



## **BEFORE THE ADA COUNTY PLANNING & ZONING COMMISSION**

In re:

Application of Shawn L. Nickel (SLN Planning)

Project No. 201503969 CPA-ZOA

### **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

#### **FINDINGS OF FACT**

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

A. The Commission finds that the record is comprised of:

1. Exhibits to the Staff Report.
2. All other information contained in Ada County Development Services File for Project No. 201603969 CPA-ZOA.

B. As to procedural items, the Commission finds the following:

1. In accordance with Section 8-7A-2B of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on October 30, 2014 and November 17, 2014.
2. On November 13, 2015, Development Services accepted Project #201503969 CPA-ZOA and scheduled it for public hearing before the Ada County Planning and Zoning Commission on February 11, 2016.
3. On November 20, 2016, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.
4. Legal notice of the Commission's hearing was published in The Idaho Statesman on January 26, 2016 and February 2, 2016.
5. In accordance with Section 8-7A-5E of the Ada County Code, a public service announcement was issued on January 25, 2016.

C. As to the applicable law, the Commission finds the following:

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This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Commission finds **Idaho State Code §67-6508** is applicable because it sets forth the duty to conduct a comprehensive planning process designed to prepare, implement, review and update a comprehensive plan. The Commission finds that the applicant is proposing changes to the **Ada County Comprehensive Plan** that would allow Rural Cluster Subdivisions within the Rural Residential (RR) Districts. The majority of the Rural Residential (RR) District is outside areas of city impact; however, a very small portion of the RR District is located within existing areas of impact boundaries. There are approximately 124-acres in the Rural Residential (RR) District in Boise's Area of Impact, 17-acres in Meridian's Impact Area, and 25-acres in Star's Impact Area. Therefore, the **Ada County Comprehensive Plan, Boise City Comprehensive Plan as adopted by Ada County, Meridian Comprehensive Plan as adopted by Ada County, and the Star Comprehensive Plan as adopted by Ada County**. The Commission finds that the following modifications to the Ada County Comprehensive Plan as proposed by the applicant are below:

➤ **Applicant's Proposed Changes to the Ada County Comprehensive Plan:**

***Introduction: Implementation Process and Priorities***

*In addition to these general processes, this plan recommends a wide variety of specific implementation actions. These are described in each Chapter of the Plan and summarized again in Chapter 13. That Chapter also identifies a series of implementation priorities which include the following:*

- *Adopt zoning ordinance amendments and other tools needed to implement future sub-area plans.*
- *Prepare, or work in conjunction with other jurisdictions or entities to prepare, additional sub-area plans in priority planning areas.*
- *Refine and adopt open space standards for Planned Communities.*
- *Explore the feasibility of implementing a Transfer of Development Rights program.*
- *Identify priorities for open space protection and development of a County-wide open space conservation and acquisition program, in partnership with other jurisdictions and citizens of Ada County.*
- *Continue to coordinate with transportation agencies for major future transportation corridors.*
- *Adopt amendments to the County's zoning ordinance to create ~~eliminate "non-farm subdivision" provisions~~ rural cluster development provisions that would provide for a rural lifestyle option that addresses the issues of agricultural use, open space, redevelopment and service issues.*
- *Adopt amendments to the County's zoning ordinance to require urban public facilities for new development, except for limited rural uses, including rural cluster developments.*
- *Adopt amendment to County's zoning ordinance to further define urban development*

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*or rural development as it relates to rural cluster developments.*

- *Adopt amendments to County Zoning Ordinance for Planned Communities in areas of city impact and rural areas.*
- *Adopt appropriate Blueprint for Good Growth policies into this Comprehensive Plan.*
- *Complete the Boise River Greenbelt in the unincorporated portion of the County.*
- *Develop mutually agreed upon development standards within areas of impacts.*

## **Chapter 2: Population & Growth**

### *Goals & Policies*

*Goal 2.1: Anticipate continuing growth and development demand.*

*Policy 2.1-2: Development that occurs outside an Area of City Impact ~~should~~ **shall** ~~either~~ be located within a Planned Community, *a Rural Cluster Development*, or it shall be rural in nature.*

### *Rural Residential and Agricultural Areas*

*Outside of Areas of City Impact, most land is zoned for a combination of rural residential or rural preservation. The types of uses allowed in these areas include the following:*

- *Farm, forest and rangeland uses*
- *Residential development with minimum lot sizes of 10 or 40 acres*
- *Planned Communities*
- *Rural Cluster Developments in the Rural Residential Zoned Areas*
- *Selected industrial, commercial and resource extraction uses compatible with surrounding residential or agricultural use and consistent with plan policies and locational criteria*
- *Transportation Corridors and improvements*
- *Department of Defense Orchard Combat Training Center, Hazardous Area*
- *Snake River Birds of Prey National Conservation Area*
- *Other dedicated open space, park or recreation facilities or areas*

## **Chapter 5 – Land Use**

### *Comprehensive Plan Map*

*The generalized map of future land uses identifies the current vision for a future mix of land uses to implement the county's many diverse goals. Generalized land use recommendations set forth in this plan emphasize the importance of cooperative planning and development along the various jurisdictions and agencies throughout the county. The general types of areas reflected on the Comprehensive Land Use Map are as follows:*

- *Rural area. The unincorporated portion of Ada County outside of the areas of impact of Boise, Meridian, Star, Eagle, Garden City and Kuna. The rural area applies to privately owned land in unincorporated Ada County and may include the following, more specific, existing and future land uses:*

- *Rural Residential uses. Future rural residential development in this area should help address the desires of some County residents for a rural lifestyle, while minimizing impacts on agricultural uses, promoting permanent conservation of open space and reducing obstacles to long-term urbanization as cities or Planned Communities expand. [Towards this end, a Rural Cluster Development ordinance is recommended in order to provide for a rural lifestyle option that addresses the issues of agricultural use, open space, redevelopment and service issues.](#)*

**Issues:**

*Conflicting uses in transitional areas. Historically, the County has allowed “non-farm subdivisions” in rural areas. These developments have provided landowners and residents with opportunities to enjoy a rural residential lifestyle in unincorporated portions of the County. However, as some of these areas have been annexed or urbanized, conflicts between rural and urban development patterns have arisen. In addition, they present challenges for the provision of services in newly incorporated areas.*

***Rural Areas – Residential Development***

*Goal 5.6: Low-density, low-impact residential development will be allowed in rural areas.*

*Policy 5.6-2: Densities and lot sizes for rural residential development, [outside of Planned Communities](#), should be regulated to allow only [Rural Cluster Developments](#) or development that is of a rural character ~~outside of Planned Communities~~.*

*Policy 5.6-3: Encourage use of innovative planning techniques such as conservation subdivisions, [Rural Cluster Developments](#), transfer of development rights, purchases of land, conservation easements and other approaches to preserve open space, agricultural uses and the rural environment as rural residential development occurs.*

*Implementation Action: ~~Replace Non-farm subdivision development with~~ [Create provisions for Rural Cluster Developments](#) that allow for ~~limited~~ rural residential development that ~~will~~ [is designed so as](#) not [to](#) interfere with future urban development as rural areas are urbanized as part of Area of City Impact expansion or annexation processes. New [Rural Cluster Development](#) regulations should offer the opportunity for a rural lifestyle to those who desire it and provide mechanisms for incorporating open space into ~~rural~~ [the](#) development, [while ensuring the feasibility of future redevelopment](#). (see Chapter 13 of this plan for more specific recommendations).*

***Rural Areas – Agricultural Use***

*Goal 5.9: Ada County will continue to support the agricultural industry and preservation of prime agricultural land in areas designated as Rural on the Comprehensive Plan Future Land Use Map.*

*[Policy 5.9-16: Allow for Rural Cluster Developments in the rural areas that are not in direct conflict with Policies 5.9-1 thru 5.9-15.](#)*

***Wastewater Facilities***

Goal 7.4: Assist in coordinating the provision of wastewater treatment and collection services and facilities in a cost-effective, efficient and environmentally sound manner.

Policy 7.4-4: In order to protect groundwater quality and to facilitate cost effective wastewater treatment and collection, require all new residential development with lot sizes smaller than ten acres, except rural residences and rural cluster developments, to be served by urban public facilities.

**Chapter 13:**

**13.8 Implementation Priorities**

Each chapter of this plan identifies a variety of recommended implementation measures to achieve the goals, objectives and policies of this plan. A number of these measures were identified as of particularly high priority. These include:

- Adoption of an amendment to the County’s zoning ordinance to create provisions for a Rural Cluster Development. In the past, these types of developments, previously called “Non-Farm Developments”, created land use conflicts and other issues as areas in which they were originally permitted have urbanized. Issues have included conflicts between rural and urban residential or other land uses, including agricultural, obstacles to efficient use of land for commercial or other non-residential development, difficulties in extending roads and/or other public facilities, conflicts with large acreage property owners, misperception that open space is permanently protected, and issues regarding maintenance and operation of sewer and water systems.

An update of the ordinance to a Rural Cluster Development, should focus on alternative that eliminate these potential future conflicts, while providing some opportunities for rural residential development as a key implementation measure for this Plan. One possible incentive to development would be permanent open space conservation, particularly in sensitive areas of the County such as the foothills or along the Boise River. Other cluster developments, while either permanently protecting open space or ensuring it is available for development at a later date, should be designed in ways that reduce future conflicts with other landowners and allow for the construction of future roads or other utilities.

*Implementation Actions by Chapter;*

Following is a summary of implementation actions identified in each chapter of this Plan, along with proposed responsibilities for each action.

Goal 5.6: Development will be allowed in rural areas consistent with this Plan and County zoning ordinances.

| IMPLEMENTATION ACTIONS  | Proposed Responsibility |
|---|-------------------------|
| <del>Replace Non-farm subdivision development with</del> <u>Create an updated ordinance with provisions that allow for limited rural residential Rural Cluster Developments</u> that will not interfere with future urban | CC, P&Z, S              |

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|---|--|
| <p>development as rural areas are urbanized as part of Area of City Impact expansion or annexation processes, <u>will not create negative service issues (septic service)</u>, and will offer the opportunity for a rural lifestyle to those who desire it and provide mechanisms for incorporating open space into rural development. (see Chapter 13 of this plan for more specific recommendations).</p> |  |
|---|--|

**Appendix A Glossary of Terms**

**RURAL CLUSTER DEVELOPMENT.** A development that redirects, concentrates or focuses a permitted number of residences on a specific portion or portions of one or more properties in a way that permanently preserves or temporarily sets aside open space and unique natural features while providing for potential redevelopment of the temporary set aside open space with an emphasis on future public services, roadway extensions and compatibility with future and/or existing adjacent land uses. These developments should have a maximum gross density of one dwelling unit per 5 acres.

**RURAL RESIDENCES.** Residential lots in rural areas with lot sizes smaller than five acres due to legal nonconforming status; ~~or~~, due to having been approved as a farm development right on property forty acres or larger, or created as part of a Rural Cluster Development.

The Commission finds that the following sections of the **Ada County Comprehensive Plan, Boise City Comprehensive Plan as adopted by Ada County** and **Meridian Comprehensive Plan as adopted by Ada County** are applicable:

➤ **ADA COUNTY COMPREHENSIVE PLAN:**

**Introduction:**

Implementation Process and Priorities:

- Adopt amendments to the County’s zoning ordinance to eliminate “non-farm subdivision” provisions. Adopt amendments to the County’s zoning ordinance to require urban public facilities for new development, except for limited rural uses.

**Chapter 2: Population & Growth**

Issues:

The following issues were identified during the last Comprehensive Plan Update process undertaken in 2005/2007.

- *Rapid population growth.* The population of Ada County has grown rapidly in recent years, leading to concerns about impacts on rural character, traffic congestion, scenic and environmental resources, and overall quality of life. A coordinated approach to planning to manage future growth and development is needed and more cooperation and coordination among the County, cities and other public and private entities is important to County residents.
- *Coordination and cooperation.* Continued monitoring of the expected location of future population and employment growth and development is important for planning

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*future public facilities, including transportation corridors, water, sewer and drainage systems, schools and park and recreation facilities. Recognizing that the county is rapidly urbanizing, the county will, in cooperation with the cities, require new urban development to locate where urban public facilities exist or are planned and programmed.*

**Goals & Policies:**

*Goal 2.1: Anticipate continuing growth and development demand.*

*Policy 2.1-1: New urban development should be limited to within each Planned Communities in the rural areas and within each city's Urban Service Planning Area in areas that have existing or planned and programmed urban public facilities to accommodate growth.*

*Policy 2.1-2: Development that occurs outside an Area of City Impact shall either be located within a Planned Community, or it shall be rural in nature.*

*Implementation Action: Amend zoning ordinance to require new urban development to locate where urban public facilities exist or are programmed.*

**Chapter 5: Land Use**

**Regional Planning Recommendations:**

- *Coordinate development decisions with the ability to provide urban public facilities.*

**Comprehensive Plan Map**

*The generalized map of future land uses identifies the current vision for a future mix of land uses to implement the county's many diverse goals. Generalized land use recommendations set forth in this plan emphasize the importance of cooperative planning and development among the various jurisdictions and agencies throughout the county. The general types of areas reflected on the Comprehensive Land Use Map are as follows:*

- *Rural residential uses. Future rural residential development in this area should help address the desires of some County residents for a rural lifestyle, while minimizing impacts on agricultural uses, promoting permanent conservation of open space and reducing obstacles to long-term urbanization as cities or Planned Communities expand.*

**Goals & Policies**

**General**

*Goal 5.1: Encourage urban growth within cities, Areas of City Impact and Planned Communities.*

*Policy 5.1-1: Focus urban density within the Areas of City Impact and Planned Communities.*

*Policy 5.1-2: Encourage growth in areas where public investments in urban public facilities have already been made or are planned and programmed.*

*Implementation Action: Amend zoning ordinance to require new urban development to be located where urban public facilities exist or are programmed.*

### ***Areas of City Impact***

*Goal 5.2:* *Ensure that Areas of City Impact retain the potential for future urban growth and are planned and developed in an orderly and cost-effective manner.*

*Policy 5.2-2:* *Areas of Impact boundaries will be based upon the following factors:*

- e. The availability of essential public services.*

*Policy 5.2-5:* *For those portions of the Areas of City Impact outside the city limits of the incorporated cities, the County will support the land-use and development policies expressed in the officially adopted city comprehensive plans.*

*Policy 5.2-7:* *Within Areas of City Impact where urban public facilities are available, residential development should occur at urban densities consistent with the cities; comprehensive plans.*

### ***Rural Areas—Residential Development***

*Goal 5.6:* *Low-density, low-impact residential development will be allowed in rural areas.*

*Policy 5.6-1:* *Encourage preservation of open space and a rural residential lifestyle by strictly limiting development in areas that are not Planned Communities and are not within an area of city impact.*

*Policy 5.6-2:* *Densities and lot sizes for rural residential development should be regulated to allow only development that is of a rural character outside of Planned Communities.*

*Policy 5.6-3:* *Encourage use of innovative planning techniques such as conservation subdivisions, transfer of development rights, purchases of land, conservation easements and other approaches to preserve open space, agricultural uses and the rural environment as rural residential development occurs.*

*Policy 5.6-8:* *Rural residential development should minimize adverse impacts on the natural environment and agricultural land uses.*

## ***Chapter 7: Public Services***

### ***Water and Irrigation***

*Water Quality.* *Residents in public meetings indicate concerns about the quality of their drinking water and potential impacts of new growth on it, particularly in rural areas where septic systems are used.*

*Policy 7.5-4:* *Require development applicants to demonstrate that use of water to serve proposed new development will not decrease the amount of water available to adjacent, existing residents below current, average levels of use of those residents.*

### ***Wastewater Facilities***

*Impacts of septic systems.* Members of the public and service providers expressed concerns about the potential impacts of on-site, individual wastewater treatment systems on water quality, particularly in areas where rural lots are small and growth is increasing. At the same time, larger rural lot sizes (5 acres and larger) make it difficult for cities or sewer districts to cost-effectively provide wastewater treatment systems.

*Goal 7.4:* Assist in coordinating the provision of wastewater treatment and collection services and facilities in a cost-effective, efficient and environmentally sound manner.

*Policy 7.4.2:* In order to minimize the number of facilities and to ensure cost effective provision of wastewater services, encourage long-term regional planning of city and sewer district collection and wastewater treatment facilities.

*Policy 7.4-3:* Coordinate with cities and sewer districts to develop long-term planning area boundaries to accommodate future expansion to help ensure that wastewater treatment and collection facilities can be provided cost-effectively and efficiently over the long term (beyond 20 years) as areas outside of impact are urbanized.

*Policy 7.4-4:* In order to protect groundwater quality and to facilitate cost effective wastewater treatment and collection, require all new residential development with lot sizes smaller than ten acres, except rural residences to be served by urban public facilities.

*Implementation Action.* Encourage all new rural residential development which is not connected to central sewer to dedicate easements for the future construction of trunk lines shown on regional sewer plans.

## **Chapter 12: Community Design & Sustainability**

### *Overall Community Design*

*Goal 12.1:* Support a strong, viable community identity for specific areas in Ada County.

*Policy 12.1-10:* New development should be designed to be compatible with existing adjacent development and/or with future planning objectives and community goals for that area.

### ➤ **CITY OF BOISE COMPREHENSIVE PLAN:**

#### ***Use and expand public facilities and services efficiently***

*New growth will be encouraged only in areas where adequate public water, sewer, fire protection and emergency services, schools, transit, and roads are currently available or are planned. Infrastructure will be viewed as a tool to help manage growth, not as a service that is provided in reaction to growth pressures.*

*Efforts will be made to improve the linkage between infrastructure planning and land use planning, and all new development should be required to be served with public facilities that meet minimum levels of service standards. The goals and policies outlined below provide guidance on required infrastructure improvements, level-of-service standards, coordination, and related planning documents.*

**Goal PDP5: Require adequate public facilities and infrastructure for all development.**

**PDP5.4: PHASING REQUIREMENTS**

*Approve developments for only the portion of the project that is consistent with Table 3: Level of Service Standards for Community Services and Facilities, and phase the remainder of the project to coincide with future availability of public facilities and services.*

**Goal PDP6: Plan for and coordinate the efficient expansion of public facilities and infrastructure to serve future growth.**

**Principle GDP-N.10: Cluster Development**

*Use cluster development patterns to:*

- (a) Preserve scenic view corridors or natural features;*
- (b) Create transitions between areas of different development intensity;*
- (c) Provide open space for the common use and enjoyment of residents and the broader community; and/or*
- (d) Preserve cohesive blocks of agricultural land.*

**PARKS, OPEN SPACE, AND CONSERVATION LAND USE CATEGORIES:**

**Foothills Planning Area: Location and Context**

*The Foothills Planning Area (“Foothills”) provides the backdrop to Boise City and is the northern extent of the city. Boise’s Foothills are highly valued by residents for their natural beauty and many recreational assets. In addition to providing critical wildlife and plant habitat, the area also provides watershed and riparian environments, agricultural uses and abundant recreational opportunities, such as rock climbing, hiking and mountain biking.*

*Planning in this area has focused on balancing development with the natural environment including impacts on adjoining neighborhoods, transportation, recreational opportunities and environmental issues and wildlife mitigation. In recent years, a number of low-density residential subdivisions have been developed in this planning area. The traffic impacts of foothills developments on existing neighborhoods to the south is a continuing concern. In 2001, the citizens of Boise voted in favor of a two-year special tax levy that raised nearly \$10 million for open space conservation in the Foothills. Since then, city efforts have successfully protected over 6,600 acres, in coordination with the Idaho State Board of Lands and the Bureau of Land Management, among other partners. The land ownership in the greater Boise Foothills area (which includes the planning area) is approximately 60% private and 40% public. Policies for the Foothills that are contained in this chapter have been carried forward from the Foothills Policy Plan, which was adopted in March 1997. Since the adoption of the Foothills Policy Plan, concerns have been raised regarding the intensity of future development in the Foothills and the potential impacts of future development on the capacity of Foothills roadways and those in "downstream" neighborhoods.*

*Note: Policies contained in this chapter are intended to be reviewed and applied in conjunction with the Foothills Ordinance, one of the Foothills Policy Plan's primary implementation mechanisms.*

### ***Development Constraints***

- *Development in the Foothills is constrained by a variety of conditions, including steep slopes and the slope protection ordinance, lack of sewer, a previous limit on the number of buildable lots, and by zoning at one home per 40 acres on much of the buildable area. Limited access is also a constraint to providing emergency and public safety services.*
- *Traffic impacts on a limited, congested system and the costs of road and transit infrastructure are significant constraints.*
- *Wildfires have occurred in the Foothills and can be expected to occur in the future. The City has adopted a Wildland Urban Interface (WUI) that covers the entire Foothills geography in an attempt to reduce the risk of fire in the Foothills. This ordinance attempts to limit the fire hazards associated with development in the Foothills by requiring specific building codes, site planning requirements and landscaping requirements.*
- *Many soil types in the Foothills are not conducive to urban development.*
- *The cost to provide urban services to the Foothills is higher than in other areas of Boise City due to topographic constraints. Fire service is difficult to provide too many areas in the foothills that were developed in the county, which can cause residents using services to have to pay for them.*

### **FOOTHILLS POLICIES**

*Centers, Corridors, and Neighborhoods (FH-CCN): Policies for this section focus on preserving the area's abundance of visual and recreational opportunities by promoting a balance between development and the natural environment; ensuring future development preserves the topography of the area and existing wildlife habitat; ensuring that rangeland and established neighborhoods are preserved, protected and integrated into the urban environment in a responsible manner; and ways to reduce the risk of natural disaster.*

*Goal FH-CCN 1: To share growth throughout the community, controlled development of appropriate Foothills areas shall be allowed pursuant to standards and conditions that are protective of the Foothills, wildlife and neighborhoods.*

*Goal FH-CCN 2: To promote a mix of land uses and densities in the Foothills to accommodate a variety of housing, shopping, transportation, public facility, recreation and wildlife needs.*

*FH-CCN 3.2: CLUSTER DEVELOPMENT: Foothills planned development shall incorporate a clustered lot layout to preserve open space.*

*Goal FH-CCN 6: Preserve the wildlife habitat and scenic values of the Foothills viewshed while providing for buildable slopes and base unit density.*

### **FH-CCN 6.1: CLUSTER DEVELOPMENT FOR HABITAT**

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*The practice of clustering of development and preserving the open spaces shall be used to maintain environmental and wildlife features, such as wetlands, threatened plant species, riparian areas, big game winter range, and sensitive wildlife habitats. All open space credited for density bonus purposes (Figure 18) must remain in a primarily natural condition with the goal to maintain it for wildlife habitat and recreational uses. Open space areas shall be located to form continuous corridors subject to the review and recommendation of the Idaho Department of Fish and Game within the mapped Wildlife Habitat Areas (Figure 19). Such areas may remain as private open space, may be used for public trail easements, or may be dedicated to a public land trust or other group for conservation management purposes, with preference given to public access recommended and implemented through the Foothills Ordinance.*

### **FOOTHILLS POLICIES**

#### **Public Services/Facilities (FH-PSF)**

*Goals and policies for this section focus on identifying areas where investment in infrastructure are needed in the Foothills to implement the community's vision.*

*Goal FH-PSF 1: Plan for future high quality city services and infrastructure improvements and protect public health in the Foothills.*

#### **FH-PSF 1.1 AVAILABILITY OF INFRASTRUCTURE AND SERVICES:**

*Development in the Foothills shall be limited by the availability of sewer, water, drainage, fire-fighting and other infrastructure or services; in accordance with service area standards cited in the Boise City Comprehensive Plan. Urban development in the Foothills, defined as densities greater than one unit per ten acres, shall only be permitted in urban service planning areas where infrastructure and services exist or can be made available. All developments of urban density shall be serviced by an approved water system and shall be serviced by wet line sewers in accordance with the Boise City Subdivision Ordinance and the Boise City Sewer Regulations.*

*Goal FH-PSF 2: Provide high quality urban infrastructure with deliberate care to protect the Foothills from adverse environmental impacts.*

#### **➤ CITY OF MERIDIAN COMPREHENSIVE PLAN:**

##### ***Area of City Impact***

*The City of Meridian desires all development within its Area of City Impact to be served with urban services from the City of Meridian. Such services primarily include sanitary sewer, water, reclaimed water, fire, police, and parks. Secondly, the City will consider the availability and capacity of the school system, transportation facilities, libraries, and storm water facilities in any review of development within the Area of City Impact. All requests for annexation into the City limits will require that the owner extend City-owned services at the time of development.*

*Goal:*

*3.04.00: Expand, improve, and maintain the City's infrastructure to meet existing and growing demands in a timely, orderly, and logical manner.*

*3.04.01: Develop and follow logical master plans for all public facilities, services and safety to guide the growth of the City.*

*3.04.01G: Protect citizen investments in existing public facilities (water, sewer, streets, fire, police, etc.) by encouraging controlled growth through development application reviews and development agreements.*

The Commission finds that the proposed changes does not comply with the Ada County Comprehensive Plan and the City Comprehensive Plans, because it is the intent of the Comprehensive Plans that urban-type development to be located where urban public facilities are located and the changes proposed by the applicant seek to reverse and contradict that purpose and intent

The majority of the Rural Residential (RR) District is outside areas of city impact; however, a very small portion of the RR District is located within existing areas of impact boundaries. There are approximately 124-acres in the Rural Residential (RR) District in Boise's Area of Impact, 17-acres in Meridian's Impact Area, and 25-acres in Star's Impact Area. If the amendment were to be adopted it would encourage further suburban sprawl.

The Board of Ada County Commissioners (BOCC) approved the amendment to the Ada County Comprehensive Plan to remove the non-farm subdivisions. As stated in the staff report from the BOCC hearing in 2008 (Exhibit #23), the "purpose of the proposed amendment is to provide the policy framework for requiring urban-type development to locate where urban public facilities are located; and, to plan for new development within the rural areas of the county to be low-density residential and low-intensity rural uses. While the 2007 Ada County Comprehensive Plan was intended to implement the recommendations that came out of the Blueprint for Good Growth Planning Process, some Blueprint recommendations were made after the bulk of the public hearings had been held on the 2007 Comprehensive Plan. This proposed amendment reflects those Blueprint recommendations." The Commission finds that the proposed changes to the Ada County Comprehensive Plan would be in contradiction with Boise's Comprehensive Plan because new growth will be encouraged only in areas where adequate public water, sewer, fire protection and emergency services, schools, transit, and roads are currently available or are planned.. The Commission finds that the proposed changes to the Ada County Comprehensive Plan would be in contradiction with the City of Eagle Comprehensive Plan which also does not allow cluster developments within the AOI.

Boise City responded in Exhibit #21, "These amendments may have little applicability within the existing Boise Area of Impact, but they may certainly have long-term impacts on properties immediately outside of the City's service area. This would include the RR zoned properties in the foothills, in the southwest Ten Mile Creek Planning Area and in other areas where urban services have not been contemplated or are not yet provided. Indeed, the financial and other impacts of dispersed development in rural areas may be felt by all local jurisdictions in the region."

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The comprehensive plan text amendment and is being made prematurely as Ada County has recently kicked off our comprehensive plan update process. We are in the midst of three public outreach campaigns in which we are seeking input from the public on the vision for Ada County's future. Draft policies, based on the public input, will be out in the late winter/early spring. If the public comments guide the County in the direction of cluster subdivisions, the draft policies could potentially address these types of development.

2. The Commission finds **Subsection 8-7B-1A of the Ada County Code** is applicable because it sets forth for the Commission to accept petitions from any persons to amend the comprehensive plan as set forth in Idaho Code Section 67-6509(d). The Commission finds that Idaho Code section 67-6509(d) allows any person to petition the Commission for a recommendation to an amendment to the comprehensive plan at any time and that this amendment is brought forth by SLN Planning, Inc. and was submitted on November 13, 2015.
3. The Commission finds **Idaho State Code §67-6537(4)** is applicable because it sets forth when considering, amending, repealing, or adopting a comprehensive plan, the local governing board shall consider the effect the proposed amendment, repeal or adoption of the comprehensive plan would have on the source, quantity and quality of ground water in the area. The Commission finds that the proposed comprehensive plan amendment will have an effect on the existing goals or policies addressing the source, quantity, and quality of ground water. The Commission finds that the proposed amendment does not comply with Policy 7.5-4 because the proposal would allow urban development in rural areas which would result in an increase of individual and/or community wells and a draw on the existing water supply.
4. The Commission finds **Section 8-7-3 of the Ada County Code** is applicable because the application is for a zoning ordinance text amendment. The Commission finds that the application does not comply with **Section 8-7-3 of the Ada County Code**. Regarding Section 8-7-3 the Commission finds the following in regards to the zoning ordinance text amendment.

1. *The zoning ordinance amendment is in accordance with the applicable comprehensive plan;*

The Commission finds that the zoning ordinance amendment is not in accordance with the Ada County Comprehensive Plan. Megan Basham from Ada County Development Services submitted comments stating that Ada County is in the process of updating the Comprehensive Plan for the county and the application is premature due to the ongoing process and public outreach process. The Comprehensive plan update should be completed by the fall of 2016 (Exhibit #16). The County will be conducting an Issue Summit for the Ada County Comprehensive Plan update concerning Agriculture.

The current Ada County Comprehensive plan recommended that the non-farm (rural cluster subdivision) be significantly revised or replace due to the conflicts between

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rural and urban development patterns. The presented challenges for the provision of services in newly incorporated areas. The non-farm (cluster subdivision) should be replaced as to not interfere with future urban development. Additional issues identified included conflicts between rural and urban residential, obstacles to efficient use of land for commercial or other non-residential development, difficulties in extending roads and/or other public facilities, conflicts with large acreage property owners and a misperception that open space is permanently protected.

The comprehensive plan proposed alternatives that eliminate the potential future conflicts such as a conservation subdivision either permanently protecting open space or ensuring it is available for development at a later date. In addition to reduce future conflicts with other landowners and allow for the construction of future roads or other utilities.

Ada County Highway District had transportation concerns including the lack of connectivity, requests to convert private streets to public roadways, implementation of the Master Street Map (MSM) and its impact to open space lots and frontage improvements (Exhibit #17). If the ordinance is approved, ACHD will implement conditions consistent with access management policies, and public streets will be required to provide future connectivity. In addition new streets designated on the MSM will be required to be constructed and stub streets to provide access and connectivity to adjacent parcels and open space lots that can be redeveloped in the future.

The applicant submitted a comprehensive plan amendment that does not address all of the issues that were included in the current Ada County Comprehensive Plan.

2. *The zoning ordinance amendment complies with the regulations for the proposed base district, specifically the purpose statement;*

The Commission finds that the proposed zoning ordinance text amendment amends the definition of Open Space, Dedicated and Rural Residence. In addition the applicant is proposing to add new definitions for Community Sewage Disposal System, Rural Cluster Development.

The Commission finds that the purpose statement for rural districts is to implement the Ada County comprehensive plan goal to protect prime agricultural land and to maximize opportunities for agricultural activities and an agricultural lifestyle in areas designated as rural areas on the comprehensive plan future land use map. Therefore the proposed zoning ordinance amendment does not comply with the purpose statement because it does not address how prime agricultural land will be protected, due to the allowance to redevelop the open space. The proposed text amendment allows the creation of temporary open space and the allowance for redevelopment of the open space. Ada County is currently going through a comprehensive plan update and the proposed text amendment at this time is premature due to the ongoing process and public outreach process.

3. *The zoning ordinance amendment shall not be materially detrimental to the public health, safety, and welfare;*

The Commission finds that the repeal of the original amendment for non-farm subdivisions was due to community sewage systems and community wells issues with attendant problems concerning maintenance, upgrading, replacement and eventual connection to urban water and sewer systems as identified in Project 200700118-ZOA. The repeal was put in place due to the Blueprint for Good Growth planning process and encouraged cities, utilities and taxing districts to work together.

The Commission finds that the proposed zoning ordinance amendment does not address all of the issues concerning roads, maintenance, upgrading, replacement and eventual connection to urban water and sewer systems and therefore may be detrimental to the public health and safety per comments from ACHD (Exhibit #17) and the City of Eagle (Exhibit #15).

4. *The zoning ordinance amendment shall not result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services within the planning jurisdiction including, but not limited to, school districts, and*

The Commission finds that the zoning ordinance amendment will result in adverse impacts upon the delivery of services because Ada County Highway District stated in their comments (Exhibit #17) that transportation related concerns include: lack of connectivity, requests to convert private streets to public roadway, access management, implementation of the Master Street Map and the impact to open space lots and frontage improvements. In addition, private roads located outside of an area of impact only require a thirty (30') foot easement, not a fifty (50') easement as required for a public road per ACHD.

The City of Eagle commented on the application (Exhibit #15) and does not support the zoning ordinance amendment because cluster subdivisions within the Rural Residence (RR) District is unplanned growth. The cluster subdivisions are not always consistent with adopted comprehensive plans. The City of Eagle and Ada County have discussed overall development intensity of the foothills and limited the RR and RP to 10 and 40 acre lots. If the cluster subdivision zoning ordinance amendment is approved a large area of the Eagle foothills would be eligible for the RR cluster provisions. The RR cluster, as proposed, would not meet and achieve the long term development goals of the City of Eagle. The City of Eagle has significant concerns about the potential impact of the proposed RR cluster provisions and is requesting denial of project 201503969 CPA/ZOA. The City of Eagle requests that the area located between State Highway 16 and State Highway 55 to the Boise/Gem County lines be excluded from the RR cluster provisions, if the County proceeds with the zoning ordinance text amendment.

The City of Boise commented on the application (Exhibit #21) and stated that the clustering and density strategies are not sustainable development practices where urban services are limited and are not protective of natural resources including

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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agriculture or rangeland. The amendment will have long-term impacts on properties immediately outside of the City's service area. The City has contemplated urban services in the foothills and southwest Ten Mile Creek Planning Area within the Rural Residential (RR) District. On a regional level Blueprint for Good Growth and Communities in Motion Regional Transportation Plan promotes the concept of directing urban development to established Areas of Impact where services are available or can be efficiently provided. Boise believes that the outlying rural areas of the County do have an important role to play in the economic health and vitality of the valley. Local food production, animal processing and even vineyards are crucial parts of the regional economy. These are essentially industrial uses that are not logically combined with urban residential development, clustered or otherwise.

The City of Boise supported the repeal of the "nonfarm subdivision option". Therefore, City of Boise is recommending denial of the proposed amendments to the Ada County Comprehensive Plan and the Ada County Code.

Pioneer Irrigation District commented on the application (Exhibit #10). In the past they have experienced where irrigation water is not available to properties that have split off of larger pieces. It was not accessible by one property or the other resulting in a dispute over water. If the county approves the zoning ordinance text amendment Pioneer Irrigation recommends the following:

1. Preserve and protect all private irrigation facilities within the property being developed.
2. Provide access to irrigation water to all properties remaining following a property split.
5. *For zoning ordinance text amendments within a planned community (PC) base district, the amendment complies with the planned community implementation plan.*

The Planning & Zoning Commission finds that the zoning ordinance text amendment is not for within a planned community (PC) base district.

## **CONCLUSIONS OF LAW**

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Commission concludes that Project No. 201503969 CPA-ZOA does not comply with Idaho State Code §67-6508.
2. The Commission concludes that Project No. 201503969 CPA-ZOA does not comply with Subsection 8-7B-1A
3. The Commission concludes that Project No. 201503969 CPA-ZOA does not comply with Idaho State Code §67-6537(4).

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4. The Commission concludes that Project No. 201503969 CPA-ZOA does not comply with Section 8-7-3 of the Ada County Code.

**ORDER**

Based upon the Findings of Fact and Conclusions of Law contained herein, the Commission recommends denial of Project No. 201503969 CPA-ZOA to the Board.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Teri Murrison, Chairperson  
Ada County Planning and Zoning Commission

ATTEST:

\_\_\_\_\_  
Mark A. Perfect, Secretary

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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