City of McCall

Joint Meeting of

The McCall City Council Valley County Board of Commissioners and McCall Area Planning and Zoning Commission

AGENDA
Special Meeting
September 27, 2024 at 9:00 AM
Legion Hall – Below City Hall
216 East Park Street
McCall, ID
AND MS TEAMS Virtual

ANNOUNCEMENT:

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, please contact City Hall at 634-7142 at least 48 hours prior to the meeting. Council Meetings are available for in person and virtual attendance. Any member of the public can join and listen only to the meeting at 9:00 am by calling in as follows:
Dial 208-634-8900 when asked for the Conference ID enter: 515 195 806#
Or you may watch live by clicking this link:
https://youtube.com/live/0wVLPtmOvZs?feature=share

9:00 AM OPEN SESSION ROLL CALL

WORK SESSION
McCall Impact Area Joint Work Session

1. **Introductions**
2. **Background**
3. **Last joint work session**
4. **Changes in State Law**
5. **Review of Maps**
6. **Recommended actions**
7. **Discussion**
8. **Next steps**

ADJOURN

McCALL CITY COUNCIL
AGENDA BILL

216 East Park Street
McCall, Idaho 83638

Number **AB 24-200**
Meeting Date **September 27, 2024**

AGENDA ITEM INFORMATION				
SUBJECT: ***McCall City Council & Valley County Commission-*** ***McCall Impact Area Work Session***		***Department Approvals***	***Initials***	***Originator or Supporter***
		Mayor / Council		
		City Manager		
		Clerk		
		Treasurer		
		Community Development	MG	Originator
		Police Department		
		Public Works		
		Golf Course		
COST IMPACT:		Parks and Recreation		
FUNDING SOURCE:		Airport		
		Library		
TIMELINE:		Information Systems		
		Grant Coordinator		

SUMMARY STATEMENT:

The McCall Area of Impact was established in the late 1970's through a series of ordinances. For the past 45+ years, the City of McCall and Valley County have coordinated planning and building, and the City of McCall staff have performed the administration, and the County Commissioners have been the final decision makers. The collaborative relationship between the City and County have been used as an example as a 'best practice model' for Impact Area Management in Idaho and beyond in the planning field. There have been significant City resources invested in the McCall Area long range planning, code development, public involvement and code enforcement. The McCall Area Comprehensive Plan adopted by the City and County won numerous state and national planning awards for its extensive public involvement process to set the vision, goals, and strategies for the McCall Area. McCall City staff manage the administration for the McCall Impact Area and the County Commissioners have been the final decision makers. Land use applications go a joint PZ Commission, and the Board of County Commissioners (BOCC) make the final decision on major land use applications. Pre-COVID, the City and County worked together and adopted the same codes and planning documents for the City and County respectively. Currently, there are only 2 policy differences in code for the City Limits and Impact Area.

The State Statutes for Impact Areas (67-6526) changed during the last Legislative Session (attached). The work session will provide background on the Impact Area, review changes in the state statutes and discuss actions needed to come into compliance with the new law.

RECOMMENDED ACTION:

1. Discuss the changes to state code
2. Provide direction to staff

RECORD OF COUNCIL ACTION	
MEETING DATE	***ACTION***

City of McCall
COMMUNITY DEVELOPMENT

www.mccall.id.us

216 East Park Street
McCall, Idaho 83638

Phone 208-634-7052
Main 208-634-7142
Fax 208-634-3038

Subject: McCall Area of Impact
From: Michelle Groenevelt. Community & Economic Development Director
Date: December 19, 2023

The intention of this Memorandum is to summarize and clarify how the McCall Impact Area works with frequently asked questions and Land Use Flow Chart

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When was McCall Impact Area Established?
The McCall Area of Impact is the area was established in the late 1970's through a series of ordinances:

- Ordinance 361 (1977) defined the Boundary of the McCall Impact Area.
- Ordinance 390 (1979) defined the purpose of the Impact Area and adopted the mutually agreed upon Comprehensive Plan
- Ordinance 392 established the Area of Impact, by applying the Comprehensive Plan and Zoning Ordinance (391).

Since that time, numerous updated ordinances have been adopted by the City and County when new codes and Comprehensive Plans were developed.

What are the boundaries of the McCall Impact Area?
The McCall Area of Impact extends around Payette Lake, west to Club Hill Boulevard, and south of Elo Road (see map). The Impact Area boundaries did not change in 2018 when the City and County adopted the McCall Area Comprehensive Plan. Within the Comprehensive Plan, there is a Future Land Use Plan (FLUP) map that identifies areas for the boundary to expand and contract. This is the basis for any changing any Impact Area boundaries or zoning.

What is the background on the McCall Area Planning and Zoning Commission?

- The original commission (formed in 1980) was the "McCall Area of City Impact Joint Planning and Zoning Commission" with 3 members from McCall and 2 members from the AOI. Members were appointed by the City Council with one AOI appointment recommended by the County Commissioners.
- In 2002, this commission was replaced with a city planning and zoning commission with five members in the ratio of AOI to city population and the appointments were made by the City Council.

- In 2006, the membership was changed to 7 members with 4 members appointed by the City Council and 3 members appointed by the County Commissioners. All PZ members shall be residents of the city or the area of city impact for a period of at least two (2) years prior to appointment.

What are the duties of the McCall Area Planning and Zoning Commission?
The duties of the commission include:

- Recommend the granting or denial of variances, conditional use permits, subdivisions, planned unit developments, amendments to the zoning map, vacation of streets, and other decisions authorized by McCall Area ordinances (City and County), which recommendations shall only be made in the form of findings of fact and conclusions of law, pursuant to Idaho Code section 67-6535, and only through the procedures (including hearings) outlined in the McCall Area codes. Recommendations are made to the City Council or the Board of County Commissioners (city council for the city limits and county commissioners for the Impact Area) who make the final decision.
- Recommend amendments to the McCall Area Comprehensive Plan and the codes and develop regulations consistent with the Comprehensive Plan. Recommendations are made to the City Council or the Board of County Commissioners (city council for the city limits and county commissioners for the Impact Area) who make the final decision.
- Provide feedback and recommendations on other long range planning efforts.
- Provide decisions for Design Review and Scenic Route applications. Appeals are heard by the respective governing boards (city council for the city limits and county commissioners for the Impact Area.)

What is the role of the McCall Area Comprehensive Plan?
The McCall Area Comprehensive Plan (adopted by the City and County in 2018) is the primary planning policy document for the City and Area of Impact. It is a coordinated plan with a 20-year planning horizon that guides future development across the City and Area of Impact. The City staff administers the Area of Impact in partnership with Valley County.
The Comprehensive Plan is the community's vision. The Comprehensive Plan's policies guide decisions related to new development, redevelopment, programs, projects, budgets, and services. The policies, and initiatives shall require approval the City Council and County Commissioners as the governing bodies for their respective jurisdictions.

Why is the McCall Impact Area planning area important?
The planning area encompasses the City of McCall limits and the Area of Impact. Idaho State Statute requires that cities and counties establish areas of city impact to provide a way for cities to grow in a manner that is cost-effective for its residents, to anticipate future infrastructure needs, and to encourage urban development within cities. The plan allows for consistency in development that protects property rights and provides for certainly and fairness for property owners. The boundary protects the watershed of Payette Lake, one of the region's precious

resources and source of domestic water supply. Finally, the boundary provides a delineation between city and rural development patterns, important for the city identity.

The City adopts development codes for the city limits and the County Commissioners adopt codes for the McCall Impact Area, and are subject to land use and development review by the McCall Area Planning and Zoning Commission and then final decision to the respective governing boards (see attached flow chart). The coordinated City and County Comprehensive Plan, planning & zoning and development codes, and a joint Commission ensure consistency across the jurisdictions and address trade areas, geographical factors, and annexation considerations.

How does the City administer the McCall Impacts Area?

City staff manages the current planning (development review), long range planning, and building permit process for Valley County. This includes the following tasks (illustrative only):

- Meets with property owners, builders and developers
- Reviews applications and develops staff report and decision documents for the McCall Area P&Z Commission, City Council and County Commissioners
- Staffs the McCall Area Planning and Zoning Commission
- Coordinates joint meetings with the County before any major policies are developed
- Prepares code amendments and ordinances as necessary
- Invites and engages the County Commissioners to participate in long range planning meetings, workshops, outreach, etc.
- Implemented software for permitting process

How is the Impact Area administration funded?

- Application fees cover staff time to administer land use and building permits
- The City does <u>not</u> collect taxes from the McCall Impact Area
- The City does not get compensated for voluntary code enforcement efforts, citizen compliant or other non-permit related issues.
- Long range planning has been funded by the City of McCall

Why is there confusion about the McCall Impact Area from the public?

There are numerous reasons why the public, staff and elected officials get confused about how the Impact Area works. The following reasons have been identified as possible reasons:

1. The City and County have adopted the same Comprehensive Plans and ordinances. It is not uncommon to hear people refer to them as ‘city plans and codes’ even though they are also County plans and codes.
2. The City codifies the Planning and Zoning and Subdivision and Development codes on a third-party website. Since the City and County codes have been the same, it has not

been hosted separately by the County. Staff reports and decision documents reference City code numbers as references.

3. Residents from the McCall Impact Area go the McCall City Hall or the City of McCall website for building permits and land use related applications. However, since the Impact area has existed for 45 years most people know this procedure. Some people in the Impact Area think they either live in the city or come to City Council with their complaints.
4. City staff help them through the development process.
5. The McCall Area Planning and Zoning Commission is a joint commission and serves the City and Impact Area

Where are Planning related appeals heard for the McCall Impact Area?

Appeals of Administrative decisions go the McCall Area Planning and Zoning Commission. If the person does not like that decision, then it goes to the County Commissioners. All appeals for the McCall Area Planning and Zoning Commission in the Impact Area go to the County Commissioners.

How is code enforcement handled in the McCall Area?

In the City limits, a code enforcement officer from the McCall Police Department responds and, in some cases, actively addresses code violations from the McCall City Code. In the Impact Area, the City and County have established a process for handling citizen complaints and code enforcement with the Valley County for the McCall Impact Area. If complaints are planning and zoning or subdivision and development related then the McCall City staff receive complaints, and investigates if there is a code violation. If a violation has occurred, City staff sends a code enforcement letter and copies the Prosecuting Attorney. The letter identifies the violation, provides a timeline for addressing the violation and mentions that failure to comply may result in further enforcement action. Staff generally gets voluntary compliance from these letters so it does not move on VC. The City of McCall is not compensated by the County for the code enforcement efforts. If the violation is not addressed, then it moves to VC Attorney for further action. There are typically 4-6 of these cases per year. This process has been reviewed numerous times in the past 10 years. City staff is always open to ideas and meetings to improve the process.

PLANNING PROCEDURE

CUP, SUB, PUD, ZON, VAR

- PRELIMINARY DEVELOPMENT PLAN REVIEW

JOINT PLANNING & ZONING

- NEIGHBORHOOD MEETING

APPLICANT

- APPLICATION SUBMITTAL BY APPLICANT

MCCALL STAFF REVIEW

- APPLICATION REVIEW
- PUBLIC HEARING
- RECOMMENDATION TO GOVERNING BOARD

JOINT PLANNING & ZONING

FINAL DECISION

IMPACT AREA
TO
VALLEY COUNTY COMMISSIONERS

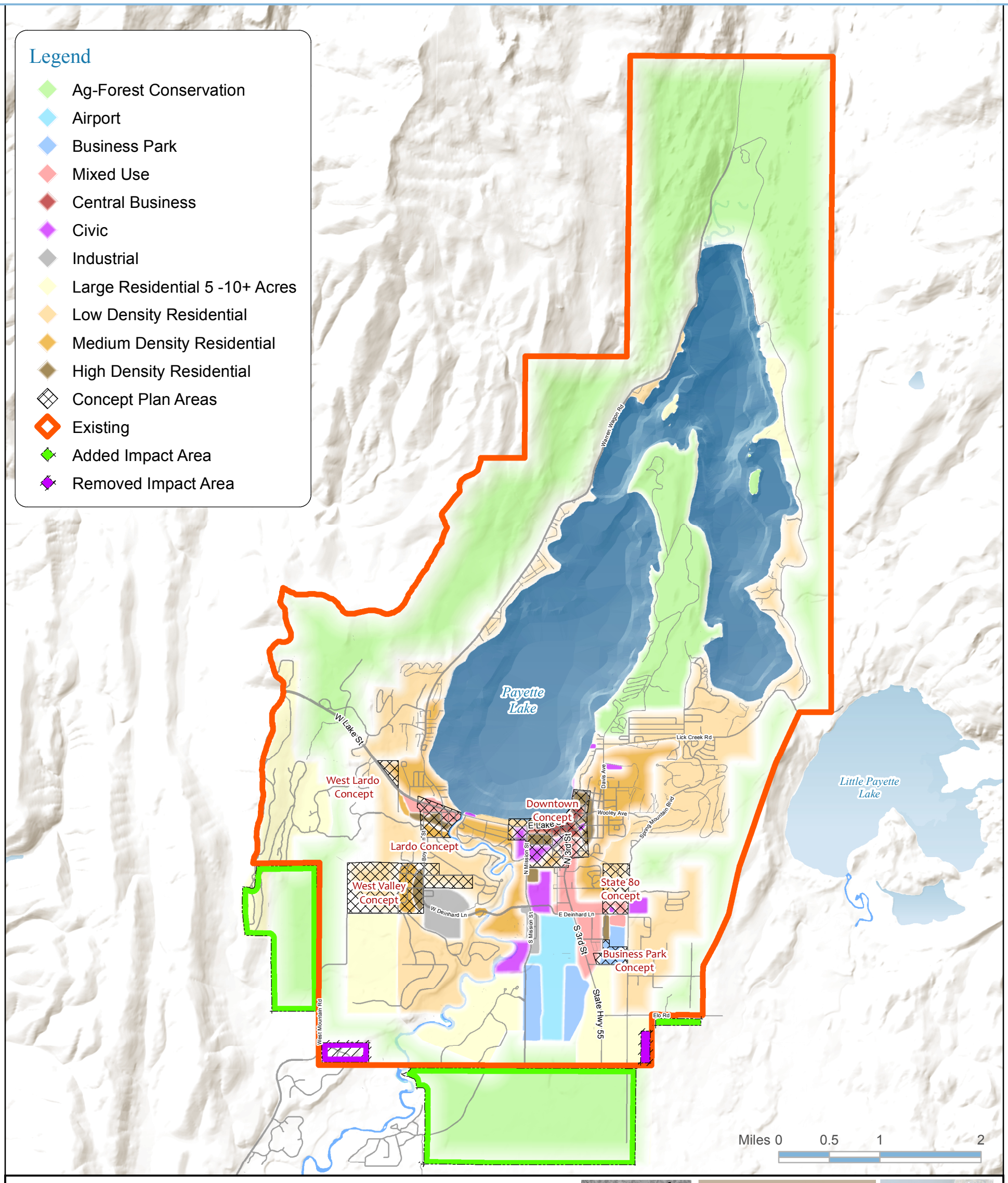
CITY LIMITS
TO
MCCALL CITY COUNCIL

*APPEALS GO TO APPROPRIATE BOARD.

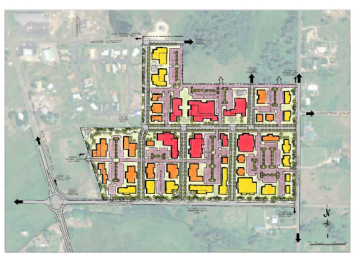
Future Land Use

Legend

- Ag-Forest Conservation
- Airport
- Business Park
- Mixed Use
- Central Business
- Civic
- Industrial
- Large Residential 5 -10+ Acres
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Concept Plan Areas
- Existing
- Added Impact Area
- Removed Impact Area



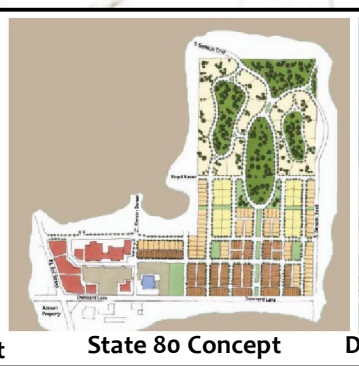
West Valley Concept Plan



Business Park Concept

Lardo Concept

West Lardo Concept



State 80 Concept

Downtown Concept

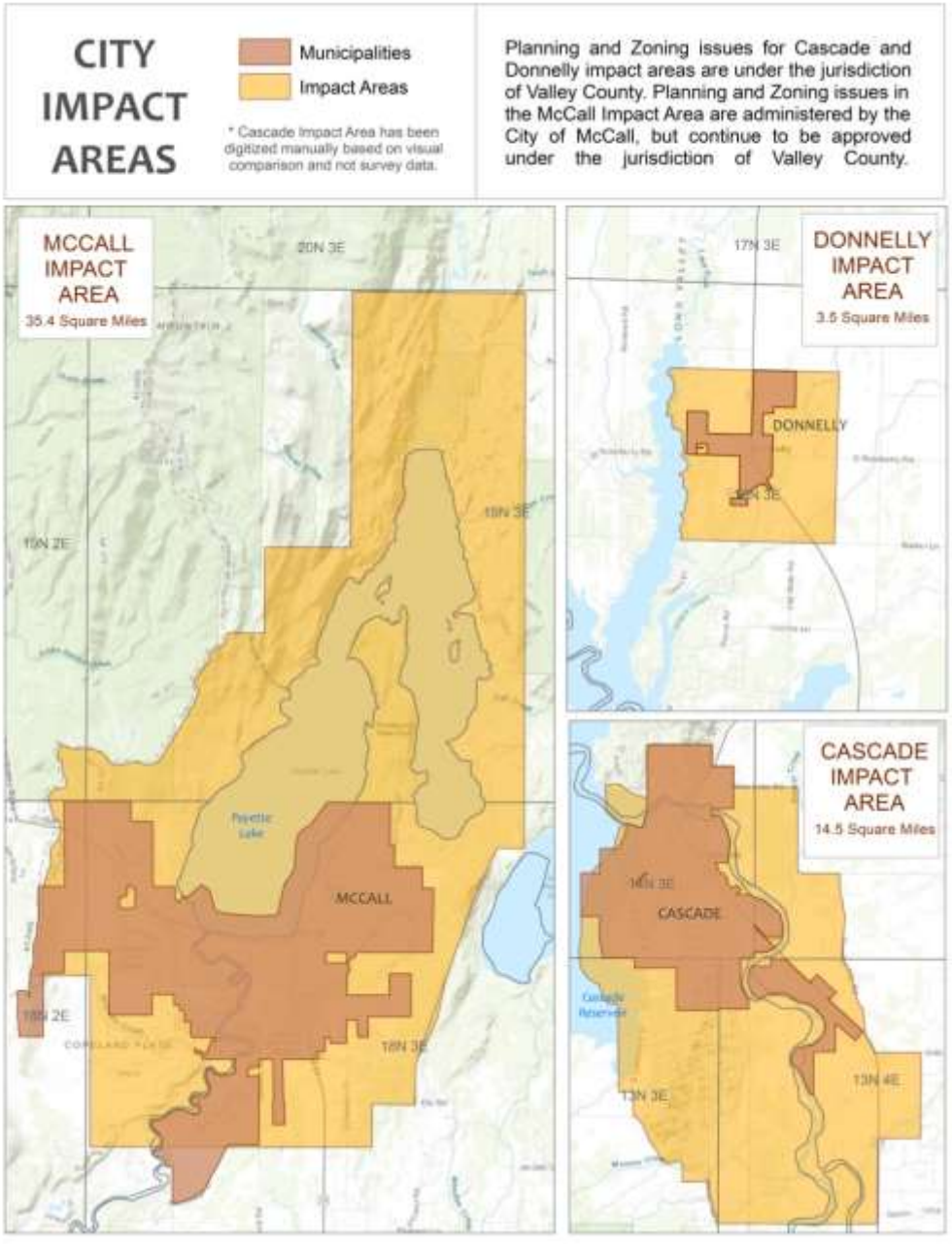
Base Legend

Roads Lakes River Payette_River

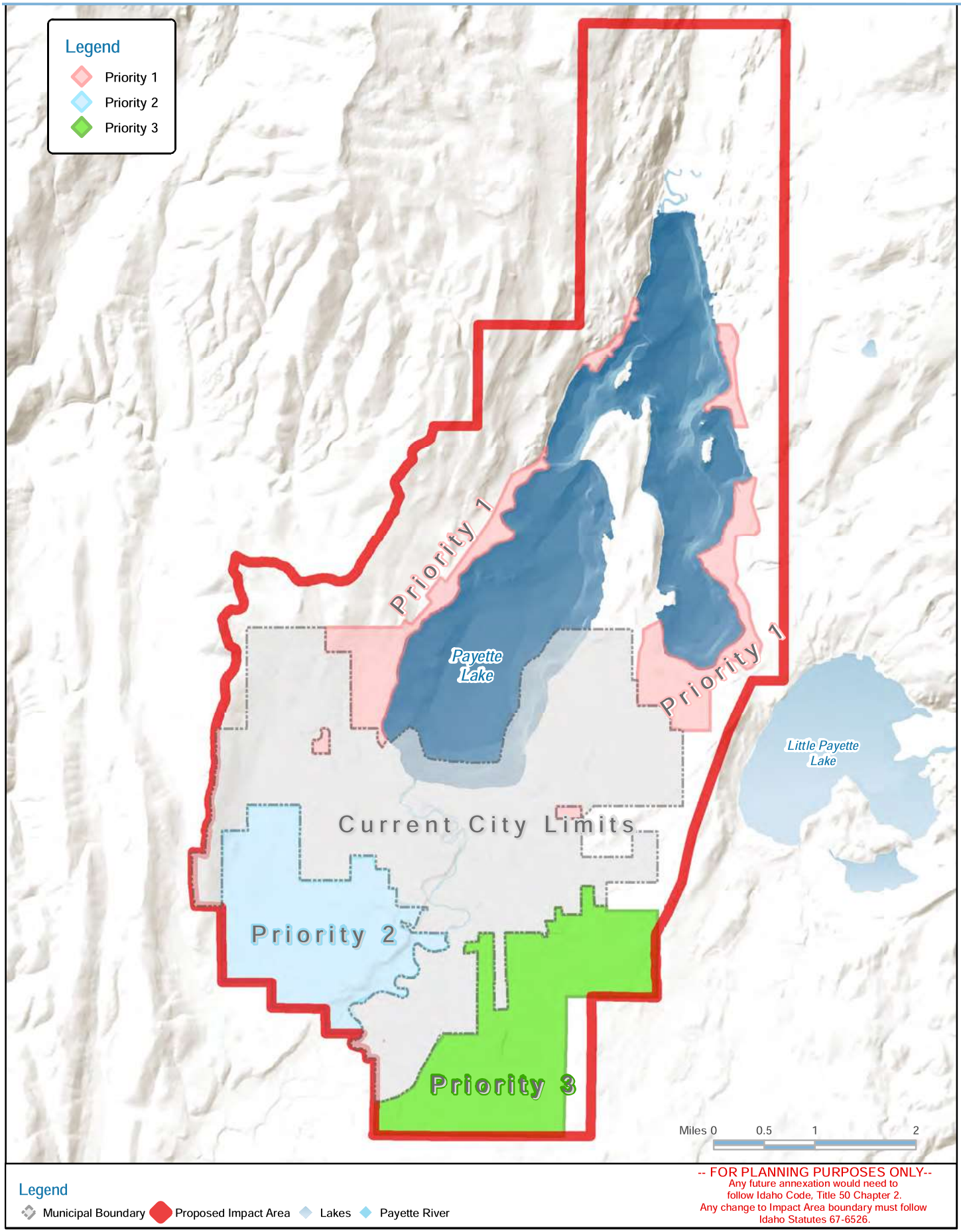
LAND USE DESIGNATIONS

Four land use designations apply to Valley County. Maps showing the four land use designations are exhibits located in Chapter 16. These general designations will be more specifically defined in the ordinances adopted to implement the land use and development related portions of the Plan. Land Use in Valley County is multiple use.

1. **Rural:** The rural designation applies to all real property in the unincorporated areas of Valley County unless designated otherwise. The rural designation applies to all privately owned land; and, to those public lands and uses on public lands which are deemed to be subject to Valley County's planning jurisdiction. Commercial and industrial uses are allowed in rural areas, but are encouraged to locate in cities and city areas of impact, villages, and tourist hubs.



MAP 5.3: ANNEXATION PLAN



MINUTES

McCall City Council
Special Meeting
McCall City Hall -- Legion Hall
VIA TEAMS Virtual
January 19, 2023

Call to Order and Roll Call
Work Session
Adjournment

CALL TO ORDER AND ROLL CALL

Mayor Giles called the special meeting of the McCall City Council to order at 6:03 p.m. Mayor Giles, Council Member Maciaszek, Council Member Nelson, Council Member Nielsen, and Council Member Thrower all answered roll call.

Valley County Commissioners Elt Hasbrouck, Sherry Maupin, and Neal Thompson all answer roll call.

Staff introductions

City staff members present were Anette Spickard, City Manager; Bill Punkoney, City Attorney; Sarah Porter, Deputy Clerk; Michelle Groenevelt, Community and Economic Development Director; Brian Parker, City Planner; Vlatko Jovanov, Network Administrator; Meredith Todd, Assistant City Planner; Emily Hart, Airport Manager; Erin Greaves, Communications Manager, Rachel Santiago-Govier, Building Permit Technician.

Also, in attendance were McCall Area Planning and Zoning Commissioners Christina Nemec, Tony Moss, Tom Milfieth, Robert Lyons, and Liz Rock.
Brian Oakey, Valley County Deputy Attorney; Cinda Herrick, Valley County Planning and Zoning Director; Diane Kushlan, meeting facilitator.

WORK SESSION

Facilitator Diane Kushlan presented to McCall City Council, Valley County Commissioners, and McCall Area Planning and Zoning Commission. Ms. Kushlan gave a background on areas of impact state law, the history of the McCall Area of Impact, as well as what has been working, what has not been working, and what needs to be fixed. Through discussion the McCall Area perspective of the Area of Impact, the Valley County perspective of the Area of Impact, and how to move forward together were also reviewed.

The purpose of planning includes property rights, public services, and facilities, promoting development within cities, and providing predictability for citizens. Additionally, planning helps to prevent urban sprawl, anticipate future needs of development and infrastructure, and give a greater voice to citizens who live on the fringe of the area of impact (AOI).

Idaho Statue 67-6526 Areas of City Impact (AOI) require negotiation of an Area of Impact, plans that will govern the impact area, an AOI review every ten (10) years, an adopted map of the AOI and an Ordinance for planning and regulations. An AOI map defines City impact with consideration to trade areas - the area from which businesses or a City draws its customers, an area where residents use City facilities and services; geographic boundaries and future annexations between ten (10) and Twenty (20) years, where urban services are planned, development trends, planned land uses and avoiding the creation of islands of impact area surrounded by City limits. Many cities rely on special districts which can present an issue in planning.

There are three (3) options for adopting plans and ordinances that govern the AOI and guide growth and development within the AOI. The City Comprehensive Plan and Ordinances, The County Comprehensive Plan and Ordinances, or any other combinations. Whatever plans and ordinances are adopted for the AOI are the County's plans and ordinances. Ms. Kushlan reviewed the Joint Planning and Zoning Commission State Statutes noting the option for two separate commissions or one joint commission as in place in McCall at this time. Additionally, Ms. Kushlan reviewed annexation classes and how they affect the AOI. The same map, plans, and regulations within the AOI have been adopted by both the County and the City since 1977. The plans and ordinances for the AOI have been administered by the McCall Area Planning and Zoning Commission since 1980.

City of McCall Community and Economic Development Director Michelle Groenevelt reviewed the McCall Area Comprehensive Plan noting that the plan is the planning document for both the City and the County for the AOI. The Comprehensive Plan is a community vision that was created through public outreach for two (2) years before finalizing and adopting the plan. Citizens who participated in the plan creation included year-round residents, second homeowners, and visitors. Both the City and the County have received an award for the public input process of the plan. The comprehensive plan is not a legally binding document but is a guide and tool to formulate the Ordinances to govern the area the plan covers, including the AOI.

The Comprehensive Plan includes a future land use plan map to guide future land use as the area grows and changes. The plan was adopted by both the City and the County in 2018. Director Groenevelt reviewed how the McCall City Staff administers the AOI regulations on behalf of the County. Administration includes reviewing applications, meeting with the property owners, builders and developers, staffing the McCall Area Planning and Zoning Commission, coordinating joint meetings with the County, preparing code amendments and ordinances as necessary, and implementing software for the permitting processes. Additionally noted was the importance of having alignment between the City and County before moving forward with any major policy changes that will affect the AOI.

Director Groenevelt also reviewed the planning process and how applications are overseen depending on what the application is and the location of the land. Applications for Conditional Use Permits (CUP), Subdivisions (SUB), Planned Unit Developments (PUD), Zoning (ZON), and Variances (VAR) all follow the same process:

1. Preliminary development plan review by the McCall Area Planning and Zoning Commission
2. The applicant conducts a neighborhood meeting.
3. City staff review the application submitted after the neighborhood meeting.
4. McCall Area Planning and Zoning Commission applications review, public hearing, a recommendation to the governing board

5. Final decision: If the application is in the AOI the application goes to the Valley County Commissioners for a final decision. If the application is in the City Limits, the application goes to McCall City Council for final decision.

Appeals also work the same way when an appeal comes to the McCall Area Planning and Zoning Commission the final decision is made by the governing board based on the location of the land.

McCall City Manager Anette Spickard clarified when a CUP is needed in the City Limits vs. when a CUP is needed in the AOI. Within the City limits and the AOI, permitted uses are outlined in Ordinances governing the AOI. The Ordinances for the AOI are adopted by the County and mirror the Ordinances adopted by the City of McCall. The only time a CUP is needed in the AOI is if a project does not fall within the predetermined uses outlined in the ordinances governing the AOI. Director Groenevelt noted both City limits and the AOI have zoning and within each zone, there is a land use table to show what is and is not permitted within the zone. If an application meets the permitted uses in the land use table, an application to McCall Area Planning and Zoning Commission is not required. Additionally, Design Review and Scenic Route decisions are made by the McCall Area Planning and Zoning Commission and not the McCall City Council or the Valley County Commissioners.

Commissioner Thompson asked if the County Commissioners see any approved applications that go through the McCall Area Planning and Zoning Commission. Director Groenevelt clarified what happens in the AOI and what kind of applications are going through the McCall Area Planning and Zoning Commission that would make it to the Valley County Commissioners. Robert Lyons McCall Area Planning and Zoning Chair noted most of the applications in the AOI are residential and fall within the permitted use for the zone. Director Groenevelt noted a lack of infrastructure to support large land-use applications that would go through the Valley County Commissioners for a final decision.

Commissioner Hasbrouck asked if the permitted uses in the AOI have ever been cross-referenced with the County-permitted uses. Cinda Herrick, Valley County Planning and Zoning Director noted the County does have some permitted uses for residential, agriculture, parks, and fire stations. Commissioner Hasbrouck asked if there would be any benefit to reviewing the permitted uses in the AOI to ensure the uses are in line with other County permitted uses. The concern is an appeal of a McCall Area Planning and Zoning Commission being brought to the Valley County Commissioners and the County and City facing litigation if the permitted uses in the AOI are not a County regulation but a City regulation. Director Groenevelt noted appeals have not been an issue in the past and the current zoning and permitted uses in the AOI are adopted by the County and regulated only by County Ordinances. Commissioner Hasbrouck gave an example of an application being recommended for denial by the McCall Area Planning and Zoning Commission to the Valley County Commissioners because of use that is not permitted in the AOI zoning, but the use is a permitted use in the County. Brian Oakey, Valley County Deputy Prosecuting Attorney explained that the County has adopted the zoning used to regulate the AOI so the permitted use decision by the McCall Area Planning and Zoning Commission would be based on the County's permitted uses in the AOI.

Commissioner Hasbrouck asked if the County has the design review and scenic route standards. Director Groenevelt noted that the County approved the design review and scenic route standards for the AOI in 2006 and the County has since adopted modifications to the standards several times. Adopting clear rules for development creates certainty and less subjectivity for the applicant, staff, and decision-makers. Commissioner Hasbrouck expressed concern over people, in general, being

more litigious. Director Groenevelt gave a review of how the McCall Area Planning and Zoning Commission and the McCall City Council make land use decisions that have legal standing by noting specific codes met or not met on an application to legally back up any decisions made.

County Attorney Oakey asked for an example of a scenic route application that the McCall Area Planning and Zoning Commission would be making a decision on instead of the decision being made by the Valley County Commissioners in the AOI. City of McCall Planner Brian Parker noted a recent application that was in the AOI and came through the McCall Area Planning and Zoning Commission. Attorney Oakey asked if there is a reason why design reviews and scenic route applications are handled differently than a CUP. Ms. Kushlan noted design review and scenic route application are not related to land use issues but rather physical development issues. CUP applications relate to how land is being used not what it looks like. McCall Area Planning and Zoning Chair Lyons noted a project may need both a CUP and a DR/SR.

County Commissioner Maupin questioned the legality of the City zoning in the AOI noting Cities are not allowed to zone or have a future land use map in the AOI. City Manager Spickard and City Attorney Punkoney noted that the City does not adopt the zoning for the AOI, the County adopts the zoning for the AOI. County Attorney Oakey noted that zoning is a legislative function, and the law clearly states that the City does not have legislative power in the AOI. The County has historically adopted County code for the AOI that mirrors City code. The County does have the ability to not adopt the codes brought to the County by the City to govern the AOI. Director Groenevelt noted that there is public confusion regarding whose codes govern the AOI. Public education is needed about what codes affect residents in the AOI. The goal is for there to be seamlessness between the AOI and City limits which is why the County has previously adopted codes mirroring City codes for the AOI. Additionally, public comments are made to City Council regarding the AOI but Council is not making those decisions and those residents need to be going to the County with their comments.

Director Groenevelt reviewed how the administration of the AOI is funded. The City of McCall does not collect taxes in the AOI. The application fees and permit fees are what are supposed to cover staff time to manage the AOI. There is no additional compensation to the City for code enforcement within the AOI. The City of McCall has funded all of the long-range planning for the AOI and has not asked the County for funding any planning that affects the AOI even though it is County jurisdiction and not City jurisdiction.

Director Groenevelt reviewed the code enforcement process in the AOI for planning and zoning, building, and land use only. The first step is always asking for voluntary compliance with a letter. If the issue is not addressed in the AOI it moves to the Valley County prosecutor. This process has been reviewed numerous times in the past 15 years with different attorneys. City Staff is always open to ideas and meetings to improve the process. Commissioner Hasbrouck noted that the County now has a code enforcement officer that can be used to improve the code enforcement in the AOI but it is the prosecutor's call on a lot of enforcement issues. Commissioner Hasbrouck's main concern is the possibility of being sued for how the AOI is regulated. Mayor Giles noted clearing up confusion and a code enforcement process in the AOI is a doable task. The consensus among the group is that communication and education regarding the AOI can be improved.

County Attorney Oakey noted recent cases of lawsuits against cities and counties because of how the AOI is regulated. Additionally, Attorney Oakey noted that dually adopted Ordinances that regulate the AOI cannot inappropriately empower the City to take action within the AOI. One

suggestion to cover both the City and the County legally would be to enter a joint powers agreement regarding the regulation of the AOI. City Attorney Punkoney noted that traditionally the County and City have relied on the Ordinances as an agreement for regulation of the AOI. Attorney Oakey noted that the codification of the agreement through ordinance updates and changes passes the legal standard and does not cause concern. Attorney Oakey commented that in the spirit of transparency and community education, a memorandum of understanding could be another document that can help hold up the legal standard. Valley County Planning and Zoning Director Cinda Herrick noted that a type of agreement between the City and the County does exist in the Valley County Code. Attorney Punkoney clearly stated that the City has no enforcement authority in the AOI. The first step currently taken by the City is just a good-faith effort to get voluntary compliance but if compliance is not reached the matter is referred to the County Prosecutor's office.

Mayor Giles noted the Comprehensive Plan as something that has been working. The public involvement included AOI residents. Another item that has been working well is how similar the County codes that regulate the AOI are to the City codes. Commissioner Hasbrouck echoed Mayor Giles and noted the challenge of the other cities in the County missing planning opportunities. A tough issue facing the region is the sewer capacity and the plans of the Sewer District. Commissioner Hasbrouck noted concern regarding annexation and if annexation might not be a possibility because of the sewer capacity. Director Groenevelt noted attending a Sewer District meeting and talked about the master plan that is in progress but there are no drafts out at this point to be able to plan growth with sewer capacity. McCall Area Planning and Zoning Chair Lyons noted that the Sewer District has a different zoning map and boundary than the City of McCall. Director Groenevelt additionally noted that the Sewer District was originally formed to provide sewer to all the housing around the lake and in the AOI and now the District also has the old City sewer system. Council, Commissioners, and Staff had an additional discussion about zoning and district boundaries.

Council Member Nelson agreed with previous comments and noted the complexity of the community mindset. The community is not necessarily growth-minded, and the community needs growth toward workforce housing, not second homes and vacant homes. Commissioner Hasbrouck noted the County does not want to see private sewer and septic throughout the County that could in turn cause water quality issues. Tom Milfieth, McCall Area Planning and Zoning Commissioner noted the importance of having infrastructure available for encouraging development both in and outside of City limits.

Council Member Maciaszek discussed zoning and the difference between buying property in an area with and without zoning. In the City, there is less unknown because of the zoning. When purchasing property there is a better understanding of what may be developed in the area unlike in areas without zoning where a CUP can be approved for almost any type of development. Commissioner Maupin expressed concern about the zoning in the AOI, specifically most of the AOI being zoned R10 which does not allow for density. Council Member Maciaszek noted the zoning was determined by the community and not City Council through the public input process to develop the Comprehensive Plan. Commissioner Hasbrouck agreed with Council Member Maciaszek but expressed concern about litigation coming against the County due to the AOI being zoned by the City and not the County. Council Member Maciaszek noted that the County has adopted ordinances for the AOI zoning. The AOI is not zoned by the City ordinances it is zoned by the County ordinances.

Staff, Commissioners, and City Council discussed what is not working in the AOI and what needs to be fixed. Valley County Planning and Zoning Director Herrick noted short-term rentals. Council Member Thrower noted endowment lands and Council Member Nelson, and Commissioners Maupin and Hasbrouck agreed. Director Herrick mentioned events and business licensing in the AOI. Director Groenevelt noted the AOI does not currently have any codes adopted by the County to mirror the City codes on events and business licensing and as such, any businesses or events in the AOI would be processed the same as anywhere else in the County. City Manager Anette Spickard questioned the City's authority to process business licenses outside of the City Limits. Commissioner Maupin noted code changes brought to the County need to be brought in a timely manner with consideration of the time it takes to thoroughly review the changes.

Ms. Kushlan directed the discussion toward the City and County moving forward together and gave a review of the discussion thus far. High priorities for the AOI noted during the discussion include code enforcement, density, and infrastructure, regulations for temporary use and short-term rentals, endowment lands, communication, and public education, and a memorandum of understanding or joint powers agreement between the City and the County to regulate the AOI. Code enforcement and the agreement is the responsibility of the City and County attorneys, endowment lands are the responsibility of the elected officials, and codes, education, and infrastructure are the City and County staff's responsibility.

Additional discussion was had regarding master planning and rolling County planning into the Comprehensive Plan. Director Groenevelt noted rolling plans together can help the public find information all in one place instead of having to visit multiple documents to find answers. Attorney Punkoney noted the timeline for an MOU agreement between the City and County. The MOU will not be finalized until after the legislative session is over as directed by staff due to the possibility of changes to AOI state regulations. Mayor Giles noted City council and staff are interested in getting an agreement in place as soon as possible. Attorney Punkoney noted it would be time well spent for the attorneys to get a framework of an agreement together now and bring the agreement to the Commissioners and Council after the legislative session.

Director Groenevelt asked County Commissioners and staff for an explanation on event permits in the County. Director Herrick noted gatherings under five hundred require a CUP and gatherings over five hundred are regulated by the sheriff's office. Additionally, a brief review of how the City regulates events within City limits was discussed.

Manager Spickard discussed communication and education regarding the AOI. One option is to develop an impact area webpage. City and County staff can work together to get a site up in the next month. Assistant Planner Todd noted the site can be housed on the Valley County website to create parallelism and transparency. Commissioner Hasbrouck agreed.

Tony Moss, McCall Area Planning and Zoning Commissioner asked about Short-term rental (STR) regulations in the AOI. Director Groenevelt noted the regulations for the STRs in the AOI is different from the regulations within City limits and is also different from regulations in the County. The reason for the lack of seamlessness on STR regulations is caused by the County having a code regulating STRs in the County but also adopted a code to mirror the City code in the AOI for STR regulations and then the City of McCall updated the regulations for STRs within City limits, but the County did not adopt a mirror code to update the STR regulations in the AOI. There was a consensus in the discussion to schedule a joint work session on STR regulations.

Council Member Maciaszek asked if the County plans to implement any kind of land use planning with zoning. Director Herrick noted research is being done to bring zoning to the County jurisdiction. Commissioner Maupin asked about the AOI regulations on accessory dwelling units (ADU). Director Groenevelt gave a history of ADU regulations and noted that the limitation of 1,499 sqft was put in place due to the amount of extremely large ADU that were being built. As an option to exceed the limit of 1,499 sqft, an incentive was put in place to require a local housing unit in the ADU. Commissioner Maupin expressed a desire to have open communication between the City and the County prior to the regulations being presented to the County for a mirror ordinance adoption. Additionally, Commissioner Maupin questioned the requirement of an architecture stamp for some buildings. Director Groenevelt noted that the code has been in place since 2006 and the stamp is only required for homes over 3500 sqft.

Council Member Nielsen expressed that the meeting has been full of great discussion and there is a tangible way to move forward with the MOU. Additionally Council Member Nielsen discussed the idea of pulling together resources for the entire County, involving all the cities, and creating a uniform land use guideline. Commissioner Hasbrouck noted the need for the community to get involved, run for office, and vote throughout the community. Commissioner Maupin noted a community in Oregon having done a regional growth study and master planning. Additionally, Commissioner Maupin noted the need to be careful and consult legal counsel to ensure the City and the County both do not get sued for one or the other overstepping legislative power.

ADJOURNMENT

Without further business, adjourned the meeting at 8:30 p.m.

Robert S. Giles

Robert S. Giles, Mayor

ATTEST:

Sarah Porter, Deputy City Clerk

for BessieJo Wagner, City Clerk

CITY OF McCALL, IDAHO SEAL McCALL, IDAHO

Senate Bill No. 1403 Amending the Idaho Local Land Use Planning Act

Statement of Purpose: This legislation is the result of a cooperative effort by local government and other stakeholders. Impact areas are areas outside city limits where cities plan growth in the near future. This legislation acknowledges the respective jurisdiction of the counties and the cities and seeks to balance their interests. The bill provides criteria for impact area boundary decisions, establishes a two-mile distance standard and provides a five year planning time frame for impact areas. It promotes cooperation between counties and cities in determining impact area boundaries but makes it clear that the jurisdiction and decision regarding the impact area boundary remains with the county. It also provides for a focused and timely process for the court to review decisions when a county and city disagree.

Summary of Legislation: Impact areas are areas outside city limits where cities plan growth in the near future. This legislation acknowledges the respective jurisdiction of the counties and the cities and seeks to balance each jurisdiction's interests. The bill provides new criteria for impact area boundary decisions, establishes a two-mile distance standard and provides a five-year planning time frame for re-evaluating impact areas. It promotes cooperation between counties and cities in determining impact area boundaries but makes it clear that the jurisdiction and decision regarding the impact area boundary remains with the county. It also provides for a focused and timely process for the court to review decisions when a county and city disagree.

(1) First Significant Change to Area of Impact Requirements: Removed the requirement that the city and county adopt an area of impact boundary by ordinance and create a map designating the boundary. A separate ordinance providing for what comprehensive plan and ordinances will apply to the area of impact. (Note: the map requirement is still in place, it was replaced with detailed criteria for determining where the boundary will be located)

The deleted subsection (1) is replaced with a lengthy explanation of legislative findings and intent.

(a) Areas of impact are under the jurisdiction of the county and cities do not govern or control decisions in an area of impact. Cities should receive notice of land use decisions and provide input to the county. County commissioners make the final decision regarding area of impact boundaries.

(b) Area of impact should be defined by areas where growth and development are expected to occur and growth should be planned for in these areas. The boundary should be established based on the likelihood that a city will annex lands within the area of impact in the near future. Cities are still allowed to develop a comprehensive plan and conduct infrastructure, capital improvement, and other planning activities beyond the area of impact boundary. Area of impact shall be reviewed every five (5) years.

(c) Directs cities and counties to develop a proposed area of impact boundary and directs the jurisdictions to conduct a public hearing to either establish, modify or confirm the area of impact.

(d) Establishing the area of impact boundary is not subject to judicial review except as provided in subsection (5).

(2) Second Significant Change to Area of Impact Requirements: Following the public hearing requirements in LLUPA, the county is directed to adopt a new map of the area of impact boundaries for each city within the county. Each property owner within the area of impact is entitled to written notice of the hearing to establish the new boundary map. The cost of providing notice shall be reimbursed by the city. There is no requirement to consult the planning and zoning commissions or receive a

recommendation from the commission. The legislation removed the option of applying the city comp plan and ordinances or the county plan and ordinances or a mutually agreed upon plan and ordinances. The legislation deleted the trade area, geographic factors and areas that can reasonably be expected to be annexed in the future as criteria for determining the areas of impact.

The legislation created new requirements for counties and cities to negotiate the creation and governance of the area of impact, including the appointment of a committee to make a recommendation to resolve disputes between the city and county.

(3) Third Significant Change to Area of Impact Requirements: Modifications or confirmation of area of impact boundaries can be triggered by either a request from the city or a request from the county. Costs of the notice requirements are to be borne by the requesting jurisdiction. The county may accept, reject, or modify a city's requested modification to the impact area boundary.

(4) Fourth Significant Change to Area of Impact Requirements: The area of impact shall be determined based on five criteria: (i) anticipated commercial and residential growth; (ii) geographic factors; (iii) transportation infrastructure and systems, including connectivity; (iv) areas where municipal or public sewer and water are expected to be provided within five (5) years; and (v) other public service district boundaries.

In addition to these five criteria, the area of impact shall not exceed the areas that are very likely to be annexed to the city within five (5) years.

An area of impact boundary shall not extend more than two (2) miles from existing city limits. Area of impact boundaries shall not divide county recognized parcels. Adjustments to the boundary can be considered any time following the initial establishment of the area of impact boundary. The county's comprehensive plan and zoning and subdivision ordinances shall apply in the area of impact. The county may have a comp plan and ordinances that are unique to an area of impact. The county is required to give the city notice of any public hearings involving land within the area of impact.

The county is required to make its decision regarding the area of impact boundary in writing and include the reasoning used and the facts relied upon and the application of the five criteria to establish or modify the boundary.

(5) Fifth Significant Change to Area of Impact Requirements: Area of impact determinations are legislative decisions and not subject to judicial review, declaratory action, or other legal challenge, except:

(a) a city can petition the court for the establishment of an area of impact boundary if a county has not complied with subsection (2) or (3). A city is required to file a request for reconsideration with the county before it can proceed to district court.

(b) filing fee is $100 to the county clerk. The court shall hear the petition within thirty (30) days of filing and no more than ninety (90) days from the date of filing the petition. Attorney's fees to the prevailing party upon a finding that the other party did not act with a reasonable basis in fact or law.

(6) Sixth Significant Change to Area of Impact Requirements: Cities and counties are required to review existing area of impact and shall reestablish the areas of impact in conformance with the changes to LLUPA by December 31, 2025. Failure to do so will nullify the current area of impact boundary.

Below is a side-by-side comparison of the amendments to LLUPA.

2024 AMENDMENTS TO LLUPA

Prior - Idaho Code Related to Areas of Impact	*Current – Idaho Code Related to Areas of Impact*
First Significant Change to Area of Impact Requirements ~~Idaho Code § 67-6526: AREAS OF CITY IMPACT - NEGOTIATION PROCEDURE. (a) The governing board of each county and each city therein shall adopt by ordinance following the notice and hearing procedures provided in section 67-6509, Idaho Code, a map identifying an area of city impact within the unincorporated area of the county. A separate ordinance providing for application of plans and ordinances for the area of city impact shall be adopted. Subject to the provisions of section 50-222, Idaho Code.~~	**First Significant Change to Area of Impact Requirements** Idaho Code § 67-6526 AREAS OF IMPACT -- (1) Legislative findings and intent. (a) The legislature finds that areas of impact are properly under the jurisdiction of the county because the elected representatives of citizens in areas of impact are county officials, not city officials. While cities should receive notice of, and may provide input on, applications brought to the county in an area of impact, cities do not govern or control decisions on those applications. County commissioners make the final determination regarding area of impact boundaries within their county. (b) An area of impact is where growth and development are expected to occur. Areas of impact should be planned for growth and development and should not be used to stop growth and development that conforms to applicable plans and ordinances. Areas of impact should be established, modified, or confirmed based on the ability and likelihood of a city or cities to annex lands within that area of impact in the near future. A city may adopt a comprehensive plan and conduct infrastructure, capital improvement, and other planning activities that extend beyond its current area of impact. Counties and cities shall review their area of impact boundaries at least every five (5) years to determine if modifications are needed or to confirm existing boundaries and may pursue modification of an established area of impact more frequently than every five (5) years. (c)Prior to conducting the public hearings required under this chapter to establish, modify, or confirm an area of impact, cities and counties should work together to develop a proposed area of impact to be considered at the public hearing. (d) Decisions regarding the establishment, modification, or confirmation of areas of impact are legislative actions and are not subject to judicial review.
Second Significant Change to Area of Impact Requirements ~~This separate ordinance shall provide for one (1) of the following:(1) Application of the city plan and ordinances adopted under this chapter to the area of city impact; or(2) Application of the county plan and ordinances adopted under this chapter to the area of city impact; or(3) Application of any mutually agreed upon plan and ordinances adopted under this chapter to the area of city impact. Areas of city impact, together with plan and ordinance requirements, may cross county boundaries by agreement of the city and county concerned if the city is within three (3) miles of the adjoining county.(b) If the requirements of section 67-6526(a), Idaho Code, have not been met, either the city or the county may demand~~	**Second Significant Change to Area of Impact Requirements** Idaho Code § 65-6526(2) Establishing an area of impact. (a) Following the notice and hearing procedures provided in section 67-6509, Idaho Code, and in accordance with the provisions of subsection (4) of this section, the board of county commissioners of each county shall adopt by ordinance a map identifying the area of impact within the unincorporated area of the county for each city located in the county. Written notice of the hearing to be conducted under this subsection shall be provided by the county to each owner of property located within a proposed area of impact. If notice is also published pursuant to section 67-6509, Idaho Code, individual property owners may not challenge the proceeding on the basis that they did not actually receive notice by mail.

~~compliance with this section by providing written notice to the other of said demand for compliance. Once a demand has been made, the city shall select its representative as hereinafter provided, within thirty (30) days of said demand, and the process set forth in this subsection shall commence. The county commissioners for the county concerned, together with three (3) elected city official designated by the mayor of the city and confirmed by the council, shall, within thirty (30) days after the city officials have been confirmed by the council, select three (3) city or county residents. These nine (9) persons shall, by majority vote, recommend to the city and county governing boards an area of city impact together with plan and ordinance requirements. The recommendations shall be submitted to the governing boards within one hundred eighty (180) days after the selection of the three (3) members at large and shall be acted upon by the governing boards within sixty (60) days of receipt. If the city or county fails to enact ordinances providing for an area of city impact, plan, and ordinance requirements, either the city or county may seek a declaratory judgment from the district court identifying the area of city impact, and plan and ordinance requirements. In defining an area of city impact, the following factors shall be considered: (1) trade area;(2) geographic factors; and (3) areas that can reasonably expected to be annexed to the city in the future.~~ ~~(c) If areas of city impact overlap, the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. If the cities cannot reach agreement, the board of county commissioners shall, upon a request from either city, within thirty (30) days, recommend adjustments to the areas of city impact which shall be adopted by ordinance by the cities following the notice and hearing procedures provided in section 67-6509, Idaho Code. If any city objects to the recommendation of the board of county commissioners, the county shall conduct an election, subject to the provisions of section 34-106, Idaho Code, and establish polling places for the purpose of submitting to the qualified electors residing in the overlapping impact area, the question of which area of city impact the electors wish to reside. The results of the election shall be conclusive and binding, and no further proceedings shall be entertained by the board of county commissioners, and the decision shall not be appealable by either city involved. The clerk of the board of county commissioners shall by abstract of the results of the election, certify that fact, record the same and transmit copies of the original abstract of the result of the election to the clerk of the involved cities.~~	The cost of the notice shall be reimbursed to the county by the city whose area of impact is under consideration. The board of county commissioners is not required to receive a recommendation from the planning and zoning commission prior to enacting an ordinance establishing an area of impact. An area of city impact must be established before a city may annex adjacent territory pursuant to the provisions of section 50-222, Idaho Code. (b) If the requirements of paragraph (a) of this subsection are not met in establishing an area of impact, the city may demand compliance with this subsection by providing notice to the board of county commissioners of the demand for compliance. Once a demand has been made, a recommendation committee shall be established. The city and county shall each select a representative to participate on the committee within thirty (30) days of the demand for compliance and the process set forth in this paragraph shall commence. (i) After the city and county representatives have been selected, they shall in turn select another city representative living within the applicable city and another county representative living in the county and not within any city to serve on the recommending committee. Meetings of the recommending committee may be hosted by the city or county and shall be conducted in accordance with Idaho open meetings law. These four (4) persons shall, by majority vote, provide a written recommendation to the board of county commissioners for an area of impact. The written recommendation shall be submitted to the governing boards within one hundred eighty (180) days after the selection of the recommending committee members. (ii) If the board of county commissioners fails to enact an ordinance providing for an area of impact within ninety (90) days of receipt of the committee recommendation or expiration of the one hundred eighty (180) days for the committee to make its recommendation, the city may file a petition with the district court to identify the area of impact pursuant to subsection (5) of this section and in accordance with other applicable provisions of this section.

Third Significant Change to Area of Impact Requirements	**Third Significant Change to Area of Impact Requirements**
[No corresponding deletion]	Idaho Code § 67-6526(3) Modification or confirmation of area of impact boundaries. (a) Modification or confirmation of an existing area of impact boundary may be initiated by a city or cities or the county. If a county is initiating a modification or confirmation of an area of impact, the county shall provide at least thirty (30) days written notice to the applicable city or cities of the hearing on the proposed modification or confirmation. Any modifications to or confirmation of an area of impact boundary must be adopted by an ordinance approved by the board of county commissioners of the applicable county, following the notice and hearing procedures provided in section 67-6509, Idaho Code, and in accordance with the requirements for defining an area of impact as set forth in subsection (4) of this section. At least fifteen (15) days prior to the hearing, written notice of the hearing to be conducted under this paragraph shall be provided by the county to each owner of property located within the portion of the area of impact that is proposed to be modified. If notice is also published pursuant to section 67-6509, Idaho Code, individual property owners may not challenge the proceeding on the basis that they did not actually receive notice by mail. If the modification or confirmation is proposed by a city, then the cost of the notice shall be reimbursed to the county by such city. If the county is pursuing the modification or confirmation, then the cost of notification shall be borne by the county. The board of county commissioners is not required to receive a recommendation from the planning and zoning commission prior to enacting an ordinance modifying or confirming an area of impact. (b) Where areas of impact abut each other and adjustments are being proposed, or where areas of impact are proposed to abut each other, the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. The city council of each city must approve the area of impact or modifications thereto to be proposed to the board of county commissioners. These decisions by the city councils are proposals and not subject to judicial review or challenge. If the cities with impact area boundaries that abut or are proposed to abut each other reach agreement on the proposed boundaries or adjustments thereto, the requested boundaries or adjustments shall be collectively submitted by the cities to the county for consideration in accordance with paragraph (a) of this subsection. If the cities cannot reach agreement, then any or all of the cities involved may submit their requests to the board of county commissioners for consideration pursuant to paragraph (a) of this subsection. In either case, the county shall conduct at least one (1) consolidated public hearing where it considers all such requests together. (c) The county may accept, reject, or modify a city's requested modification or confirmation regarding an impact area boundary, but if the county does not make a final decision on the request within ninety (90) days of submission of the request, the city may petition the court to make a

	determination on the request pursuant to subsection (5) of this section.
Fourth Significant Change to Area of Impact Requirements ~~(d) Areas of city impact, plan, and ordinance requirements shall remain fixed until both governing boards agree to renegotiate. In the event the city and county cannot agree, the judicial review process of subsection (b)of this section shall apply. Renegotiations shall begin within thirty (30)days after written request by the city or county and shall follow the procedures for original negotiation provided in this section.~~ ~~(e) Prior to negotiation or renegotiation of areas of city impact, plan, and ordinance requirements, the governing boards shall submit the questions to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by the governing board to make its recommendations to the governing board. The governing boards shall undertake a review at least every ten (10) years of the city impact plan and ordinance requirements to determine whether renegotiations are in the best interest of the citizenry.~~	**Fourth Significant Change to Area of Impact Requirements** Idaho Code § 67-6526 (4) Provisions applicable to areas of impact. (a) In defining an initial area of impact or in modifying or confirming an existing area of impact, the criteria set forth in this subsection shall be considered: (i) Anticipated commercial and residential growth; (ii) Geographic factors; (iii) Transportation infrastructure and systems, including connectivity; (iv) Areas where municipal or public sewer and water are expected to be provided within five (5) years; and (v) Other public service district boundaries. (b) In addition to the criteria set forth in paragraph (a) of this subsection, an area of impact shall not exceed the areas that are very likely to be annexed to the city within the next five (5) years. Except as otherwise provided in this paragraph, an area of impact shall not extend more than two (2) miles from existing city limits. An area of impact boundary shall not divide county recognized parcels of land. If only a portion of a recognized parcel falls within the two (2) mile limit, then the boundary may extend beyond two (2) miles on that parcel so that it encompasses the entire parcel. Adjustments to an area of impact may be proposed and considered at any time following the initial establishment of the area of impact. (c) Areas of impact may cross county boundaries only by approval of the governing board of county commissioners after following the procedures and complying with the requirements for modification or confirmation of an area of impact boundary. (d) Areas of impact shall not overlap. (e) The applicable county's comprehensive plan and zoning and subdivision ordinances shall apply in the area of impact. The county may adopt individual county comprehensive plan and zoning and subdivision ordinance provisions regarding a specific area of impact. (f) Following adoption of an area of impact, the board of county commissioners shall provide the city with written notice at least fifteen (15) days in advance of any county public hearings held pursuant to this chapter or to chapter 13, title 50, Idaho Code, involving land within that area of impact. (g) Areas of impact shall remain fixed until modifications are made pursuant to subsection (3) of this section. (h) Prior to considering a request to establish, modify, or confirm an area of impact, the governing boards may, but are

	not required to, submit the request to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by its governing board in compliance with all required timelines set forth in this section to make its recommendation to the governing board. The county and the city shall undertake a review of the area of impact at least once every five (5) years and shall consider whether adjustments are in the best interests of the citizenry. ~~(f)~~ (i) This section shall not preclude annexation or other growth and development in areas of any county within the state of Idaho which that are not within the areas of city impact provided for herein. (j) The county's decision establishing, modifying, or confirming the boundaries for an area of impact shall be made in writing and shall contain the reasoning of the board of county commissioners, including application of the facts relied upon by the commissioners and the application of the pertinent requirements and criteria to establish or modify an area of impact. ~~(g)~~ (k) If the area of impact has been delimited pursuant to the provisions of subsection (a)(1) of this section properly established, persons living within the delimited area of impact shall be entitled to representation on the planning, zoning, or the planning and zoning commission of the city of impact. Such representation shall as nearly as possible reflect the proportion of population living within the city as opposed to the population living within the areas of impact for that city. To achieve such proportional representation, membership of the planning, zoning or planning and zoning commission, may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code. In instances where a city has combined either or both of its planning and zoning functions with the county, representation on the resulting joint planning, zoning or planning and zoning commission shall as nearly as possible reflect the proportion of population living within the impacted city, the area of city impact outside the city, and the remaining unincorporated area of the county. Membership on such a joint planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504(a), Idaho Code.
Fifth Significant Change to Area of Impact Requirements [No corresponding deletion]	**Fifth Significant Change to Area of Impact Requirements** Idaho Code § 67-6526(5) Petitions for review of establishment, modification, or confirmation of area of impact. The decisions by the board of county commissioners regarding the establishment, modification, or confirmation of areas of impact are legislative actions and are not subject to judicial review, declaratory action, or other legal challenge, except as specifically provided in this subsection. (a)(i) If a county has not complied with the provisions of subsection (2) or (3) of this section, the city seeking the establishment, modification, or confirmation of an area of impact may petition the district court to establish, modify, or

	confirm an area of impact that meets the criteria and requirements of subsection (4) of this section in accordance with the procedures provided in this subsection. If the modification of an area of impact boundary involves areas of impact boundaries that abut each other or that are proposed to abut each other, then any city whose area of impact abuts or is proposed to abut another area of impact boundary may file a petition challenging the county's determination regarding only those boundaries that abut or that are proposed to abut each other. Any petition regarding a proposed area of impact or portion thereof that is subject to challenge must be filed in the county in which the proposed area of impact or portion thereof is located. (ii) Before a city may file a petition for review of an area of impact decision made by the county, as provided in paragraph (a)(i) of this subsection, it must first file a request for reconsideration with the board of county commissioners. Such request must be filed within fourteen (14) days of the issuance of the written decision by the board of county commissioners and must specify deficiencies in the decision of the board of county commissioners. Filing a timely request for reconsideration is a prerequisite to the city having standing to file a petition with the district court. The county shall act on and issue a written decision on the request for reconsideration within thirty (30) days of receipt of the request or the request shall be deemed denied. A petition challenging the decision of the county must be filed by the city within twenty-eight (28) days after the issuance of a decision by the county on the request for reconsideration or expiration of the thirty (30) day period for the county to act on the request. (b) When filing a petition challenging the decision of the board of county commissioners with the clerk of the court, the petitioner shall pay a fee of one hundred dollars ($100), which fee shall be in full for all clerk's fees except the regular fees provided by law for appeals.The court shall fix a time for the hearing on the petition to be held no less than thirty (30) days and no more than ninety (90) days from the filing of the petition. The petitioner shall serve or cause to be served a copy of the petition and notice of the hearing on the board of county commissioners or county clerk and the mayor or city clerk of such other city whose area of impact boundary is in question pursuant to paragraph (a) of this subsection at least twenty (20) days before the date of the hearing. (c) No petition, objection, or reply authorized under this subsection need be verified. (d) The hearing on a petition filed pursuant to this subsection shall be held within the county in which the area of impact or portion thereof is situated. The regular district court reporter shall reduce to writing the testimony and evidence introduced in the same manner as in a trial of civil actions. The judge of the court, either before or after the hearing, may view the lands pertaining to the proposed area of impact, lands on the outside of the city or cities in the same vicinity in which the lands sought to be included in the area of impact are situated, and other lands within the corporate limits of the city that might in any way be affected by the granting of the petition.

	The judge may consider such modifications as the judge finds in connection with the evidence introduced at the hearing, in making and arriving at a final decision and determination of the matter. (e)(i) If the court finds that the board of county commissioners did not follow the notice and hearing requirements provided in this subsection, the court shall remand the matter back to the board of county commissioners to comply with the requirements and issue a new decision. If the court finds that the decision of the board of county commissioners was not arbitrary, capricious, or an abuse of discretion, the court shall affirm the decision of the board of commissioners. If the court finds that the decision of the board of county commissioners was arbitrary, capricious, or an abuse of discretion, the court may remand the matter to the board of county commissioners to correct its decision or the court may determine the appropriate boundaries of the area of impact in question before it. It shall not be necessary for the judge of the court to make written findings of fact or conclusions of law unless the court establishes the area of impact boundary. The court may award attorney's fees and costs to the prevailing party in such an action only if it finds that the other party or parties acted without a reasonable basis in fact or law. (ii) If the court establishes the area of impact boundary, such boundary shall become the area of impact boundary as of the date of the decree establishing the boundary. Within twenty (20) days after the filing of the decree, the petitioner shall file or cause to be filed with the county recorder and with the city clerk a certified copy of the decree. The board of county commissioners shall adopt an ordinance consistent with the court decree within thirty (30) days of the entry of the decree or be subject to contempt and other sanctions or actions deemed appropriate by the court. (f) Any city or county aggrieved by the decision of the court may appeal from the decision and judgment to the supreme court. The procedure of the appeal shall be the same as the procedure for appeals from final judgment in civil actions.
Sixth Significant Change to Area of Impact Requirements [No corresponding deletion]	**Sixth Significant Change to Area of Impact Requirements** Idaho Code § 67-6526(6) Cities and counties shall review their existing areas of impact and shall reestablish the areas in conformance with the provisions of this section by December 31, 2025. Failure to timely conduct such review and reestablishment shall nullify the current area of impact boundaries and require the city and county to go through the process set forth in subsection (2) of this section.

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6526. AREAS OF IMPACT. (1) Legislative findings and intent.

(a) The legislature finds that areas of impact are properly under the jurisdiction of the county because the elected representatives of citizens in areas of impact are county officials, not city officials. While cities should receive notice of, and may provide input on, applications brought to the county in an area of impact, cities do not govern or control decisions on those applications. County commissioners make the final determination regarding area of impact boundaries within their county.

(b) An area of impact is where growth and development are expected to occur. Areas of impact should be planned for growth and development and should not be used to stop growth and development that conforms to applicable plans and ordinances. Areas of impact should be established, modified, or confirmed based on the ability and likelihood of a city or cities to annex lands within that area of impact in the near future. A city may adopt a comprehensive plan and conduct infrastructure, capital improvement, and other planning activities that extend beyond its current area of impact. Counties and cities shall review their area of impact boundaries at least every five (5) years to determine if modifications are needed or to confirm existing boundaries and may pursue modification of an established area of impact more frequently than every five (5) years.

(c) Prior to conducting the public hearings required under this chapter to establish, modify, or confirm an area of impact, cities and counties should work together to develop a proposed area of impact to be considered at the public hearing.

(d) Decisions regarding the establishment, modification, or confirmation of areas of impact are legislative actions and are not subject to judicial review or challenge except as provided in subsection (5) of this section.

(2) Establishing an area of impact.

(a) Following the notice and hearing procedures provided in section 67-6509, Idaho Code, and in accordance with the provisions of subsection (4) of this section, the board of county commissioners of each county shall adopt by ordinance a map identifying the area of impact within the unincorporated area of the county for each city located in the county. Written notice of the hearing to be conducted under this subsection shall be provided by the county to each owner of property located within a proposed area of impact. If notice is also published pursuant to section 67-6509, Idaho Code, individual property owners may not challenge the proceeding on the basis that they did not actually receive notice by mail. The cost of the notice shall be reimbursed to the county by the city whose area of impact is under consideration. The board of county commissioners is not required to receive a recommendation from the planning and zoning commission prior to enacting an ordinance establishing an area of impact. An area of impact must be established before a city may annex adjacent territory pursuant to the provisions of section 50-222, Idaho Code.

(b) If the requirements of paragraph (a) of this subsection are not met in establishing an area of impact, the city may demand compliance with this subsection by providing notice to the board of county commissioners of the demand for compliance. Once a demand has been made, a recommendation committee shall be established. The city and county shall each select a representative to participate on the committee within thirty

(30) days of the demand for compliance and the process set forth in this paragraph shall commence.

(i) After the city and county representatives have been selected, they shall in turn select another city representative living within the applicable city and another county representative living in the county and not within any city to serve on the recommending committee. Meetings of the recommending committee may be hosted by the city or county and shall be conducted in accordance with Idaho open meetings law. These four (4) persons shall, by majority vote, provide a written recommendation to the board of county commissioners for an area of impact. The written recommendation shall be submitted to the governing boards within one hundred eighty (180) days after the selection of the recommending committee members.

(ii) If the board of county commissioners fails to enact an ordinance providing for an area of impact within ninety (90) days of receipt of the committee recommendation or expiration of the one hundred eighty (180) days for the committee to make its recommendation, the city may file a petition with the district court to identify the area of impact pursuant to subsection (5) of this section and in accordance with other applicable provisions of this section.

(3) Modification or confirmation of area of impact boundaries.

(a) Modification or confirmation of an existing area of impact boundary may be initiated by a city or cities or the county. If a county is initiating a modification or confirmation of an area of impact, the county shall provide at least thirty (30) days written notice to the applicable city or cities of the hearing on the proposed modification or confirmation. Any modifications to or confirmation of an area of impact boundary must be adopted by an ordinance approved by the board of county commissioners of the applicable county, following the notice and hearing procedures provided in section 67-6509, Idaho Code, and in accordance with the requirements for defining an area of impact as set forth in subsection (4) of this section. At least fifteen (15) days prior to the hearing, written notice of the hearing to be conducted under this paragraph shall be provided by the county to each owner of property located within the portion of the area of impact that is proposed to be modified. If notice is also published pursuant to section 67-6509, Idaho Code, individual property owners may not challenge the proceeding on the basis that they did not actually receive notice by mail. If the modification or confirmation is proposed by a city, then the cost of the notice shall be reimbursed to the county by such city. If the county is pursuing the modification or confirmation, then the cost of notification shall be borne by the county. The board of county commissioners is not required to receive a recommendation from the planning and zoning commission prior to enacting an ordinance modifying or confirming an area of impact.

(b) Where areas of impact abut each other and adjustments are being proposed, or where areas of impact are proposed to abut each other, the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. The city council of each city must approve the area of impact or modifications thereto to be proposed to the board of county commissioners. These decisions by the city councils are proposals and not subject to judicial review or challenge. If the cities with impact area boundaries that abut or are proposed to abut each other reach agreement on the proposed boundaries or adjustments thereto, the requested boundaries or adjustments shall be collectively submitted by the cities to the county for consideration in accordance with paragraph (a) of this subsection. If the cities cannot reach agreement, then any or all of the cities involved may submit their requests to the board of county commissioners for consideration pursuant to paragraph (a) of this subsection. In either case, the county shall conduct at least one (1) consolidated public hearing where it considers all such requests together.

(c) The county may accept, reject, or modify a city's requested modification or confirmation regarding an impact area boundary, but if the county does not make a final decision on the request within ninety (90) days of submission of the request, the city may petition the court to make a determination on the request pursuant to subsection (5) of this section.

(4) Provisions applicable to areas of impact.

(a) In defining an initial area of impact or in modifying or confirming an existing area of impact, the criteria set forth in this subsection shall be considered:

(i) Anticipated commercial and residential growth;

(ii) Geographic factors;

(iii) Transportation infrastructure and systems, including connectivity;

(iv) Areas where municipal or public sewer and water are expected to be provided within five (5) years; and

(v) Other public service district boundaries.

(b) In addition to the criteria set forth in paragraph (a) of this subsection, an area of impact shall not exceed the areas that are very likely to be annexed to the city within the next five (5) years. Except as otherwise provided in this paragraph, an area of impact shall not extend more than two (2) miles from existing city limits. An area of impact boundary shall not divide county recognized parcels of land. If only a portion of a recognized parcel falls within the two (2) mile limit, then the boundary may extend beyond two (2) miles on that parcel so that it encompasses the entire parcel. Adjustments to an area of impact may be proposed and considered at any time following the initial establishment of the area of impact.

(c) Areas of impact may cross county boundaries only by approval of the governing board of county commissioners after following the procedures and complying with the requirements for modification or confirmation of an area of impact boundary.

(d) Areas of impact shall not overlap.

(e) The applicable county's comprehensive plan and zoning and subdivision ordinances shall apply in the area of impact. The county may adopt individual county comprehensive plan and zoning and subdivision ordinance provisions regarding a specific area of impact.

(f) Following adoption of an area of impact, the board of county commissioners shall provide the city with written notice at least fifteen (15) days in advance of any county public hearings held pursuant to this chapter or to chapter 13, title 50, Idaho Code, involving land within that area of impact.

(g) Areas of impact shall remain fixed until modifications are made pursuant to subsection (3) of this section.

(h) Prior to considering a request to establish, modify, or confirm an area of impact, the governing boards may, but are not required to, submit the request to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by its governing board in compliance with all required timelines set forth in this section to make its recommendation to the governing board. The county and the city shall undertake a review of the area of impact at least once every five (5) years and shall consider whether adjustments are in the best interests of the citizenry.

(i) This section shall not preclude annexation or other growth and development in areas of any county within the state of Idaho that are not within the areas of impact provided for herein.

(j) The county's decision establishing, modifying, or confirming the boundaries for an area of impact shall be made in writing and shall contain the reasoning of the board of county commissioners, including application of the facts relied upon by the commissioners and the application of the pertinent requirements and criteria to establish or modify an area of impact.

(k) If the area of impact has been properly established, persons living within the delimited area of impact shall be entitled to representation on the planning, zoning, or the planning and zoning commission of the city of impact. Such representation shall as nearly as possible reflect the proportion of population living within the city as opposed to the population living within the areas of impact for that city. To achieve such proportional representation, membership of the planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code. In instances where a city has combined either or both of its planning and zoning functions with the county, representation on the resulting joint planning, zoning or planning and zoning commission shall as nearly as possible reflect the proportion of population living within the impacted city, the area of impact outside the city, and the remaining unincorporated area of the county. Membership on such a joint planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of section 67-6504(a), Idaho Code.

(5) Petitions for review of establishment, modification, or confirmation of area of impact. The decisions by the board of county commissioners regarding the establishment, modification, or confirmation of areas of impact are legislative actions and are not subject to judicial review, declaratory action, or other legal challenge, except as specifically provided in this subsection.

(a)(i) If a county has not complied with the provisions of subsection (2) or (3) of this section, the city seeking the establishment, modification, or confirmation of an area of impact may petition the district court to establish, modify, or confirm an area of impact that meets the criteria and requirements of subsection (4) of this section in accordance with the procedures provided in this subsection. If the modification of an area of impact boundary involves areas of impact boundaries that abut each other or that are proposed to abut each other, then any city whose area of impact abuts or is proposed to abut another area of impact boundary may file a petition challenging the county's determination regarding only those boundaries that abut or that are proposed to abut each other. Any petition regarding a proposed area of impact or portion thereof that is subject to challenge must be filed in the county in which the proposed area of impact or portion thereof is located.

(ii) Before a city may file a petition for review of an area of impact decision made by the county, as provided in paragraph (a)(i) of this subsection, it must first file a request for reconsideration with the board of county commissioners. Such request must be filed within fourteen (14) days of the issuance of the written decision by the board of county commissioners and must specify deficiencies in the decision of the board of county commissioners. Filing a timely request for reconsideration is a prerequisite to the city having standing to file a petition with the district court. The county shall act on and issue a written decision on the request for reconsideration within thirty (30) days of receipt of the request or the request shall be deemed denied. A petition challenging the decision of the county must be filed by the city within twenty-eight (28) days after the issuance of a decision by the county on the request for reconsideration or expiration of the thirty (30) day period for the county to act on the request.

(b) When filing a petition challenging the decision of the board of county commissioners with the clerk of the court, the petitioner shall pay a fee of one hundred dollars ($100), which fee shall be in full for all clerk's fees except the regular fees provided by law for appeals. The court shall fix a time for the hearing on the petition to be held no less than thirty (30) days and no more than ninety (90) days from the filing of the petition. The petitioner shall serve or cause to be served a copy of the petition and notice of the hearing on the board of county commissioners or county clerk and the mayor or city clerk of such other

city whose area of impact boundary is in question pursuant to paragraph (a) of this subsection at least twenty (20) days before the date of the hearing.

(c) No petition, objection, or reply authorized under this subsection need be verified.

(d) The hearing on a petition filed pursuant to this subsection shall be held within the county in which the area of impact or portion thereof is situated. The regular district court reporter shall reduce to writing the testimony and evidence introduced in the same manner as in a trial of civil actions. The judge of the court, either before or after the hearing, may view the lands pertaining to the proposed area of impact, lands on the outside of the city or cities in the same vicinity in which the lands sought to be included in the area of impact are situated, and other lands within the corporate limits of the city that might in any way be affected by the granting of the petition. The judge may consider such modifications as the judge finds in connection with the evidence introduced at the hearing, in making and arriving at a final decision and determination of the matter.

(e)(i) If the court finds that the board of county commissioners did not follow the notice and hearing requirements provided in this subsection, the court shall remand the matter back to the board of county commissioners to comply with the requirements and issue a new decision. If the court finds that the decision of the board of county commissioners was not arbitrary, capricious, or an abuse of discretion, the court shall affirm the decision of the board of commissioners. If the court finds that the decision of the board of county commissioners was arbitrary, capricious, or an abuse of discretion, the court may remand the matter to the board of county commissioners to correct its decision or the court may determine the appropriate boundaries of the area of impact in question before it. It shall not be necessary for the judge of the court to make written findings of fact or conclusions of law unless the court establishes the area of impact boundary. The court may award attorney's fees and costs to the prevailing party in such an action only if it finds that the other party or parties acted without a reasonable basis in fact or law.

(ii) If the court establishes the area of impact boundary, such boundary shall become the area of impact boundary as of the date of the decree establishing the boundary. Within twenty (20) days after the filing of the decree, the petitioner shall file or cause to be filed with the county recorder and with the city clerk a certified copy of the decree. The board of county commissioners shall adopt an ordinance consistent with the court decree within thirty (30) days of the entry of the decree or be subject to contempt and other sanctions or actions deemed appropriate by the court.

(f) Any city or county aggrieved by the decision of the court may appeal from the decision and judgment to the supreme court. The procedure of the appeal shall be the same as the procedure for appeals from final judgment in civil actions.

(6) Cities and counties shall review their existing areas of impact and shall reestablish the areas in conformance with the provisions of this section by December 31, 2025. Failure to timely conduct such review and reestablishment shall nullify the current area of impact boundaries and require the city and county to go through the process set forth in subsection (2) of this section.

History:

[67-6526, added 1975, ch. 188, sec. 2, p. 515; am. 1977, ch. 155, sec. 1, p. 396; am. 1979, ch. 87, sec. 1, p. 212; am. 1993, ch. 55, sec. 1, p. 150; am. 1995, ch. 118, sec. 97, p. 506; am. 1996, ch. 116, sec. 2, p. 428; am. 1999, ch. 251, sec. 1, p. 651; am. 2002, ch. 333, sec. 6, p. 947.; am. 2024, ch. 227, sec. 2, p. 796.]

How current is this law?

Population

1 Dot = 1

McCall City Limit

Current McCall Impact Area

N

Esri, NASA, NGA, USGS, FEMA, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, USFWS

0 0.5 1 2 Miles

Parcels Completely w/in 2 Mile Buffer

Parcels Partially w/in 2 Mile Buffer

McCall City Limit

Current McCall Impact Area

Idaho Code 67-6526(4)(b)

N

0 0.75 1.5 3 Miles

Esri, NASA, NGA, USGS, FEMA, City of McCall, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA, USFWS