ELMORE COUNTY PLANNING AND ZONING COMMISSION
War Memorial (American Legion Hall), 515 East 2nd South Street, Mountain Home, ID 83647

Wednesday, August 6, 2014 at 7:00pm
Agenda
PLEASE SILENCE CELL PHONES

CALL TO ORDER

ESTABLISH QUORUM

- ☐ Chairperson Patti Osborn
- ☐ Debbie Lord
- ☐ Sue Fish
- ☐ Shane Zenner
- ☐ Vice-Chairperson K.C. Duerig
- ☐ Betty Van Gheluwe
- ☐ Ed Oppedyk
- ☐ Jeff Blanksma

- ☐ Attorney of Record Phil Miller

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

- **Deliberations for Red Baron Estates Pilot's and Homeowner's Association to Amend an existing Conditional Use Permit CUP-2004-10 in a Agriculture (AG) Zone. Case Number: CUP-2014-10. The site is located in the S1/2 NE1/4, NE1/4 SE1/4, Section 30, Township 1 South, Range 5 East, B.M.** A common means of locating the property is from Interstate 84 take exit 74, turn north on Simco Rd. to Desert Wind Rd., turn right on Desert Wind Rd., travel approximately 3.7 miles to Piper St. Property is on the North side of Desert Wind Rd.

ITEMS FROM THE PUBLIC

MINUTES

- Minutes from 07-16-2014.

INFORMATION ITEMS

- Upcoming P & Z Schedule.

MEETING ADJOURNED

Elmore County Land Use and Building Department

520 East 2nd South Street
Mountain Home, ID 83647
Phone: (208) 587-2142 ext. 254
Fax: (208) 587-2120
www.elmorecounty.org

Alan Christy
Director

Tell Riley
Building Inspector

Beth Bresnahan
Planner I

Kacey Ramsauer
Administrative Assistant

At the public hearing held July 16, 2014 there were three (3) additional letters for the record presented for the Planning and Zoning Commission to review. Not all of these letters were available for all of the Planning and Zoning Commissioners to review at the hearing

ADDITIONAL LETTERS FOR THE RECORD PRESENTED AT PUBLIC HEARING

1. Applicant exhibit #1
2. Applicant exhibit #2
3. Opposition exhibit #1

P & Z Meeting July 16, 2014

Re: Taxes

I would like to address the tax issue with Mr. Miller first.

I receive The "Amended Staff Report" this morning at 8:00 AM and so I will address this now.

The way that I am reading this, if we do not get this issue settled first there would be no need to continue with this meeting.

Mr. Miller, I have copied your letter you e-mailed to Mr. Christy on July 11, 2014 and highlighted the areas of concern.

You cite Idaho Code 63-902 which goes over the taxes and the duties of the Tax Collector. Next you cite Section 63-1003 of the Idaho Statutes, which are Revenue and Taxation/ Collection of Delinquency on Real Property, Personal and Operating Property.

As you read through this it contains verbiage like "property described", "levied on such property", "all real and personal property of the **owner**".

As I read this I find no mention of anything to do with property owned by an INDIVIDUAL with-in a home owners association or a subdivision.

As I read through the Elmore County Ordinances you cited; 6-3-4B, 6-27-7A (5) I still find no reference to an INDIVIDUAL property owner with-in an association or subdivision.

Mr. Miller, your verbiage in the last paragraph states, "Therefore, when 'a property' is delinquent...." You used singular verbiage, "a property".

The association applied for the amended CUP. Yes, Mr. Casper, Mr. Platt, Delta J, Riegler Trust and Mr. Peterson's property is with-in the confines of the association. However, they are not the one requesting the amendment to the CUP.

Please explain, because neither I nor anyone else who has read this understands the reasoning behind this. The association does not own these properties.

Rosie Castle

Applicant # exhibit #1

Elmore County Planning & Zoning Commission

520 E. 2nd South Street

Mountain Home, ID 83647

208-587-2142 #5 & #1

Re: CUP-2004-06 & CUP-2010-02

Dear P & Z Staff & Commission Members,

My name is Rosie Castle and my address is 709 Desert Wind Rd., Boise, ID 83716. I am a resident of Elmore County. My husband & I own a parcel of land with-in the Red Baron Estates and I am also the Secretary/ Treasurer of the Red Baron Pilots and Homeowners Association.

Before you this evening is an application for an amendment to the Red Baron Estates Pilots and Homeowners Association existing CUP. We have asked that the word 'Guests' be added to the existing CUP.

For the record, I received this Voluminous Staff Report by e-mail Friday evening, June 13, 2014 at 5:00 P.M. With moving cattle off the range and branding calves all day Saturday and Sunday being Father's day; well time was crunched so I hope this all makes sense.

However before I get started I would like to ask the P & Z members 6 questions. I would like, for the record, a show of hands on your response please.

1. How many members & staff have ever visited the Red Baron Estates?
2. How many members & staff have ever driven past it or know where it is located? (not by an aerial view)
3. How many members & staff have ever ridden in a small plane?
4. How many members & staff are afraid of planes in general; don't like to fly?
5. How many members & staff have ever lived in close proximity to an airport?
6. How many members & staff have ever lived outside city limits 15 miles plus from closest town?

Thank you and now I will address the issues as laid out in the 128 pages of the staff report. I am not here to reinvent the wheel, but because of the voluminous amount of paper I received it appears staff may want to. I will try and keep this concise and as short as possible while addressing the points.

X 1. Staff Report Pg 2 & 3 – Address further down-Taxes
2. Pg 4 "...125' set back ...both sides...center line of runway." This is being adhered to with exception of one property.
3. Pg 4 "...no over-flights below 80'....adjoining neighboring property.." Being adhered to by R.B. pilots. (except take off & landing FAA 91-119)

Applicant exhibit #2

4. Pg 5, ¶ 4, Yes, there are properties outside the platted subdivision and yes they could use the runway if they join the association and pay the dues to help maintain the runway. Currently only two (2) property owners have exercised this right.
5. Pg 5, ¶ 7, Please clarify. Mail Boxes? BLM? What ground is being utilized? Be specific.
6. Pg 5, ¶ 8, Statement/question is mute. The preliminary plat was signed off with all required signatures at the time. The final plat was also signed off with all required signatures. Building permits have been issued by your office and homes have been built. If your office did something incorrectly...NOT on Red Baron.
7. Pg 6, ¶ 5, The R. B. Estates has a current CUP and has already met this requirement.
8. Pg 6, ¶ 9, Existing CUP; requirements met.
9. Pg 7, ¶ 2, "... compliance with FAA and Idaho DOT Division of Aeronautics." We are.
10. Pg 7, ¶ 4, "....utilize **portion** of runway",...." ? What is meant by this?
11. Pg 7, ¶ 6, "....staff has additional concerns...number of planes...unrestricted....too many aircraft.." yes there is the potential for 46 aircraft. This was a known fact when the CUP was issued. However not every property owner will have or does have an aircraft. That is NOT a requirement to own property at the R.B. Estates. Currently there are 9 homes on the R.B. Estates. Out of the 9 homes, only one pilot and one plane. There is also one hanger with a plane on the non-platted portion of the subdivision. One plane has not flown in two (2) years or better and the other one is flown on an irregular basis; maybe once a month or so. This leaves us with 2-10 ratios on homes/hanger and pilots. Not everyone who owns properties even have friends who fly. Also, even worst case scenario there will never be 46 planes flying in or out all at the same time or even on the same day. This issue has been **blown way out of proportion.** I don't know what you mean by "UNRESTRICTED" because our "GUESTS" would be there by invitation only. Also this is PRIVATE property and neither I nor the county can regulate the amount of guest one can have at their home, no matter the mode of transportation, no matter how many parking places they may take up in your neighborhood. You keep using the verbiage "EXPANSION". It leads one to believe that the Red Baron Estates is physically adding property, which it is not. The correct term would be increased use of aircraft. "... Any expansion may be hazardous or disturbing ...." Will address further on.
12. Pg 7, ¶ 9, Pg 8, ¶ 1, ".....Staff has concerns that the delinquent taxes will harm the economic welfare of the county. " Elmore County has legal remedies for delinquent taxes. Red Baron Estates has no legal power to force taxes to be paid, nor can we collect them. As long as the **individual property owner** is within the parameters set by law for delinquent taxes then that's all there is to it. The law's regarding property taxes is set by states and counties and has no bearing, what so ever, on an 'association' as a whole. You cannot hold the association **HOSTAGE** to collect county taxes. These threats are very FAR REACHING and total BLACK MAIL and without actually researching this issue, I believe, TOTALLY ILLEGAL!
13. Pg 8, ¶ 8 Staff Comments – L #1 answered above. L #2 Reason for this application. L #3 Addressed above. L #4 Clarify- point? L #5 How will this request "create code enforcement problems." ? Please explain L #6 Addressed above.
14. Pg 9, ¶ 1 This is the tax issue & has been addressed.

15. Pg 9, **Proposed Conditions of Approval** L #2, Taxes-Addressed. L #4, Each pilot typically logs hrs. and dates their aircraft is flown. This is only to document hours on the aircraft. It, again, is far reaching to require a person on a private airstrip to document every single takeoff and landing and turn it into P & Z. once a year when P & Z is NOT an aircraft agency. Furthermore, what is the purpose of this requested condition? As far as I know Elmore County is NOT under Marshall Law, at this point, and this is, I'm sure, not on the job description for your position.

None of us at the R.B. Estates are Air Police or traffic cops. To require this is preposterous! This is NOT required on any other private or municipal air strip that I am aware of. It is not even required on any of the other air strips in Mountain Home or in Elmore County. If the P & Z forces this requirement on the Red Baron/Oasis air strip then it WILL be required straight across the board on all other airstrips in Elmore County and the State of Idaho. L #5, ..."no more than three (3) aircraft invitees at anytime". Clarify meaning please. Does this mean in one group, a month, a year or for the duration of living on the property? "Anytime" is very ambiguous. L#7, This again, very ambiguous. "....2 public open houses.....per year." I believe the way this is written that this **proposed** condition has already been violated by many in the area, had it already been a condition. The **definition** of an open house can be a social event in which hospitality is extended to all. This can be a party, reception, graduation, weddings, Christmas parties etc., during which a person's home is open to visitors. It can be open for training for various reasons; 4-H Clubs, fire meetings/training etc. It can also be for showing property showing an animal etc and voting. I am positive that none of the events that have taken place on the Red Baron Estates, Soles Rest Subdivision, Danskin Sub #1 &2 or other county residents have ever given a one (1) mile or a fifteen (15) day advance notification to any neighbor. What is the point here? Please clarify. Again, If this condition is place on the residence of Red Baron Estates then it WILL be placed on every other resident in Elmore County. Are you sure you don't want us to notify P & Z also?

16. Concerning issues FOC 2010 of "Private Property Rights", " "negatively impacts and is detrimental to neighboring land uses", "low-flying airplane traffic", "landing and take-offs immediately over neighboring property", "excessive production of traffic, noise, smoke, fumes, glare or orders", "noise and traffic ...increase.."

To summarize these concerns in short, the residents of the Red Baron Estates has no intention of violating anyone's property rights. The immediate area is and has been the flight pattern for many, many aircraft that do not belong to the residence of R.B. nor are they even acquaintances of the property owners. There are large concrete arrows throughout the U.S. from California to the East coast that was set many years ago before any of us in this room was born, unless we have someone here in their 80's. There is still a partial existing one in Tipinuke and also one on our land on Desert Wind. Pilots still fly today as they did many years past and there is no way any of us will change that. Some pilots fly lower than others and again we can't change that and there is **no way to judge that distance from the ground, with a camera**. Just because an aircraft fly's over does not mean that it is anyway associated with the Red Baron Estates.

"Negatively impacts and detrimental to neighboring land uses"? Please explain. Our pilots DO NOT fly over Soles Rest Subdivision homes nor do they fly over the Taylor/O'Dell or Ms.Pettybone's homes under minimum requirements. There is ¼ mile, 1320' of BLM ground between Red Baron and Soles Rest and the pilot's bank away from any home upon take-off or landing. Aircraft taking off to the N.W. cannot bank hard enough to "immediately" fly over the Taylor/O'Dell home without stalling the aircraft, per FSDO manager, Morris Pittman, when he visited the R.B. Estates. (Did not fly in) When a pilot of any type of aircraft lands they take as much of a straight approach as possible. Taking a sharp bank over someone's home or just bare property and trying to make a straight approach to land would be potential suicide for the pilot. Again this issue has been blown way out of proportion.

The most noise that an aircraft will make will be on the takeoff. This would not be any louder than a group of motorcycles a couple, three miles long going down Desert Wind Rd. That would be somewhere between 3-5 minutes. This includes the warm up of the engine and the power on to get off the ground. You could liken this to some folks with a led foot at a stop light when the light turns green. On the landing approach the engines are throttled back to almost an idle. Again, much in the same way most folks would approach a traffic stop signal.

As far as the fumes, smoke, glare, order; that is just not realistic. The fuel that an aircraft burns is higher octane and low lead and burns cleaner and creates less fumes and odor than that which we are required to burn in our vehicles. An aircraft engine is kept in superb condition because if there is a problem they cannot just pull to the side of the road and call a wrecker. They actually fall out of the sky. FAA requires annuals on all aircraft which is documented in the aircraft log book. Pilots are also required to do majors after so many engine hours. Pilots have considerably more respect for their aircraft than probably anyone sitting in this room has for their automobile. The majority of pilots are more concerned with the safety and respect for their fellow man's safety on the ground than general public in vehicles that whip down the freeway at excessive speeds every single day. They whip in and out of traffic trying to kill themselves and other. I have yet to see a pilot speed through an airport taxi area to beat another pilot to a tie down spot on a crowed airport.

Not every single pilot fly's every single day. Most have a day job the same as everyone else in this room. Because the airstrip is not a lighted strip our pilots, at the Red Baron, cannot fly before or after a certain time. Winter time flying is usually sketchy at best, dependent on the weather. Spring is also iffy because of strong winds. Again, a pilot will not put him or her-self, nor their aircraft, in an intentional compromised position.

I have a question! How many of you own a boat, a camper, a motor cycle, 4 wheeler; Any type of recreational vehicle or apparatus; Snow mobiles, ski's? How often do you use them? When is the last time you used them? If I'm your neighbor do I get all sorts of out of shape when you start your motorcycle in the spring? Oh my God, now we have to listen to that! No, if you have one you are allowed to use it and if you want one for every member of your family, so be it; it is your right. My point is made.

I might add one more point here. **IF at such time an emergency was to happen and an aircraft was in trouble they would be allowed to use the airstrip anytime. This is an FAA regulation.**

17. Fire suppression issue. TAKEN CARE OF.

In conclusion I believe that some common sense should be used in making a decision on this application for guests. Quite frankly this should not even be an issue.

Thank you for your time.

11 P93

RP 002770010180 A- Francis & Marcelline Brady,
RP 002770010190 A- Blake Richardson,
RP 002770010200 A- Kenneth & Sheila Casper,
RP 002770010210 A- Kenneth & Sheila Casper,
RP 002770010220 A- Red Baron Estates Pilots & Homeowners Assoc.,
RP 002780010230 A- Kenneth & Sheila Casper,
RP 002780010240 A- Kenneth & Sheila Casper,
RP 002780010250 A- Matthew Misner,
RP 002780010260 A- Gary Brown,
RP 002780010270 A- Delta J. Enterprises LP,
RP 002780010280 A- Giacalone Living Trust,
RP 002780010290 A- Kenneth & Sheila Casper,
RP 002780010300 A- Giacalone Living Trust,
RP 002780010310 A- Red Baron Estates Pilots and Homeowners Assoc.,
RP 002780010320 A- Kenneth Heller,
RP 002780010330 A- Petrunia LLC,
RP 002780010340 A- Giacalone Living Trust,
RP 002780010350 A- Giacalone Living Trust,
RP 002780010360 A- Bernd Wegner,
RP 002780010370 A- Kenneth & Sheila Casper,
RP 002780010380 A- Robert William Riegler Trust,
RP 00278001039F A- Brian & Tina Dockstader,
RP 00278001040D A- Bernd Wegner,
RP 00278001040E A- Bernd Wegner,
RP 002780010410 A- Red Baron Estates Pilots and Homeowners Assoc.,
RP 002860010010 A- Kenneth & Sheila Casper,
RP 002860010020 A- Kenneth & Sheila Casper,
RP 002860010030 A- Kenneth & Sheila Casper,
RP 002860010040 A- Kenneth & Sheila Casper,
RP 002860010050 A- Kenneth & Sheila Casper,
RP 002860010060 A- Kenneth & Sheila Casper,
RP 002860010070 A- Red Baron Estates Pilots and Homeowners Assoc.,
RP 01S05E301355 A- Robert & Cynthia Hunter,
RP 01S05E301360 A- Kenneth & Sheila Casper,
RP 01S05E301650 A- Ronald & Rosanna Castle,
RP 01S05E301360 A- Michael Petersen,
RP 01S05E301640 A- Judith O'Dell & Richard Taylor,
RP 01S05E301740 A- Jonathan & Heather McDaniel,
RP 01S05E301745 A- Raymond & Teresa Fitting,
RP 01S05E301750 A- Red Baron Estates Pilots & Homeowners Assoc.

Parcels Delinquent Property Taxes:
RP 002770010080 A- Kenneth & Sheila Casper = $1,039.37,
RP 002770010090 A- Kenneth & Sheila Casper = $1,039.37,
RP 002770010100 A- Kenneth & Sheila Casper = $1,039.37,
RP 002770010110 A- Kenneth & Sheila Casper = $1,039.37,

Applicant exhibit #3

RP 002770010120 A- Kenneth & Sheila Casper = $1,039.37,
RP 002770010140 A- Kenneth & Sheila Casper = $1,039.37,
RP 002770010150 A- Joshua & Christina Platt = $409.14,
RP 002770010160 A- Kenneth & Sheila Casper = $1,039.37,
RP 002770010170 A- Kenneth & Sheila Casper = $1,336.97,
RP 002770010200 A- Kenneth & Sheila Casper = $1,039.37,
RP 002770010210 A- Kenneth & Sheila Casper = $945.67,
RP 002780010230 A- Kenneth & Sheila Casper = $1,019.55,
RP 002780010240 A- Kenneth & Sheila Casper = $1,039.37,
RP 002780010270 A- Delta J. Enterprises LP = $1,495.25,
RP 002780010290 A- Kenneth & Sheila Casper = $1,039.37,
RP 002780010370 A- Kenneth & Sheila Casper = $1,039.37,
RP 002860010010 A- Kenneth & Sheila Casper = $28.27,
RP 002860010020 A- Kenneth & Sheila Casper = $1,628.19,
RP 002860010030 A- Kenneth & Sheila Casper = $1,161.23,
RP 002860010040 A- Kenneth & Sheila Casper = $1,246.37,
RP 002860010060 A- Kenneth & Sheila Casper = $1,155.53,
RP 01S05E301360 A- Kenneth & Sheila Casper = $0.10
Total Properties with Delinquent Taxes: $21,816.14, 22 properties

Parcels with 2nd Half of 2013 Due by June 20, 2014:
RP 002770010030 A- Shawn Steffler- $294.99,
RP 002770010070 A- Nicholas Andros- $809.64,
RP 002770010130 A- Ruth Gyman- $190.70,
RP 002780010360 A- Bernd Wegner- $977.58,
RP 002780010380 A- Robert William Riegler Trust- $194.90,
RP 00278001040D A- Bernd Wegner- $222.77,
RP 00278001040E A- Bernd Wegner- $15.79,
RP 002860010050 A- Kenneth Casper- $1,128.86,
RP 01S05E301355 A- Robert & Cynthia Hunter- $169.04,
RP 01S05E301630 A- Michael Petersen- $175.63,
RP 01S05E301740 A- Jonathan & Heather McDaniel- $1,327.85,
RP 01S05E301745 A- Raymond & Teresa Fitting- $587.36
Total Properties with Taxes due on June 20th: $6,195.11, 12 properties

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BACKGROUND:

Application for amending an existing conditional use permit was turned into the Land Use and Building Department on May 6, 2014. Notice of public hearing was sent to surrounding property owners on May 19, 2014 and was mailed to agencies on May 19, 2014. Notice of public hearing was published in the Mountain Home Newspaper on May 28, 2014. Property was posted on June 9, 2014.

Applicants have conducted the required neighborhood meeting on April 26, 2014.

Parcels are not located near any area of city impact.

Application to amend the existing conditional use permit is to add the word "Guests" to the conditional use permit, CUP-2004-06, that was approved March of 2004 and Amended October of 2004, the following amended conditions:

1. The airpark will remain private for the use of current landowners and/or residents, or the Conditional Use Permit must be amended.

2. No air-shows or air-rodeos will be permitted.

3. Applicants will use form of dust abatement.

4. There will be 125 foot setbacks from both sides of the center line of the airstrip.

5. There will be absolutely no over-flights below 80 feet above adjoining neighboring property owners.

6. Up to 500 gallons of fuel may be stored on property for private and emergency uses. Spill containment will be installed per Idaho Department of Environmental Quality regulations.

This project originally was started in 2000 by Dan Hennis by applying for a CUP for a private ultralight landing strip, which was denied by the Planning and Zoning for not complying with standards, 2, 3, 4, and 7 of Section C.14-1, of the Elmore County Zoning and Development Ordinance adopted in 3/14/1994, amended 12/26/1995 (attachment 8).

In January of 2004 Ken Casper and Dan Hennis applied for a CUP for Oasis Airpark, a private air strip. The CUP was approved at this time with conditions: that the airpark remain private and for the use of current landowners only, if any more than that use, then they must amend the CUP; no air-shows/rodeos would be permitted; use of dust abatement; 125' setback on either side of the runway, absolutely no-over-flights below 80' above adjoining neighboring property owners; up to 500 gallons fuel maybe stored on property for private and emergency uses with spill containment installed to DEQ requirements. (Attachment 4 & 7)

In August of 2004, Ken Casper requested to expand the CUP for Private Airpark. He wants to extend it 2700 ft., does not want a commercial runway, but would like to have rental hangers houses along the airstrip. At the September 15th meeting Ken Casper asked that the conditions be changed from owners to residents and would like the setback to be specified from the center of the runway. The CUP was amended with these changes. (Attachment 5)

In March of 2010, Ken & Sheila Casper applied to amend the CUP, CUP-2004-06. The proposed amendment would be "to allow private airpark may be used by landowners and their invitees and to impose the restrictions on the CUP as agreed with Rick Taylor and Judith O'Dell." This application was denied because it does not meet standards 7, 8 or 10 of the Elmore County Zoning and Development Ordinance. Commission felt if the airpark were to expand the use, it could cause a lot of other potential problems; it would be disturbing to neighbors and would not be harmonious with the surrounding area. (Attachment 7)

The roads and runway within the subdivision are paved and privately maintained. E Desert Wind Road is a paved public road that borders the subdivision.

The property is located within the Oasis Rural Fire District. The application was previously signed by a commissioner of the Oasis Rural Fire District and not the Fire Chief. The application was return to the applicant to obtain the signature of the Fire Chief. (Letter for the Record 2)

* Surrounding property is zoned agriculture. There is an approved wrecking yard in the vicinity. Staff believes there are 6 properties outside of the Plat for Red Baron that can utilize the runway, through previous CUP and LOI. There are 46 parcels in platted areas in Red Baron.

Soles Rest 26 homes are located near the SE portion of the runway not part of the CUP.

Pettibone, Taylor 2 4 homes are located near the NW portion of the runway not part of the CUP.

* While conducting research on past applications, staff has concerns that both Red Baron approval and the Oasis Airpark are utilizing properties that were not part of their respective approvals.

All Boxes / BLM ?

* Staff has found no indication that the roads or runway have been engineered and/or certified by an engineer. Elmore co. Standards at time All Plats signed

Todd –

ATTACHMENTS:

1. Application
2. Map
3. Posting photos.
4. FCO CUP-2004-06
5. Amended FCO CUP-2004-06
6. FCO CUP-2010-02
7. Minutes
8. Section C.14-1 Ordinance March 14, 1994, amended December 26, 1995
9. Map of Red Baron and Oasis Air Park

LETTERS FOR THE RECORD

1. Elmore County Treasurer/Assessor- 22 parcels within the subdivision are delinquent on taxes. (see parcel numbers on page 1-3)
2. Email from Jolene Hobdey dated May 23, 2014
3. Email from Rick Taylor dated June 5, 2014 with attachment
4. Email from Rick Taylor dated June 6, 2014 @ 1:41 PM with attachment
5. Email from Rick Taylor dated June 6, 2014 @ 1:55 PM with attachment
6. Email from Phillip Miller dated June 6, 2014

THE TWELVE STANDARDS ALL CONDITIONAL USES MUST MEET ARE:

1. **The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance;**

Staff Response:

This application is an amendment to an existing Conditional Use Permit, CUP-2004-10, Amended CUP-2004-10. A new Conditional Use Permit is required per section 6-27-2 B of the Elmore County Planning and Zoning Ordinance.

2. **The proposed use shall be in harmony with and in accordance with the Elmore County Comprehensive Plan and this Ordinance (Title 6);**

(5)* **Staff Response:**

There is a possibility of conflict with the Comprehensive Plan, Private Property Rights Objectives: 7- Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods, 10- Property owners acknowledge and expect that Elmore County will preserve private property rights and values by enforcing regulations that will ensure against incompatible and detrimental neighboring land uses, and Ordinance in that it will be detrimental to existing neighbors.

3. **The proposed use complies with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter;**

Staff Response:

Staff believes the proposal is applicable with the base zone if it complies with "site development standards" pursuant to section 6-8-5 A.

4. **The proposed use shall comply with all applicable County Ordinances;**

(9)* **Staff Response:**

Staff has concerns that the expansion will not comply with all ordinances, including Chapter 8 and Chapter 27 of the Zoning and Development Ordinance.

5. **The proposed use shall comply with all applicable State and Federal regulations;**

(2)* **Staff Response:**

At the time of this report, staff has received no comments from any state or federal agencies. Staff strongly encourages that this proposed use be in compliance with FAA and Idaho Department of Transportation Division of Aeronautics.

6. **The proposed use shall be designed, constructed, operated, and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and that such use shall not change the essential character of said area;**

Staff Response:

(4)* Staff has concerns with the neighboring properties existing and future uses. 46 lots are able to utilize portions? of the runway, any expansion may have impacts on neighboring properties. All

7. **The proposed use shall not be hazardous or disturbing to existing neighboring uses or impede their normal development;**

(6)* **Staff Response:**

Because the Commission has previously found that "guests/invitees" would be hazardous and disturbing to neighboring properties, staff has additional concerns because of the number of planes utilizing the airport would be unrestricted and a potential for too many aircraft utilizing the runway. There are a total of 46 lots that have access to the runway. Any expansion may be hazardous or disturbing to neighbors.

8. **The proposed use shall be served adequately by available public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, or that the person responsible for the establishment of the proposed conditional use shall be able to provide adequately any such services;**

Staff Response:

Public facilities and services are existing on the property. Fire District has requested a fire tank for suppression.

(9)* 9. **The proposed use shall not create excessive additional requirements at public cost for public facilities and services and the proposed use shall not be detrimental to the economic welfare of the County;**

Staff Response:

(1) * No public facilities or services are proposed with this amendment. Any improvements requested by the Fire District should be funded by the applicant. Staff has concerns that he delinquent taxes will harm the economic welfare of the county.

10. **The proposed use shall not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;**

Staff Response:

The proposed use has the potential to be detrimental to neighboring properties with excessive noise.

* Taking off only.

11. **The proposed use shall have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public or private roadways;**

Staff Response:

No new vehicular approaches will be constructed with this proposal.

12. **The proposed use shall not result in the destruction, loss or damage of a natural or scenic feature of major importance.**

Staff Response:

The proposed use will not result in the destruction, loss or damage of a natural or scenic feature or major importance.

(8) * **STAFF COMMENTS**

Staff has the following concerns:

Guests - Not a huge deal (1) *Increase in use (expansion) may be detrimental to surrounding neighbors. The airpark/airport is conflicting with neighboring uses.

Point (2) *Prior FCO's state residents/landowners are to be using the airpark.

Mute Point (3) *Outstanding taxes need to be paid.

Point ? (4) *Ensuring this CUP applies to all properties and ensuring all properties have continued access to runway.

(5) *Expanding this conditional use permit has the potential for creating code enforcement problems.

(6) *If approved an unlimited number of air planes could utilize the site.

STAFF RECOMMENDATIONS

re delinquent taxes
in Stated time frame
County Problem - Not Red Baron

(1) * The commission may take testimony if the commission chooses to do so. However, Staff strongly recommends tabling to a date certain, any decision until the delinquent tax issue has been resolved.

* PROPOSED CONDITIONS OF APPROVAL

If approved staff would recommend the following conditions of approval. Conditions 4 through 7 were proposed by staff in 2010:

1. Failure to comply with this agreement or any previously approved conditions will result in revocation of the conditional use permit.

ute Point - N/A X (2) All outstanding fees and taxes must be paid in full.

(3) Installation of a 10,000 gallon water source, Class B self-contained foam unit and 20 pound class D dry powder extinguisher.

(4) Records must be kept for how many take off and landings at the airstrip. The records must be turned into the Land Use and Building Department once a year.

(5) Each homeowner or tenant is allowed no more than three (3) aircraft invitees at anytime.

his is Mute Point (6) Aircraft will not taxi to the runway from neighboring properties outside the Red Baron Estates unless approved through a separate Conditional Use Permit.

(7) No more than two (2) public open houses may be conducted per year. Notice of public events will be provided to neighbors within one (1) mile, fifteen (15) days in advance.

dress This - All other
ave to Comply
dress - All others have
o Comply

dress - What is
efinition of "Open House"

9. The property is an existing platted subdivision.
10. The runway is paved and extends outside of the platted subdivision.
11. The existing land uses in the immediate area of the property in question are LOI divisions of property and rangeland.
12. The property is located within Open Range.
13. The property boarders BLM property.
14. * The proposed amendments to the conditional use will, in fact, constitute an allowed conditional use in that zone, as determined by the Land Use Matrix and Zoning District regulations Chapter 8 of the Elmore County Zoning and Development Ordinance.
15. The proposed amendments to the conditional use will not be in accordance with goals and objectives of the Comprehensive Plan. The application is in conflict with Private Property Right objectives #7 & #10 of the Elmore County Comprehensive Plan in that this application negatively impacts and is detrimental to neighboring land uses as described below.
16. The proposed amendments to the conditional use will not be in accordance applicable provisions of the Zoning and Development Ordinance. The application does not meet the required findings all Conditional Use Permits must meet as more fully set forth below.
17. Bob Ruth The proposed amendments to the conditional use will not be adequately served by fire protection as there is no form of water supply, small foam system or fire extinguishers as testified by the Oasis Rural Fire District.
18. The proposed amendments to the conditional use will utilize existing vehicular approaches to the property, which were designed as not to create an interference with traffic on surrounding public streets.
19. The proposed conditional use will be hazardous or disturbing to existing or future neighboring uses by an increased and unregulated amount of low-flying airplane traffic. Neighboring future land uses would be limited for future development because of the noise and presence of those low-flying aircraft. That traffic includes landings and take-offs immediately over neighboring property.
20. The proposed amendments to the conditional use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
21. * The proposed amendments to the conditional use will be detrimental to persons, property or the general welfare with excessive production of traffic, noise, smoke, fumes, glare, or odors. The proposed amendment would allow unlimited use of the runway by residents, visitors, and "associate members" of the aircraft owner's association. Noise and traffic from airplanes would increase at an unknown amount from the original approved Conditional Use Permit. Noise and traffic would increase over neighboring private property, which is next to the Red Baron Estates development.
22. The approved Conditional Use Permit is for a private airstrip for owners and residents only.
23. The proposed conditional use will not result in destruction, loss or damage of a natural or scenic feature of major importance.
24. One neighborhood meeting for this application was held.

25. The pilots / homeowner's association articles of incorporation, article IX Associate Members, dated October 11, 2005 is in violation of the original Conditional Use Permit by allowing non-residents and non-landowners to use the airstrip. That Association is in full force and effect at this time. The approved Conditional Use Permit states use by owners and residents only.
26. Majority of Commission found that nothing could be changed in the application to gain approval as this application was originally approved as a private airpark for owners and residents only.
27. Minority of Commission felt that the application could be reviewed again if the applicants provided more information and more restrictions.

Based on the foregoing **FINDINGS OF FACT**, the Elmore County Planning and Zoning Commission hereby makes the following:

CONCLUSIONS OF LAW

1. The requirements of Idaho Code Section §67-6509 have been met.
2. The action taken herein does not violate Chapter 80 of Title 67 of the Idaho Code.
3. The applicant has not met all the requirements of the Zoning and Development Ordinance Chapter 27 to amend a Conditional Use Permit as shown above in the findings of fact.

Based on the forgoing **CONCLUSIONS OF LAW**, the Elmore County Planning and Zoning Commission hereby enters the following:

Brady stated that it is just the 2 words that they wanted to put into the avigation agreement. Miller stated that it is much more than 2 words as it is an 8 page agreement that Casper, the applicant, wanted to incorporate the avigation agreement with the Conditional Use Permit.
Brady stated that happened before him.
Osborn stated that this is what is before them right now.
Miller stated that at the last meeting the issue arose about whether that agreement had been terminated by the other signatories to it at which time Casper represented to the Planning and Zoning Commission at that time that he would still be willing to have everything that he agreed to in the avigation agreement still be included into the amended CUP.
Brady stated that this was true.
Miller asked if there was anything executed stating that they would be bound by this agreement since it only involves Casper.
Brady stated that they hired Don Lojack who is an attorney to address that issue for them.
Christy entered the document from Brady into the record as Exhibit 2.
Bob Ruth signed up to testify as neutral. He stated that he is no longer a member of the Soles Rest Board but he can say for the record that they are very intent on getting an avigation agreement since Soles Rest Subdivision is about one quarter of a mile from the end of this runway. He stated that he is concerned with fire protection since he is the Oasis Volunteer Fire Chief. He stated that the fire department has no capability of fighting aircraft type of fires. He stated that they asked Casper to provide some sort of fire protection system in the form of a small foam system on a trailer and fire extinguishers and have them made available in case of an incident. He stated that they have also asked for some form of a water supply in the Red Baron area like they have on the Soles Rest and Ditto Creek area for fire suppression.
Christy asked if there were to be an incident there what would the response time be.
Ruth stated that it depends on the time of the day or whether it was a week day or weekend. He stated that this is a volunteer department so it is difficult to say.
Christy asked how the Soles Rest Subdivision been cooperating with the Red Baron Subdivision.
Ruth stated that there was one complaint against Red Baron a month ago but that there have been fewer problems than in the past. He stated that it's what they want to work on in the avigation agreement.
Frank Hennis is in opposition to this. He stated that he informed Casper that the runway was wrong. He stated that he is not part of Red Baron. He stated that this was started as a little airpark not an airport. He stated that the runway went from 1500 feet to over 2000 feet. He stated that he owns land right next to this property.
Hennis submitted a document into the record that Christy previously entered into the record as Exhibit 1.
Barbara Hennis signed up in opposition but did not wish to speak.
Marcus Ward is the attorney representing Rick Taylor and Judith O'Dell. He stated that he has a list of the violations of the avigation agreement in the last year that his clients have documented but this is not all of the violations only the ones that could be documented. He stated that when this was approved there was no standard applied to this airstrip. He stated that there was no discussion about the fuel tanks at the end of the runway which and that it is against FAA rules to fly within 100 feet of the fuel tanks. He stated that this CUP was obtained under misrepresentation and it needs to be addressed as it never did meet the standards that it should have. Ward stated that he submitted pictures to the Growth and Development office that show more violations. Do Not Exist
Christy stated that he did not get those pictures into the record but that he would do so. Information was added to the Public Record as Exhibit 3.
Ward stated that they have no intention of following any of the rules because they violate them all the time and they have documented evidence of this. He stated that if there were any accidents resulting from this sloppy CUP, Elmore County could be liable and that is why they mist fix this problem now. He asked the commission members to suspend this CUP and make them do it right and then proceed. Ward stated

Soles Rest Creek Development HOA, Inc.

July 1, 2014

Members of Planning and Zoning:

The Soles Rest Creek Home Owners Association sends this letter giving Bob Ruth the Authority to speak on our behalf in regards to the Conditional Use Permit changes submitted by the Red Baron Estates HOA We have chosen Mr. Ruth to address you with our beliefs and requests we have read and approve his exhibits

Thank you from Soles Rest Creek HOA Board

Dawn McClure 19445 N. Del Norte Pl. (208) 796-2145 dmc_para@live.com - President

Steve Burnett 19565 N. Del Sol Pl. (208) 598-3686 saburnett5@gmail.com - V. President

Jen Stolley 15025 W. Soles Rest Creek Rd. (208) 284-9445 emeraldiiiiis@yahoo.com - Treasurer

Teresa Ruth 19550 N. Del Norte Pl. (208) 859-6299 horsesnaturally@reagan.com - Secretary

Jennifer Sirani 19711 N. Cairns Pl. (208)866-1871 siranijennifer@gmail.com

Sincerely,

Dawn McClure
President

Opposition Exhibit
#1

ELMORE COUNTY
PLANNING AND ZONING COMMISSION

MINUTES
Wednesday, July 16, 2014 at 7:00 pm

Chairperson Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairperson K.C. Duerig, Shane Zenner, Jeff Blanksma, Debbie Lord, Betty Van Gheluwe, and Sue Fish. Also present were Attorney of Record Phillip Miller, Director Alan Christy and staff members Beth Bresnahan and Kacey Ramsauer.

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Continuation for Red Baron Estates Pilots and Homeowners Association to Amend an existing Conditional Use Permit CUP-2004-10 in a Agriculture (AG) Zone. Case Number: CUP-2014-10. The site is located in the S1/2 NE1/4, NE1/4 SE1/4, Section 30, Township 1 South, Range 5 East, B.M. A common means of locating the property is from Interstate 84 take exit 74, turn north on Simco Rd. to Desert Wind Rd., turn right on Desert Wind Rd., travel approximately 3.7 miles to Piper St. Property is on the North side of Desert Wind Rd.

Osborn read the rules for this public hearing.

Bresnahan gave staff report and background.

Miller stated that the bottom line is with the additional information, specifically the conveyance documents and the notarized minutes from the Red Baron Pilot's Association, that the pilot's association does have the legal authority and interest in the property to request an amendment to the conditional use permit.

Rosanna (Rosie) Castle is the secretary/treasurer for the Red Baron Pilot's and Homeowner's Association. She stated that she has given documentation to prove she has the legal authority to present and also to apply for this conditional use permit (CUP). She stated that she is submitting a letter that she would like to address particularly with Miller concerning the amended staff report that she received this morning via email. She stated that she did not have prior notice of this and therefore was not able to respond to Miller's letter. She stated that she has 2 copies made for Miller and Osborn as she was crunched for time. She stated that this is covering the taxes for Red Baron because Miller's letter to Christy did state that Idaho Code Section 63-103 states that when taxes are delinquent the County has a perpetual lien on the property until they are paid and that after 3 years the county may issue a tax deed. The Elmore county planning and development ordinance 6-3-4b says that zoning permits which include conditional use permits issued is in violation of state and federal law are invalid. Section 6-27-7a (5) requires the development to comply with all state and federal regulations in this section. The only fair reading that includes tax law and regulations; therefore, when a property is tax delinquent it is not in conformance with Idaho law and regulation and under that the zoning permit and amendment cannot be issued. She stated that in her response to this she has written a letter stating I would like to address the tax issue with Mr. Miller first. The way that I am

reading this says that if we do not get this tax issue settled first then there would be no need to continue the meeting. Mr. Miller I have copied your letter dated July 11 emailed to Christy and highlighted the areas of concern. You cited Idaho code 63-902 which goes over taxes and the duties of the tax collector. Next you cited sections 53-1003 of the Idaho State Statutes which are revenue and taxation/revenue and delinquencies on real properties, personal, and operating property. As you read through this it contains verbiage like "property described, levied on such property, all real and personal property of the owner." As I read this I find no mention of anything regarding property owned by an individual within a homeowner's or subdivision. As I read through the Elmore county ordinance you cited 6-3-4b, 6-27-4a (5) and I still find no reference to an individual property owner within an association or subdivision. Mr. Miller your verbiage in the last paragraph states "therefore when a property is delinquent." You used a single verbiage "a property." The association applied for an amended CUP, yes Mr. Casper, Mr. Plat, Delta J, Ringler Trust, and Mr. Peterson, property owners, are within the confines of the association; however, they are not the ones requesting the amendment to the CUP. Please explain because neither I nor anyone else who has read this understands the reasoning behind this. The association does not own these properties.

Miller stated that under that interpretation any of the private properties within the subdivision could be in violation of any state, local, and federal law and you could amend the CUP in any way if the homeowner's association was doing it and that's obviously not the intent of the ordinance, it's a residential subdivision. He stated that under your reading of that interpretation if somebody was running a business out of one of those lots which is not allowed by the ordinance or the CUP, the county would not be able to take that into consideration. He stated that he thinks that's big problem. He stated that suppose the developer is applying for the CUP or for an amendment and he owned most of the lots and other people owned some of the lots, under Castle's interpretation some of those other persons lots could be totally out of compliance with the law and the county could still grant the amendment, that's not the way the ordinance is intended to be set up. He stated that he thinks she is reading the term property too narrowly. He stated that he thinks that when you look at the zoning ordinance, the language that the property referred to is simply the property within the CUP area. He stated that if any one of the lots is in violation that is part of the property within the CUP. Miller stated that if this can't be resolved that one of staff's suggestions in the staff report is a requirement that taxes be paid as a condition in the CUP.

Castle stated that the person who owes the most taxes in the subdivision has been trying desperately to catch up on taxes and he is not 3 years delinquent and neither are any of the property owners in the subdivision. She stated that she has not gone so far as to research this but she does not believe that they are, otherwise the taxing agency would have taken their tax remedy solutions and that has not been done.

Miller states that they really cannot do anything until 3 years has passed but they do have a lien on the property.

Castle stated that they do have a lien on the property but the provisions in the Idaho Code that Miller has quoted in his letter says that they are in the parameters of the state statute and this is her point that if they were behind at that point the county would have legal remedy to take care of this situation. She stated that she does not believe that the association as a whole should be held hostage for the situation of delinquent tax.

Miller stated that someone is out of compliance with the law and it is set up so that there is a 3 year grace period even though they are out of compliance with the law for paying taxes. He stated that he believes the property referred to in the ordinance is the entire property within the area covered by the CUP.

Castle stated this is not clear in state or county codes.
Miller stated that it talks about the development and the land use and so forth.
Castle stated that it also states that "individual". She stated that she is not responsible nor is anyone in the association for others delinquent taxes.
Miller stated that you have to pay, but his position is that he believes that the county can look at what is going on in the subdivision to determine whether all laws are being followed when a CUP amendment is requested.
Castle stated that she would like to know whether to proceed with this because Miller's exact verbiage says cannot, it does not say should not or maybe, it says cannot be issued. She stated that she is not up here to play let's make a deal, she is standing here to present and to make a valid point.
Miller stated that nobody here can tell them what to do and he cannot predict what the commission will decide but whatever the decision is the right to appeal is always there.
Castle stated that she would like to ask the people in attendance from the association if they would like to proceed.
Christy suggested a brief recess to allow the applicant to discuss their options.
Castle said they would like to do that.

Osborn called a 10 minute recess.

Osborn reopened the public hearing.
Castle stated that the decision unanimously is to go ahead and proceed.
Christy for the record that the items presented today and given to the commission are entered into the record as applicant exhibits 1, 2, and 3.
Castle handed out a letter to the commission members and staff explaining what she would be presenting. She stated that she and her husband own a parcel of land within the Red Baron Estates. She stated that they have asked for the word guest to be added to the existing CUP. She stated that she received the voluminous staff report by email and that time has been crunched for her to prepare so she hopes this all makes sense. She stated that she would like to ask the P&Z members 6 questions. She asked how many members of the commission have been to Red Baron Estates with a show of hands.
Miller stated that he cannot tell her that she cannot ask questions of the commission but they cannot go out to view the property individually prior to a CUP hearing.
Castle says she understands this but there has been many opportunities when the Red Baron Estates has been before the P&Z with many issues and a lot of the members do not understand where they are located and have not seen the facility nor the homes and airstrip so this is an important question. She stated that we know these questions are not criteria; granted, but she thinks it's important.
Miller stated that if the P&Z did so, then their vote may not count if they have gone out there during appending application. He stated that Idaho Supreme Court has stated that the P&Z cannot go out and individually view properties that have permits being applied for and if some kind of a viewing is requested it has to be a public meeting and records kept.
Castle stated that she does not want to sway anyone vote so she will withdraw that particular question. She asked how many members have ever ridden in a small airplane.
5 or 6 raised their hands.
She asked how many members were afraid of planes in general.
None of the commission members raised their hands.
She asked how many members have ever lived in proximity to an airport.

3 members raised their hands.
She asked how many members and staff have lived outside of city limits 15 miles plus from the closest town.
4 raised hands.
Castle stated she pulled this information out of the very first report that she received in June. She stated that the 125 foot setback is being adhered to with exception of one property. She stated that there are no overflights under 80 feet with the exception of takeoff and landings. She stated that there are properties outside of the platted subdivision and they can use the runway if they join the association and pay the dues to help maintain the runway and currently only 2 property owners have exercised this right. She stated she does not understand what staff is saying on the report when it says they are utilizing properties that were not part of the receptive approvals. She stated that she needs clarification on this. She stated that she does not know what is being referred to here. She stated that the question of the roads and runway being engineered is a moot point as the preliminary and final plat had all the required signatures, building permits issued, and homes built. She stated if the building department did this incorrectly that is not Red Barons problem. She stated that all existing CUP requirements have been met. She stated that they are in compliance with the Federal Aviation Administration (FAA), the Idaho Department of Transportation (IDOT), and the Division of Aeronautics. She stated that in the most current staff report that she does have letters from the base stating there are no issues with the airspace. She stated that staff has concerns with the potential number of aircraft utilizing the runway. She stated that there is the potential for 46 aircraft but this was a known issue at the time the CUP was issued; however not every property owner will have or does have an aircraft and it is not a requirement to own property at Red Baron Estates. She stated that currently there are 9 homes in the subdivision and there is only 1 pilot and 1 aircraft and one hangar with a plane on the non-platted portion of the subdivision. She stated that one plane has not flown in 2 years or better. She stated that this leaves us with a 2 to 10 ratio on homes, hangars, and pilots. She stated that not everyone who owns homes in the subdivision have friends that fly which leaves a scenario that there will never be 46 planes flying in and out all at the same time or even in the same day as this issue has been blown way out of proportion. She stated this is private property and nobody can regulate the amount of guest's that come into someone's home. She stated that staff's condition of approval regarding keeping logs of flight activity and those being turned into the Land Use and Building Department once per year is far reaching. She stated every pilot does keep a log of activity but it is not a requirement. She asked why require a person on a private airstrip to document every single takeoff and landing and turn it into the P&Z once a year? They are not an aircraft agency, so what is the purpose of this requested condition? She stated as far as she knows Elmore County is not under Marshall Law at this point and she is sure it is not in the job description. She stated that the residents of Red Baron have no intent of violating anyone's property rights. She stated that the immediate area has been the flight pattern for many aircraft that do not belong to the residents of Red Baron nor are they even acquaintances of the property owners. She stated that pilots still fly today as they did many years ago and there is no way any of us will change that. She stated that some pilots fly lower than others and there is no way to judge that distance from the ground with a camera. She stated that just because an airplane flies over does not mean that it is associated with the Red Baron Estates. She stated that the pilots do not fly over home in the Soles Rest Subdivision nor the Taylor/O'Dell property. She stated that there is one mile between Red Baron airstrip and Soles Rest and the pilotss stay away from any homes upon takeoff or landing. She stated that the most noise that an aircraft will make will be upon takeoff and is not any louder than a group of motorcycles going down Desert Wind Road. She stated as far as

fumes, smoke, glare, and odor is concerned that is not a realistic concern as the fuel that an aircraft burns is cleaner and creates less fumes then we are required to burn in vehicles. She stated that the engines in airplanes are maintained very well and pilots have more respect for their aircraft than probably anyone in the room does for their vehicles. She stated that since the airstrip is not lighted flying time is limited. She stated that at any time if an emergency were to happen and an aircraft was in need they would be allowed to use the airstrip at any time as this is an FAA rule and regulation.
She stated that in conclusion she believes some common sense should be used in making a decision to allow guests. She stated that quite frankly this should not even be an issue.
Christy stated that the airstrip utilizes 2 approved CUP's and staff's concern is that there are 2 separate approvals on different years and the runway is kind of using those 2 approvals and the major concern is whether this amendment could apply to both CUPs and it seems the answer is yes it can. He stated that the conditions of approval are what have been done on the previous applications and they are there to provide information for the commission on what the maximum use is out there. He asked Castle how many aircraft she thinks could use the site on a busy weekend.
Castle did not provide an answer for this question but that at maximum build out the runway could handle the traffic.
Christy asked Castle to describe the log book used by the pilots.
Castle stated that 99% of them use to put down a start time, where they flew to, hours in the air, and when they landed.
Osborn asked if there was any information on how the runaway was built and the time of use before maintenance is necessary.
Castle stated the she does not have that information but she stated that they try to do maintenance every year and the have plans for filling and sealing the cracks on the runway because it is all asphalt and in time will crack. She stated that her husband built the runway and he goes above and beyond standards.
Lord stated that all the documentation that she has seen says this is a dirt runway and wondered if there are different regulations for a paved runway as opposed to a dirt one and if this runaway has been paved are there any documents regarding this.
Castle stated that she can get records from the paving company that paved the runway. She stated that it was not required to be paved but they wanted a nice runway.
Miller asked when the runway was paved.
Castle stated that it was in 2006.
There were no further questions.
Osborn moved on to public testimony
Ken Casper signed up in support but did not wish to testify.
Sheila Casper signed up in support but did not wish to testify.
Bob Hunter signed up in support. He owns property in the subdivision and owns an aircraft. He stated that he gets the feeling that people perceive these airplanes as big heavy aircraft coming in and pounding the pavement and that is not the case. He stated his plane weighs 750 lbs. and holds 26 gallons of fuel. He stated that the impact on the pavement is insignificant. He stated that all of these issues and concerns have been blown way out of proportion. He stated that they have no desire to fly over anyone's house and no pilot wants to do that. He stated that low flying will not promote long life in a pilot although it does happen but it's not good practice. He stated that he flies a teardrop pattern to the approach just so that he avoids getting close to any houses. He stated that a good pilot will always keep the plane in a place that they can get it

down without hurting anyone in an emergency. He stated that there is just a lot of rumors about this and nobody knows what they are talking about.

Donna Jackson signed up in support and lives in Red Baron. She stated that her family has lived in Idaho for many years. She stated that her husband's grandfather owned one of the first private planes at the Boise airport. She stated that they moved out to Oasis years ago because of the airport. They enjoy the planes but it is a rare occurrence when they do fly in. She stated that it would be a treat to be able to have their pilot friends fly to their home as landing at the Boise airport isn't doable. She stated that she hopes this will pass.
Frank Brady is the president of the Red Baron Pilot's and Homeowner's Association. He stated that this runway is the only one that he has ever landed on that does not have cross cracks in it. He stated that it is very well built and they are entertaining the idea of seal coating the runway as well.
Lord asked if there is a different set of rules with the FAA for a paved versus non paved runway.
Brady stated that the FAA cannot dictate what happens on the runway, only the aircraft when it's in the air.
Jolene Hobdey is signed up in neutral and is representing the Oasis Rural Fire District. She stated that a 10,000 gallon water tank for fire protection was installed and the fire chief did inspect it. She state that it does need to be filled with water and a Memorandum of Understanding (MOU) will be written between the homeowner's association and the fire district. She stated that if the change to the CUP is granted the fire district would like to be notified of public events.
Judy O'Dell signed in as neutral. She lives next to the Red Baron Subdivision. She read a letter to the commission members that was submitted to the P&Z.
Barbara Jameson signed in as neutral. She stated that she does not know much about the history of this. She stated that they have two 120,000 gallon tanks. It's a private airstrip at this point but they want to go commercial. She stated that if they are commercial they will have much tighter inspection system for those tanks. She asked for an estimated number of weekend flights. She stated she understands from testimony that there cannot be any changes to the CUP if there are unpaid taxes so this should not be approved as everyone else has to pay taxes and so should they.
Bob Ruth is signed up as opposed. He stated that the Soles Rest Creek Homeowner's Association has asked him to speak upon their behalf. He stated that they submitted a packet to the commission with photos and concerns. He stated that he wanted to address the main issue with this CUP and that is adding the word guests and that could mean either one plane or potentially unlimited. He stated that Soles Rest is roughly 1300 feet from the end of that runway. He stated they had a meeting previously with members of Red Baron expressing their concern about aircraft flying over the subdivision. He stated that they were told at that time when Red Baron formed a pilot's association that Soles Rest would get an avigation agreement that would require a northerly flight turnout on takeoff and landing. He stated that they were never given that. He stated that they have asked 3 different times for an agreement and every time they are turned down very abruptly. He stated that they aren't anti-airplane in Soles Rest but when the planes are flying over their homes it's very worrisome.
Van Gheluwe asked the reason they weren't given the avigation agreement when they asked for it.
Ruth stated that they have never been given a good reason they just won't.
Osborn asked if they had ever written up the agreements.

Ruth stated that they had 2 written up that were never agreed upon. He stated that he is willing to come to an agreement with them.
Dawn McClure signed up in opposition and is the president of the Soles Rest Homeowner's Association. She stated that she wanted to submit a letter from the Soles Rest Homeowner's Association giving Bob Ruth permission to speak on their behalf.
Christy entered the letter into the record as opposition exhibit # 1.
Jennifer Sturgill signed up in opposition. She lives in the Soles Rest subdivision. She stated that the reason they brought the property is because the traffic from Red Baron was light. She stated that they don't want unlimited invited guests flying over their home.
There was no further testimony.

Osborn called a 10 minute recess to give the applicant's time to prepare the rebuttal.

Osborn called the meeting back to order.

Castle gave the rebuttal to the public testimony. She stated that she does have in her letter that the Oasis Fire District will be notified of events. She stated that the avigation agreement between O'Dell/Taylor and Red Baron has been submitted to the county and recorded long ago despite the fact that they testified that it wasn't. She stated they do not fly over people's homes and they have no control over aircraft not involved in Red Baron. She stated they abide by FAA rules and regulations and fly 1,000 feet above any homes which does include Soles Rest and that they have never flown 80 feet over their homes. She stated that they have a posted traffic pattern as well as the sectional charts that are submitted with the FAA. She stated that they are not commercial nor have they ever confessed or requested to be. She stated that that whenever a piece of property is sold within the Red Baron Estates the title company makes the buyers aware of the avigation agreement and it goes with the piece of property although she hasn't checked it out personally. She stated as far at the 120,000 gallon tanks is concerned the only ones she knows about are on the Taylor/O'Dell properties. She stated that they have no tanks other than the water tank. She stated they do not fly nor have they ever flown over Soles Rest and that this the reason an avigaton agreement has not been signed with their homeowner's association because there is no need for one. She stated that even if all properties were sold there would be a 2-10 ratio of pilots to homeowners and/or planes. She stated that those in Soles Rest know there was an airstrip in Red Baron prior to buying their homes. She stated that she doesn't think that they should have to notify their neighbors of they are planning any get together's in Red Baron. She stated that being made to keep records of any and all people flying in and out of Red Baron is too much of an imposition and if Red Baron is made to do that then every private airstrip in Idaho should be made to do the same.
Van Gheluwe asked if they would be willing to have an avigation agreement with Soles Rest.
Castle stated that she speaks for the association when she says there is no need to have one when one is not necessary as Soles Rest is 1320 feet from the end of the runway.
Duerig asked about the catalog in the packet regarding airparks and the publishing of flight patterns.
Christy stated that this was something submitted by Soles Rest.
Bob Hunter stated that they don't even need to be published because the standard traffic pattern is left hand, 800 feet above the ground, any airport anywhere. Only if that pattern is modified do you publish it. He stated on any map if it's a right handed pattern you will see RP right beside the field elevation.
Osborn asked who publishes it.

Hunter stated that the airpark publishes it on the sectional map if the traffic pattern differs from the standard.
Fish asked how many planes they anticipate coming in and out of the airpark as she skirted around this question when asked previously.
Castle stated that she cannot honestly answer that because she has no idea. She stated a weekend or holiday might be better suited for company than a weekday.
There was no further testimony.
Osborn closed this public hearing.
Miller stated that it would be a good idea to have the P&Z take this under advisement since there was a fairly lengthy document submitted by the applicants.
Commission consensus is to defer the discussion portion of the public hearing to a date certain.
Duerig moved to defer discussion of this hearing to August 6, 2014.
Fish seconded.
Motion carries unanimously.

FCO's and Minutes
FCO for Case Number: CUP-2014-09.
Van Gheluwe moved to approve.
Lord seconded.
Motion carries unanimously.

Minutes from 06-18-2014
Duerig moved to approve.
Lord seconded.
Motion carried unanimously.

NEW BUSINESS

Upcoming P & Z Schedule
Christy stated that the next public hearing will be held August 6, 2014.

MEETING ADJOURNED

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Patti Osborn, Chairperson Date:

Attest: _____

Alan Christy, Director Date: