

William L. Punkoney
Brian T. O'Bannon
Linda C. Halsey
WHITE, PETERSON, GIGRAY & NICHOLS, P.A.
5700 East Franklin Road, Suite 200
Nampa, Idaho 83687-7901
Telephone: (208) 466-9272
Facsimile: (208) 466-4405
ISB No.: 8446, 8343, 12540
Email: icourt@whitepeterson.com

Attorneys for City of McCall

BEFORE THE VALLEY COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF:

THE CITY OF MCCALL'S REQUEST TO
MODIFY THE MCCALL AREA OF
IMPACT BOUNDARY

REQUEST FOR RECONSIDERATION

I. INTRODUCTION

On August 6, 2025 the Valley County Board of Commissioners ("Board") issued its Decision Rejecting Request to Modify the McCall Area of Impact Boundary. Idaho Code § 67-6526(5)(a)(ii) provides: "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." This request for reconsideration "must specify deficiencies in the decision of the board of county commissioners." *Id.* In

accordance with this statute, the City of McCall ("City") hereby specifies the deficiencies it finds in the Board's Decision and requests the Board's reconsideration of its Decision.

II. ISSUES FOR RECONSIDERATION

Idaho Code § 67-6526(4)(j) provides: "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." Moreover, I.C. § 67-6526(3)(a) provides for notice requirements the County must follow in connection with a proceeding to modify or confirm an area of impact boundary. The City raises the following issues for the Board's reconsideration:

A Whether the County provided adequate notice pursuant to I.C. § 67-6526(2).

Idaho Code § 67-6526(3)(a) requires the County to provide written notice of the hearing at least fifteen (15) days prior to the hearing "to each owner of property located within the portion of the area of impact that is proposed to be modified." The County is also required to follow the notice and hearing procedures provided in I.C. § 67-6509 prior to adopting a modification to or confirmation of an area of impact boundary. The County published notice of hearing in accordance with I.C. § 67-6509, and appears to have provided notice of hearing at least 15 days prior to the hearing to property owners. However, the published notice of hearing included Valley County's proposed area of impact map, not the City of McCall's proposed map. As the Board's Decision addresses the City of McCall's request to modify the area of impact boundary, the failure to provide notice of the City of McCall's proposed area of impact map renders the notice of hearing inadequate as a matter of law.

B. Whether the Board adequately considered the statutory criteria for setting area of impact boundaries as set forth in I.C. § 67-6526(4)(a).

The criteria the Board must consider when defining an initial area of impact or modifying or confirming an existing area of impact are set forth in I.C. § 67-6526(4)(a). This statute provides:

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.

Of these criteria, the Board's Decision considers only the criteria in subsections (i), (iii), and (iv). The consideration given to subsection (iii) (Transportation infrastructure and systems) is superficial and inadequate, focusing only on emergency services response times and the overall adequacy of the City's transportation infrastructure, and not on transportation infrastructure in and around the proposed area of impact.

The Board's consideration of subsection (iv) is also inadequate and misleading. The Board asserts that the City "refuses" to extend service beyond current boundaries within five years. In reality, sewer service is already available around Payette Lake, and applications for service extensions may be submitted. The Sewer District's governing documents expressly state that such applications "shall be considered." Thus, the Board's finding mischaracterizes the City's position and capacity.

The Board's Decision completely fails to consider subsection (ii) (Geographic factors), and gives no meaningful consideration to subsection (v) (Other public service district boundaries). The

failure to consider these mandatory criteria renders the Board's decision arbitrary, capricious and an abuse of discretion.

C. Whether the facts relied upon by the Board are accurate and relevant to the Board's Decision.

The Board sets forth the factual basis for its decision on pp. 3-5 of the Decision. Many of the facts stated in this section of the Decision are inaccurate or irrelevant to the Board's conclusions. Paragraph 2 states that the modified AOI boundary proposed by the City "expands the existing AOI boundary geographically by adding additional parcels to the existing AOI." This is a misrepresentation of the City's proposal, which includes both additions and deletions of parcels from the existing AOI. Paragraph 8 states that the additional parcels the City proposes to add to and expand the current AOI boundary are not contiguous with the McCall City Limit Boundary. This is irrelevant, as contiguity of a parcel to city limits is not required for inclusion in the AOI. Paragraph 16 cites data from the Comprehensive Plan regarding undeveloped land within each zoning district. The existence of undeveloped land within city limits is not relevant to determination of the AOI boundary. Paragraph 18 cites statements from the McCall Area Transportation Master Plan regarding capacity for off-peak and peak driving conditions. The Board does not explain the relevance of these statements to the criteria for determining the AOI boundary.

D. Whether the Board's Reasoned Statement meets the standards for reasoned statements set forth in I.C. § 67-6535(2).

Idaho Code § 67-6535(2) provides:

The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and

statutory provisions, pertinent constitutional principles and factual information contained in the record.

The Board's Reasoned Statement is set forth on pp. 5-7 of the Decision. The City asserts that the Board's Reasoned Statement is deficient for the following reasons:

- (1) The Reasoned Statement fails to state and apply relevant standards.

As noted above, I.C. § 67-6526(4)(a) sets forth criteria the Board is required to consider when modifying or confirming an area of impact boundary. The Board's Reasoned Statement failed to address all of these criteria, and its treatment of other criteria was cursory and inadequate. Accordingly, the Board's Reasoned Statement fails to meet the standard required to satisfy I.C. § 67-6535(2).

- (2) The Reasoned Statement fails to plainly state the resolution of factual disputes.

In paragraph 2 of the Reasoned Statement, the Board disputes the City's growth figures on the grounds that they are based on a ten-year planning horizon, but reaches no conclusions and cites no facts from the record about the amount of residential and commercial growth expected to occur within five years. This fails to resolve the apparent dispute between the City and the Board regarding the anticipated residential and commercial growth in the next five years.

Paragraph 4 of the Reasoned Statement asserts that the record before the Board with respect to transportation infrastructure and first responder times suggests an AOI expansion is not justified." The Reasoned Statement does not cite evidence in the record or provide any analysis to show how the record supports the Board's conclusions regarding transportation infrastructure and first responder times rather than the City's conclusions.

In Paragraph 5 of the Reasoned Statement, the Board asserts that the City's "proposed AOI expansion provided no reasonable explanation for how any new parcels would likely be annexed" and that "in the Board's view, these parcels are not contiguous to the City boundary" and are

unlikely to be annexed. The Board's Decision provides no facts or analysis to resolve the dispute regarding the likelihood of annexation of parcels in the proposed AOI.

- (3) The Reasoned Statement fails to support its conclusions with citations to facts in the record.

A reasoned statement should identify evidence in the record supporting the factual determinations upon which conclusions rest. The Board's Reasoned Statement contains conclusory statements unsupported by citations to facts in the record, including the following:

(a) Paragraph 1 of the Reasoned Statement includes the following statement: "The information available to the Board demonstrates that water and sewer will not be extended into the AOI before the next AOI boundary review deadline." There is no discussion of what "information" the Board relied on or citations to the record to support this conclusion.

(b) Paragraph 4 includes this statement: "The record before the Board with respect to transportation infrastructure and first responder times suggests an AOI expansion is not justified." There is no analysis or citations to facts from the record to support this conclusion. The Board merely cites a statement from the McCall Area Transportation Plan that existing traffic infrastructure provides "adequate capacity for most movements," and makes conclusory statements that response times for emergency services will not be affected. This does not address the question of whether transportation infrastructure will be extended into the proposed AOI in the future.

(c) Paragraph 5 asserts that application of the statutory criteria "does not justify an expansion of the AOI. If fact, it suggests a reduction in the AOI boundary is needed." There is no analysis of the criteria or citation to facts in the record to support this statement.

III. CONCLUSION

For the foregoing reasons, the City of McCall respectfully requests that the Board reconsider its Decision Rejecting Request to Modify the McCall Area of Impact Boundary.

DATED this 19th day of August, 2025.

WHITE PETERSON

By: 

William L. Punkoney

Brian T. O'Bannon

Linda C. Halsey

Attorneys for City of McCall