/- acres of A-2-zoned land into five-acre parcels could be expected to generate demands on public services beyond the current service demands with the potential addition of 5 parcels. The applicant's intent is to only create two 5-acre parcels with a remainder that will 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

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**Serving the Valley Since 1910**

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Office: [emmettirrigationoffice@gmail.com](mailto:emmettirrigationoffice@gmail.com)

District Manager: [emmettirrigationshop@gmail.com](mailto: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](mailto:emmettirrigationshop@gmail.com)

222 E. Park St.  
Emmett, Idaho 83617



208-365-4582

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**Serving the Valley Since 1910**

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[emmettirrigationoffice@gmail.com](mailto:emmettirrigationoffice@gmail.com) Office  
[emmettirrigationshop@gmail.com](mailto: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 "S. Crays", written over a horizontal line.

Stephanie Crays

Development Services Coordinator