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GEM COUNTY PLANNING AND ZONING COMMISSION

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9 **Date: December 11, 2006**

10 **Time: 7:00 p. m.**

11 **Place: Gem County Courthouse**

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13 **MEMBERS PRESENT:**

14 **Steve Ethington, J. B. , Jim Hutchins, and Don Wilkerson.**

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16 **MEMBERS ABSENT WITH PRIOR NOTICE:**

17 **Fred Nussbaumer, Brent Jensen, and David Pool e.**

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23 **TRANSCRIBER' S TRANSCRIPT OF AUDIOTAPED PROCEEDINGS.**

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PROCEEDINGS

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City of Emmett, Gem County, December 11, 2006

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4 MR. STEVE ETHINGTON: I'd like to call the
5 Gem Planning and Zoning meeting public hearing to order.
6 I'd like to welcome everybody here. Number of items on
7 the agenda today.

8 First of all, we'd like to address our
9 consent agenda. Is anybody here in regards to the
10 Broken Circle Estates? Okay. We're going to, by a show
11 of hands, move this particular item to be continued.

12 MR. J. B.: I move that we continue it.

13 MR. JIM HUTCHINS: I second it.

14 MR. STEVE ETHINGTON: All in favor?

15 (Vote unanimous.)

16 MR. STEVE ETHINGTON: Decision of Wood
17 Ranch, the preliminary plat. It's been recommended that
18 we move that to the regular meeting. Do I hear a
19 motion?

20 MR. JIM HUTCHINS: I so vote.

21 MR. STEVE ETHINGTON: A second?

22 MR. DON WILKERSON: Second.

23 MR. STEVE ETHINGTON: All those approved?

24 (Vote unanimous.)

25 MR. STEVE ETHINGTON: Okay, thank you.

3

1 Also, the proof of the minutes of November 13th to be
2 moved to the regular meeting. Do I hear a motion
3 regarding that?

4 MR. DON WILKERSON: I make so motion.

5 MR. STEVE ETHINGTON: Okay, Don Wilkerson
6 makes a motion.

7 MR. J. B.: Second.

8 MR. STEVE ETHINGTON: J. B. second. All those

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9 in favor?

10 (Vote unanimous.)

11

12 Item One - An appeal of the Administrator's decision
13 by Herbert Yates to deny a land division on property
14 located at 5303 Cascade Road, a portion of Section 9, T
15 06N, R 02W

16 MR. STEVE ETHINGTON: All right. The first
17 item we have on the -- regarding the public hearing is
18 an appeal. Appeal number 06-002, Herbert Yates. And if
19 the Administrator would like to take a moment and give
20 us a short synopsis of this particular application ...

21 MR. BRAD HAWKINS-CLARK: Good evening,
22 commission members. Brad Hawkins-Clark with Development
23 Services Department. As an appeal, I won't present
24 anything other than what you have in the letter in your
25 packet. This application is an appeal of a written

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1 decision that I made on property on Cascade Road,
2 approximately seven and a half acre parcel.

3 The owner, who I actually believe is the
4 owner's son, met with me a couple of times in the office
5 to try and understand the planning and zoning process
6 about creating a one-acre division. The property is
7 zoned A-2, which is five acre minimum. There is an
8 existing trailer on the property which has had a tenant
9 for some time, and their goal is to get this one-acre
10 parcel separated from the seven and a half acre parcel
11 so that the trailer can sit on its own separate, deeded,
12 one-acre parcel.

13 I did not feel there was any avenues,

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14 administratively, to help them. It's a five-acre zone.
15 The parcel does conform to the zoning today, and so I
16 had issued a letter that because of the zoning, it would
17 either require a rezone, or they would have to keep it
18 the way it is. The comprehensive plan really doesn't
19 support changing it from the five acre minimum lot size,
20 and so that's why my letter said that their request to
21 create a one split would be denied.

22 So I think that reflects, pretty much, what
23 has taken place at staff level. And if you want to hear
24 from the applicant in terms of them making their case
25 now, Chairman?

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1 MR. STEVE ETHINGTON: Thank you, Brad. The
2 way we'll conduct this public hearing is we'll give the
3 applicant a chance to explain his situation, and then
4 those in favor can come up after he does and explain the
5 reasons why they would be in favor, and then we'll give
6 a chance for those people who be neutral to come up and
7 speak as well as those be against the applicant.

8 So at this time, we would like to invite Mr.
9 Herbert Yates to step forward and state his name and
10 address and the situation he has.

11 MR. HERBERT YATES: Thank you. My name is
12 Kit Yates. I'm representing my grandfather on this.
13 Basically, I'm here to talk about what was the intent
14 and the way it stands now. Back in 1964 my grandparents
15 purchased this property, and then back in 1981 they
16 retained the services of Fisher Land Surveying to drop
17 the plan to scale, showing existing improvements per Gem
18 County requirements, to write a narrative statement, and

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19 fill out the application for variance and file with Gem
20 County. That was done on August 31st, 1981.

21 September 25th of 1981 the Gem County
22 Planning and Zoning Commission approved the application
23 for variance for a public hearing and it was set forth
24 in front of the zoning commission October 13th, 1981.
25 After that Mr. Fisher, with the approval of my

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1 grandfather, retained the services of Blakely Engineers
2 Inc. to determine a proposed subdivision fee schedule
3 rate to go ahead and make the improvements on the
4 ground. At that time, my grandfather felt it wasn't
5 worth his money to pursue it at that point in time. So
6 no improvements were made on that subdivision.

7 The application that was submitted called
8 for several one-acre parcels out there with the letter
9 from the engineering company. I'm under the impression
10 that the variance was accepted by the county, even
11 though I can't find anything on that right now, or else
12 he wouldn't have basically gone forth and asked some
13 engineers to draw up a subdivision plan.

14 April 15th, 1997, we, or he, applied for a
15 driveway permit for five driveways north of the present
16 house located at 5297 Cascade Road. It was signed by
17 Gem County Road and Bridge Department supervisor on
18 4/15/1997. On 4/15/1997 we applied for a well septic
19 permit from South West District Health. It was granted,
20 and it was signed off on by Mr. Malcolm McGregor on May
21 8th, 1997, for lot 1 of this seven-acre division that my
22 grandfather was under the impression that he had
23 available to him.

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24 July 8th, 1997, he requested an application
25 for zoning permit. The permit was accepted as EP No.

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1 1009. The "Describe" of work was to place a 1976 or
2 newer single-wide on parcel one of the attached plat,
3 which I have right here, that was submitted with the
4 zoning permit application under the special conditions.
5 It states that "have not put a home on yet. But when
6 the home is placed, come in for new zoning permit." And
7 it says "see Variance No. 140." And at that time, it
8 was approved for issuance by Mr. Tony Young.

9 So I tried to find what the variance of No.
10 140 was. Well, your office does not have any record of
11 what the Variance 140 is, but it was initially granted
12 or wrote in your log book. I guess I should say 7/21 of
13 '83 for a Pat Cameron located at 2484 Star Lane. It was
14 ultimately removed from the agenda because it was
15 considered not necessary.

16 So, I don't understand what that has to do
17 with this permit out on 5297 Cascade Road, which is now
18 with the address 5303 Cascade Road. This is a copy of
19 what was issued or submitted with the zoning permit,
20 which shows all seven lots from Mr. Fisher. Back in
21 August -- or I should say July of 1997, Miss Marlene
22 Matthews contested that the manufactured home going in
23 that lot no. 1 and it was brought before this
24 commission. It was granted at that period of time.

25 So my grandfather went and purchased a

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1 manufactured home in August of 1997, put it on the

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2 property, and since that time he's had renters in there
3 under the impression that this was lot 1 of seven acres
4 or of seven one-acre splits on this seven and a half
5 acre parcel. We went to go and try and sell the piece
6 of property and was denied because the tax rolls didn't
7 show that 5303 is a separate one-acre piece of parcel.

8 So that's why we're here this evening, is to
9 ask the commission to reassess that there's been a
10 residence on that home since 1998. The intent back in
11 1981 was to have seven one-acre parcels out there. All
12 this time, understanding that we did have seven one-acre
13 parcels for retirement purposes, income, only to find
14 that now we don't. So what we're asking basically, is
15 that we ask the commission to grant us this one-acre
16 split, maintain the other six and a half acres. It
17 would benefit both the county and tax role. It would
18 benefit the current tenant and it would benefit my
19 grandfather.

20 So I don't know where else to go with this
21 in this short of time. I haven't really had a whole lot
22 of time to discuss this with the attorney that was
23 present at the initial planning and zoning meeting, that
24 involved the split of these seven acres, or Mr. Fisher
25 who did the surveying and subsequently requested

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1 engineering from Blakely Engineering. I am under the
2 understanding, based on the denial letter that we
3 received, that it did not meet planning and zoning
4 requirements that were set forth June 2006, but this
5 residence has been there and established since 1998 with
6 intent since 1981 to exist. And on top of that,

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7 irregular parcels that were located in the area as well
8 are very numerous and I don't see how one more one-acre
9 parcel would be a detriment to that area because the
10 other six and a half acres would still be in tact.
11 Thank you.

12 MR. STEVE ETHINGTON: Mr. Yates, hold one
13 moment there. Does anybody on the commission have a
14 question? Maybe a follow up question?

15 MR. DON WILKERSON: Don Wilkerson. On the
16 existing or the current parcel of seven and a half
17 acres, how many homes are on that parcel? How many
18 dwellings?

19 MR. HERBERT YATES: There's actually two
20 dwellings. Since 1998 to 2004 there was two dwellings
21 on that property. One with an address of 5303, and one
22 with an address of 5297. In 2004, my grandfather
23 realized that he needed to do something a little bit
24 better because my grandmother's now wheelchair-bound.
25 So the kids and grandkids got together and we built them

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1 a house on property across from the road from the
2 initial 5297.

3 MR. DON WILKERSON: My question is, right at
4 this time there's two residents -- dwellings on that
5 parcel?

6 MR. HERBERT YATES: There's two dwellings on
7 that parcel.

8 MR. DON WILKERSON: Are both of them being
9 lived in?

10 MR. HERBERT YATES: Not being lived in.

11 MR. DON WILKERSON: Okay.

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12 MR. HERBERT YATES: Because my grandparents
13 moved out of the old one and moved into the new one.

14 MR. DON WILKERSON: Across the road?

15 MR. HERBERT YATES: Across the road.

16 MR. DON WILKERSON: Okay.

17 MR. HERBERT YATES: They were asked -- they
18 asked the Planning and Zoning Commission if they can
19 maintain their same address because they've been there
20 since 1964. The commission granted it. So now they have
21 their address on the south side of Cascade Road.

22 MR. DON WILKERSON: Instead of the north
23 side? Okay. My other question, you mentioned about you
24 had it surveyed out for seven one-acre lots.

25 MR. HERBERT YATES: Yes, sir.

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1 MR. DON WILKERSON: Did you ever follow
2 through with a subdivision or a rezone with the county?

3 MR. HERBERT YATES: Well, that part I don't
4 know, because I have not been able to locate Mr. Fisher.

5 MR. DON WILKERSON: Okay, but as far as we
6 know right now, through the records at the Planning and
7 Zoning, there was never an approved rezone or an
8 approved preliminary plat, or an approved final plat for
9 a subdivision?

10 MR. HERBERT YATES: As far as I know, no.

11 MR. DON WILKERSON: Okay. Thank you.

12 MR. HERBERT YATES: Thank you.

13 MR. STEVE ETHINGTON: I have one question.
14 Hold on, Mr. Yates, I imagine there might be some more.
15 So the way I understand it, there is two homes and a
16 mobile home, and one of those homes is being lived in,

17 and there's mobile homes being lived in; is that
18 correct?

19 MR. HERBERT YATES: That's correct. There's
20 two residences on the north side of Cascade Road, on the
21 seven and a half acre parcel. The manufactured home,
22 that was put in in 1998, and the initial house that they
23 -- my grandparents lived in at 5297 address. So from
24 '98 to 2004, for 6 years, there was 2 residences on that
25 seven and a half acres, and this whole time, with the

12

1 understanding that he had seven acre splits going out
2 there.

3 MR. STEVE ETHINGTON: Okay. Is there any
4 other questions from the commission?

5 MR. J. B.: You understood that to be two,
6 not three?

7 MR. STEVE ETHINGTON: Yeah.

8 MR. J. B.: Okay. I have a question.

9 MR. STEVE ETHINGTON: J. B.

10 MR. J. B.: Do you have any documentation
11 there that shows -- that you presented and it says lot 1
12 of 7?

13 MR. HERBERT YATES: Yes, sir. I do.

14 MR. J. B.: Have you submitted that to the
15 office?

16 MR. HERBERT YATES: The office has it in
17 their records. Whenever we apply for the zoning permit
18 application, this copy of what was considered the plat
19 on that seven and a half acres was submitted with it as
20 well, and on top of that, whenever we applied for
21 driveway permits, we applied for five driveway permits

22 and were granted it.

23 MR. J. B. : You were granted it?

24 MR. HERBERT YATES: We were granted it.

25 MR. J. B. : Okay. Thank you.

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1 MR. STEVE ETHINGTON: Okay. I have a
2 question. The way I understand it is that you have
3 documentation that you applied for, but the county
4 doesn't have any documentation that it was approved or
5 recorded -- deeds recorded or what not.

6 MR. HERBERT YATES: This was done back in
7 1981.

8 MR. STEVE ETHINGTON: Now if I could ask you
9 one question, the trailer that's presently on lot no.
10 1, how did it originally -- you had a variance to place
11 the trailer there, but what was the condition of that
12 variance or why was the variance given?

13 MR. HERBERT YATES: See, that's what was
14 issued at the time of the permit, was the special
15 conditions portion of the zoning permit, which was "see
16 variance no. 140" and variance no. 140 doesn't exist
17 anymore.

18 MR. STEVE ETHINGTON: Just one other note I
19 wanted to make mention is that we have recently approved
20 a subdivision ordinance but since '97, we've had present
21 zoning ordinance which your property there is A-2, and
22 it has all the stipulations of what governs an A-2
23 zoning, and that is a five-acre zone out there and it
24 has been for many years. I don't have any more
25 questions. Do you have any more comments Mr. Yates?

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1 MR. HERBERT YATES: The only comment I have
2 is, I don't understand how we were able to obtain the
3 zoning permit to put this mobile home on that lot 1 as
4 it was submitted. If there was an issue as far as what
5 the zoning requirements are for that area out there, my
6 feeling is that the zoning commission, as well as my
7 grandfather understood, that there was seven one-acre
8 parcels. Now, we're not asking for seven one-acre
9 parcels. We're just asking for that one-acre parcel to
10 be split off from the existing seven and a half,
11 maintain the existing six and a half, so that basically
12 he can recoup because that was his retirement.

13 MR. STEVE ETHINGTON: There are a few
14 conditions why a trailer can be placed on a piece of
15 property or addition to a lot and that's a hardship case
16 and that happens, and some other situations can arise
17 that they could get a variance. That might be one of
18 the reasons. I don't know. J. B., you had a question?

19 MR. J. B.: Yes. J. B. Do you have with you
20 the document that says you were allowed -- you were
21 given a permit for five driveways?

22 MR. HERBERT YATES: Yes, and to address the
23 variance comment you just made, this at no time was ever
24 considered a hardship because we did not have a family
25 member or anybody living at that residence. It's always

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1 been a rental and this is the received applications that
2 was signed off on.

3 MR. DON WILKERSON: Mr. Chairman?

4 MR. STEVE ETHINGTON: Don Wilkerson.

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5 MR. DON WILKERSON: Does it say anything on
6 that, that the driveways have to be established by a
7 certain time frame? Sometimes there's a time
8 limitation.

9 MR. STEVE ETHINGTON: It was back in 1977.
10 Was there any deadlines that we had in effect? It
11 doesn't say nothing. David Hargraves.

12 MR. DAVID HARGRAVES: The Administrator's
13 decision was based on limited information. A lot of
14 this is new information, as I understand it. Such as
15 this. Maybe Brad can elaborate what his decision was
16 based on. Perhaps that would be more appropriate for
17 the planning and zoning staff.

18 MR. J. B. : Thank you, sir.

19 MR. STEVE ETHINGTON: Are you suggesting
20 that we have a continuance then? Is that what you're
21 saying?

22 MR. DAVID HARGRAVES: I don't know how this
23 information would change the situation, but sounds like
24 there's quite a bit of new information.

25 MR. STEVE ETHINGTON: In your estimation,

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1 what is the new information? It's this and what else?

2 MR. BRAD HAWKINS-CLARK: Mr. Chairman.
3 While I sympathize with the situation, to be honest with
4 you, it wouldn't effect my decision at all. My decision
5 is based entirely on the zone. Regardless of what other
6 permit may or may not have been given. In land matters,
7 what's recorded is what we look at, and so on.

8 MR. HERBERT YATES: May I add one more
9 thing?

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10 MR. STEVE ETHINGTON: Yes.

11 MR. HERBERT YATES: Just to address that,
12 and I'm pretty aware that you're all aware of the fact
13 that this decisions based on -- based on a letter, June
14 recorded ordinance, I guess, and this has definitely
15 taken place prior.

16 MR. STEVE ETHINGTON: Thank you, Mr. Yates.
17 Okay. We'd like to hear from the public that's in favor
18 of this appeal step forward. Those neutral and those
19 against? You need to come up and step up to the mic and
20 then state your name and your address please.

21 MR. EVERETT HILL: Everett Hill, 2119 Tom's
22 Cabin Road. You haven't mentioned the septic systems,
23 and that's the thing that's always held us back in this
24 bottom ground down here, is the septic and the sewer
25 system. So I think that's the most important thing for

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1 setting your buildings in and setting your new homes in.
2 So I'd like to here about that, okay?

3 MR. STEVE ETHINGTON: Thank you. Any other
4 from the public? Mr. Yates, you have an opportunity to
5 respond.

6 MR. HERBERT YATES: With the concerns of the
7 septic system, we did apply for a septic system permit,
8 was granted it, septic system is in. It was actually in
9 prior to the mobile home going on. So it does exist
10 with South West District Health and I have a copy of
11 that here as well, if the Commissioner would like to see
12 it.

13 MR. JIM HUTCHINS: Is each one of these on a
14 seperate or is that a multiple use septic system that's

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15 there at the present time?

16 MR. HERBERT YATES: The intent was that each
17 one would have their own septic system, but we only have
18 the manufactured home on lot 1 of the potential seven
19 lots. So the original home had a septic system, and the
20 manufactured home on lot 1 also has a septic system
21 permitted by the county.

22 MR. JIM HUTCHINS: So there are actually two
23 septic systems -- separate systems there at the present
24 time, for each place.

25 MR. HERBERT YATES: Yes.

18

1 MR. JIM HUTCHINS: Okay.

2 MR. STEVE ETHINGTON: Thank you, Jim. Thank
3 you, Mr. Yates.

4 MR. HERBERT YATES: Thank you.

5 MR. STEVE ETHINGTON: Okay, we'd like to
6 close the public hearing portion of this particular item
7 and discuss amongst the board starting with Don, if
8 you'd like to say a few words.

9 MR. DON WILKERSON: Don Wilkerson. I
10 understand what Mr. Yates said, but it looks like we may
11 have a situation where there was some applications may
12 have been filed but maybe not followed through with,
13 that's why I mentioned the zoning permit and the
14 subdivision. With the current ordinances that are in
15 effect today and I think it would have even effected
16 you prior to June of 2006, I have to support the
17 Administrator's decision to deny because it is an A-2
18 area, one acre -- five acre minimums, and you can only
19 have one resident per parcel. How you got two residents

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20 on an original parcel I guess that's for somebody else
21 to determine why that happened years ago, but I think if
22 we allow this split out there, that we would be setting
23 a precedent for the county and also I believe there's
24 other avenues that Mr. Yates can follow through with.
25 Maybe some counseling from the planing and zoning office

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1 maybe can accomplish what he wants to do. Thank you.

2 MR. JIM HUTCHINS: I have to agree with Don
3 on this. We've come up on this before. Our new
4 ordinances that came into effect that we have to abide
5 by. If these had been a plated or recorded they would
6 be legal, but now are not under our current guidelines
7 that we have to follow. So I'm afraid that we have to
8 deny this. The only thing I could say would be to
9 get with the staff and possibly a rezone or something
10 like that, but I don't believe that we would go along
11 with that either.

12 MR. STEVE ETHINGTON: Okay, J. B.

13 MR. J. B.: Are there any other irregular
14 lots near this? Any small lots near this?

15 MR. BRAD HAWKINS- CLARK: Yes.

16 MR. J. B.: My concern is that, especially
17 going back to 1981 and how small counties have done
18 business in the past, I could see things falling through
19 the cracks and not be followed through perhaps by the
20 applicant or perhaps by the county itself, and somehow
21 or another this gentleman has ended up with two legal
22 residences on this piece of property and could occupy
23 them both, could rebuild them both. He's got two septic
24 tanks and two legal residences and at sometime was using

25 two adresses, and only upon them moving across the

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1 street and the county allowing them to take the old
2 address with them did that change, but the fact is that
3 there's two legal residences there and we don't question
4 that. We see where he applied for and received, whether
5 it was done properly by the Highway Department or by the
6 planning and zoning office, at the time it seems like
7 they went out in good faith, applied for -- you know,
8 this is our intentions of what we're going to do. We're
9 following through a little bit. We're going to get the
10 driveway permits, and did.

11 So it was given them, and based on the
12 letter we saw, there weren't any timelines on them. So
13 it's one of these areas there's certainly -- it
14 certainly got sloppy with no fault being pointed in any
15 direction, but it seems that the gentleman, at the time
16 acted in good faith. Slow to continue perhaps. But
17 since there are two legal residences on the property, I
18 have a hard time not finding a way for him to split it
19 and being able to sell it as two seperate residences
20 rather than one piece of property with two houses on it,
21 which he certainly could do, and continue to rent them
22 both, and improve both homes, and probably rebuild them
23 because they're there. You can't deny the fact that
24 they're there. So I would be inclined to say, how can
25 we find a way to allow a split?

21

1 Mr. Hargraves, are we really setting a
2 precedent when we allow an exception? I mean, that

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3 binds us on everything else that comes before us.
4 Aren't we here to weed some of these things out and
5 decide some of these?

6 MR. DAVID HARGRAVES: I think that we have
7 to follow the ordinances that are in place now and I
8 haven't seen anything that would support a variance in
9 this situation.

10 MR. J. B.: Brad, is there anything based on
11 what I think, Don -- and I don't want to put words in
12 Don's mouth, but what Don said, having it go back to
13 you, are there other avenues that we could support or
14 find a way without setting precedence to allow him to
15 accomplish his goal?

16 MR. BRAD HAWKINS-CLARK: You know I'm happy
17 to meet with Mr. Yates and explore further. There's
18 nothing that I can sit here tonight and say that would
19 work, short of trying a rezone. Really, that's the only
20 -- you really can't give a variance for a land use or
21 for a split. That's not the intent of a variance.

22 MR. J. B.: And there's several homes around
23 him with smaller lots?

24 MR. BRAD HAWKINS-CLARK: Yeah. I don't know
25 off the top of my head what the numbers are, but there's

22

1 several on Cascade, sure. I don't look at that.

2 MR. J. B.: You might look at that on the
3 rezone though. So I'm wondering if he came in to
4 rezone, if he had to rezone it to accomplish his goal,
5 is what he's proposing for that particular area quite
6 foreign to what's around him? It's not.

7 MR. BRAD HAWKINS-CLARK: It would obviously

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8 have to meet all of the rezone findings, which have just
9 past in the new ordinance two months ago, compatability
10 being one of about five findings. So that would be the
11 application process.

12 MR. DAVID HARGRAVES: Mr. Chairman.

13 MR. STEVE ETHINGTON: Yes.

14 MR. DAVID HARGRAVES: Of course if we don't
15 have all the information in the background of these,
16 what happened with these variances? There are pieces to
17 the puzzle that are missing here. Even on some of the
18 smaller parcels that are out there already, we don't
19 know how those were created either.

20 MR. STEVE ETHINGTON: The thing is, we're
21 obligated as a commission to follow the current laws of
22 the zoning ordinance and also the comp plan, and just
23 because there are things out there that don't meet the
24 current zoning that was done prior to the current zoning
25 law, we can't base our decision on the past laws or

23

1 nonexistent laws. I would say that I wouldn't be in
2 favor of this appeal because it doesn't meet those
3 guidelines and rules that we need to follow. Having
4 said that, does anybody else have anything else to say,
5 or do I hear or entertain a motion?

6 MR. DON WILKERSON: Mr. Chairman.

7 MR. STEVE ETHINGTON: Mr. Don Wilkerson.

8 MR. DON WILKERSON: I just have one, and
9 this may be directed to Brad. Besides a rezone, also
10 something thats available may be a minor sub. Is that
11 an option that's available?

12 MR. BRAD HAWKINS-CLARK: Commi ssi oner, that

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13 would be required after a rezone, but the minor
14 subdivision --

15 MR. DON WILKERSON: -- could be another
16 option along with a rezone.

17 MR. BRAD HAWKINS-CLARK: But it wouldn't
18 work unless they got the rezone first.

19 MR. DON WILKERSON: I make a motion that we
20 uphold the denial of this application that was before
21 the planning and zoning office and deny the appeal based
22 on that it does not follow the current ordinances that
23 are in effect within Gem County.

24 MR. STEVE ETHINGTON: There's been a motion.
25 Do I hear a second?

24

1 MR. JIM HUTCHINS: Second it.

2 MR. STEVE ETHINGTON: All those in favor,
3 show of hands. (In favor: Don, Steve, Jim) All those
4 against. (Opposed: J. B.) Appeal number 0602 has been
5 denied and what I would, Mr. Yates, what I suggest would
6 perhaps get a hold of the Administrator and there are
7 other avenues such as applying for a rezone, or a minor
8 sub that might be able to give you the same results that
9 your after. You also have the opportunity to appeal to
10 the County Commissioner's too. Okay. Thank you.

11 MR. HERBERT YATES: Thank you.

12

13 Item Two - A Rezone application by Hammer And Nails
14 to request a zone change from A-2 (5-acre minimum lot
15 size) to R-3 (2-acre minimum lot size) located at 5200
16 West Highway 52, a portion of Section 8, R 06N, R 02W.

17

18 MR. STEVE ETHINGTON: Next on our agenda is
19 item number -- rezone number 06-001, Russel Nelson 5740
20 West Highway 52 here in Emmett. Brad, if we could here
21 a few synopsis of what this situation is, this
22 application, I would appreciate it.

23 MR. BRAD HAWKINS-CLARK: Thank you,
24 Commissioner's. Appologies we -- as you may recall, we
25 didn't have as much success with the projector last

25

1 meeting, and that was part of it. We're also very short
2 staffed this last month. So we don't have power point
3 here for you tonight, but your packet should have
4 included a vicinity map of the area, staff report, and
5 letters from different agencies on this application.

6 This is a rezone request at the north west
7 corner of Vanderdassen Road and Highway 52. It's just
8 approximately 500 feet west of Tom's Cabin establishment
9 there. So this is on the north side of 52, right near
10 where the railroad tracks come across, and the slough.
11 The seven mile slough cuts through there also. So you
12 should have that vicinity map to show you that area.

13 Also, Mr. Nelson has -- is asking for a
14 change from five acre minimum zoning to two acre minimum
15 zoning. There are no other applications that go with
16 this. It's just a rezone request. The intended use of
17 the property would be for one additional single family
18 home. There is one under construction today. The size
19 today is somewhat of a -- is somewhat of a question I
20 guess for you, and if you've read Greg Himes, the
21 assessors letter, you saw that there has been a conflict
22 in the acreage that has been assessed to this property.

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23 For many years it has been shown at 10 or more acres, at
24 least 10 and a half acres in size. Mr. Nelson purchased
25 the property with that understanding. After an initial

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1 look by a surveyer, it was determined that that 10 and a
2 half was more like 6.2. That is not -- that difference
3 is somewhat uncommon in my experience. Although, it's
4 not uncommon where properties have not been surveyed to
5 have some discrepancy once a survey is done. To have a
6 discrepancy of four acres, I would say is fairly rare.
7 But indeed, that's the case that we have here. We have
8 land that was purchased under an assumption based on the
9 acreage being assessed and the assessors office has said
10 in their letter here that they are now changing that
11 down to approximately 6.22, which remains an estimate
12 because there has not been a survey done. So this
13 raises an issue for Mr. Nelson who is wanting to get one
14 more house on the property, and on a five acre zone, not
15 unlike what you just heard on the prior application.
16 We, under today's ordinances, don't allow for more than
17 one unit. So his goal is to get another house on this
18 property. There have been under the building permit
19 that was issued for this property, there was a permit
20 issued by Idaho Transportation Department for a driveway
21 directly onto 52. My staff report references that that
22 permit was for one single family dwelling. I received a
23 voicemail that unfortunately didn't make it clear, but
24 from ITD District Three who implied yesterday, or I'm
25 sorry Friday, that it may be good for two. So I just

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1 wanted to clarify that, that when my staff report says
2 that ITD's permit is only for one I asked for
3 clarification from ITD on that and they left a voicemail
4 and said, from what I heard, like I said I didn't
5 actually get back in touch with him, that may actually
6 be good for two dwellings.

7 South West District Health also has
8 submitted a letter. They have approved one alternative
9 type septic for the house that's there. It is very high
10 ground water. It does require some special
11 considerations when it comes to septic systems. I'll
12 ask Mr. Nelson to address this but it looks like there's
13 a conflict between his application which says that
14 there's two septic permits available and already given
15 versus South West District Health's letter, which makes
16 it sound like only one has been given and another one
17 would have to be applied for and go through the typical
18 permitting for septics. So that would be a
19 clarification that we need to make on the record here
20 tonight.

21 The surrounding area has several parcels
22 that are less than five acres grandfathered in. To my
23 knowledge, none of these were recently approved or
24 changed in zoning. You have, starting on page four of
25 the staff report, a comprehensive plan policies from the

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1 comp plan that are listed here. It is in an agriculture
2 natural resources designation. That's the comprehensive
3 plan designation is Ag natural resources, which does
4 allow for limited residential -- some limited
5 residential development.

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6 I also attached to the staff report a copy
7 of an accident report prepared by Idaho Transportation
8 Department. This is data supplied by our Sheriff. The
9 reason I attached that was because of the issue of
10 safety and whether or not you should approve the rezone
11 which would allow additional dwelling units at an
12 already dangerous intersection. In my analysis and
13 findings here that's really, probably the main reason
14 for denial, would be the potential to add more
15 congestion, more turning movements to a location that's
16 already got a difficult turn and is congested with the
17 Tom's Cabin establishment there and the angle of
18 Vanderdassen, etcetera.

19 It's your job as the commission though to
20 look at these comprehensive plan policies and weigh
21 them, and say based on this, as well as information you
22 get tonight at the hearing, does this -- which one has
23 the greater amount of data to approve the rezone. Is
24 that in the comprehensive plan? Yes, there are some
25 policies that would support compatibility. For example,

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1 two, three-acre lots is probably not incompatible in
2 this area because, like I mentioned, there are other
3 lots that are smaller, but from my analysis I would say
4 that since you have to meet all of the findings that
5 that would be the main point to consider.

6 The last point I have for you is that I did,
7 in meeting with Mr. Nelson before he even applied for
8 this rezone application, he did come into the office.
9 He gave the background information about the conflict
10 and the size, what his intentions were, that the county

11 in his estimation misrepresented the acreage, and he
12 remembers that I said I would recommend approval in my
13 staff report. I did not remember that, but I want to
14 honor what he believes I said. I think that with the
15 development agreement you may have a better chance at
16 looking at an approval on this without a development
17 agreement. I still have to stand by what I found in my
18 analysis, which I didn't have before he applied, that I
19 think that all the findings probably can't be made, but
20 I do think with the development agreement, which if you
21 went down that road, we would have to draft that and
22 bring it back to you. That would limit the development
23 from multiple housing to just two dwelling units and
24 that is also based on the fact that Idaho Transportation
25 Department appears to have granted their access for two

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1 units instead of just one. So I think that's all I have
2 right now.

3 MR. STEVE ETHINGTON: Thanks.

4 MR. DON WILKERSON: Mr. Chairman?

5 MR. STEVE ETHINGTON: Don Wilkerson.

6 MR. DON WILKERSON: Question for Brad, you
7 mention that there's never been a survey, but I'm
8 looking at a copy of a quick claim deed and it has leaps
9 and bounds. Would that maybe support that there has
10 been a survey or not, because it gives measurements.

11 MR. BRAD HAWKINS-CLARK: Yeah, that may or
12 may not indicate that an actual, on ground survey was
13 done.

14 MR. DON WILKERSON: So maybe what we're
15 really saying is the quick claim deed isn't supported by

16 sound information?

17 MR. BRAD HAWKINS-CLARK: Well, you know, it
18 could be information that people believed was right for
19 years and years.

20 MR. DON WILKERSON: Well this quick claim
21 deed is only dated in 2006.

22 MR. STEVE ETHINGTON: February 2006.

23 MR. DON WILKERSON: I know if I was buying a
24 piece of property, I'd be sure to have it surveyed.

25 MR. STEVE ETHINGTON: Thank you, Brad.

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1 Mr. Russel Nelson, if you'd like to step forward and
2 state your application here and the reason why you're
3 doing it ...

4 MR. RUSSEL NELSON: Russel Nelson, 5740 West
5 Highway 52. As Brad stated, I bought that, and that
6 property had been sold twice in 2006 or in 2005 as
7 10.551 acres. It being really odd in shape, I did go
8 talk to Greg Himes to verify it was 10 because it's
9 really an odd shape. I guess the boundries that are
10 spelled out there are the exact same boundries that when
11 the surveyer entered them in his computer, it came up
12 6.22 acres and we haven't changed the legal description
13 at all from the last two times it's been sold.

14 The highway issue concerns me also. That is
15 a scary corner and I think that can be addressed with a
16 turn lane off the highway, so that it makes a wider spot
17 there. You know, a paved turn lane before that
18 driveway, and probably a berm also would help that
19 corner a lot.

20 I basically bought that piece of property

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21 with the intent to split it. I have two purchase
22 agreements for that piece of property before we found
23 out it wasn't 10.5 acres, and that's why the driveway
24 application was for two. The septic permit was approved
25 for one home, but we were going to oversize it for two.

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1 We decided not, because of after soil samples and stuff,
2 the soil does support a biosystem. I don't know how to
3 explain it. It's basically the water that comes out the
4 end of the tank is drinkable and it is a pressurized
5 system that by law can be placed a hundred feet from
6 water, open water. It cost us a lot of money just to
7 get the engineering done, and I think that's the only
8 issues I have, or thing that I can address those issues
9 with.

10 MR. STEVE ETHINGTON: A few questions here,
11 so hold on just a second. J. B., you have a question for
12 the applicant?

13 MR. J. B.: You just indicated to me, at
14 least what I think I heard you say was, prior to the
15 final sale you were aware that it was 6.2 acres.

16 MR. RUSSEL NELSON: I haven't sold that
17 property yet.

18 MR. J. B.: Oh, okay. So you --

19 MR. RUSSEL NELSON: I have purchase
20 agreements to sell it, but at that time they were based
21 on the 10.5 acres and the way those sale agreements are
22 written up. The west half of the legal description and
23 the east half of the legal description.

24 MR. J. B.: So you're trying to sell it even
25 before you're getting your splits?

1 MR. RUSSEL NELSON: I have purchase
2 agreements to sell it. In the sell agreement it also
3 states in there that it's based on the approval of the
4 splits. You know, the people who have those purchase
5 agreements, they know that we are waiting for this to be
6 approved.

7 MR. J. B. : Thank you. Nothing further, Mr.
8 Chairman.

9 MR. STEVE ETHINGTON: Any other --

10 MR. DON WILKERSON: Mr. Chairman?

11 MR. STEVE ETHINGTON: Mr. Wilkerson.

12 MR. DON WILKERSON: The home that's under
13 construction, that's still under your ownership? It
14 hasn't been sold?

15 MR. RUSSEL NELSON: It has not been sold.
16 We probably received our certificate of occupancy today.

17 MR. DON WILKERSON: How much ground goes
18 with that home, acreage wise?

19 MR. RUSSEL NELSON: It would be half of that
20 if this goes through. If it doesn't, I'm going to have
21 to rent it to the people until we get through all of
22 this stuff.

23 MR. DON WILKERSON: Well, all of us maybe
24 been out that way. I know where the home's at in
25 relation to the property, but if you sell that lot, that

1 home, how much of the ground has to go with the home to
2 be able to have a yard around it and etcetera?

3 MR. RUSSEL NELSON: Three acres. At least

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4 three. They may be split two and four or three and
5 three depending on how we have to do that to make the
6 septic system that we had to install, fit on to that
7 property. That's why we asked for the two acre rezone.

8 MR. DON WILKERSON: So in that case, if you
9 get a two acre rezone, you can only put two lots on it?

10 MR. RUSSEL NELSON: Yes.

11 MR. DON WILKERSON: You hesitated there.
12 Are you planning on more than one? More than two?

13 MR. RUSSEL NELSON: No.

14 MR. DON WILKERSON: Because if we give you
15 this rezone --

16 MR. RUSSEL NELSON: The reason I hesitated
17 is because there's not enough room for another septic
18 system.

19 MR. DON WILKERSON: I saw it in there --
20 because if we give you the rezone you have the right for
21 three lots.

22 MR. RUSSEL NELSON: Exactly but there's not
23 enough room for another septic system.

24 MR. DON WILKERSON: So what we're saying
25 there, the existing house has to go with three acres.

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1 Three acres have to go with the existing house.

2 MR. RUSSEL NELSON: At least three, yes.

3 MR. DON WILKERSON: I see on the driveway
4 permit from the state, it's not in your name. It's a
5 gentleman from Texas. Can you explain that?

6 MR. RUSSEL NELSON: That's the gentleman I
7 bought it from.

8 MR. DON WILKERSON: Why wouldn't it be in

9 your name?

10 MR. RUSSEL NELSON: I took my request to the
11 state and while they were researching it, they found it
12 already had a driveway permit. So we added my permit
13 request to it and it was --

14 MR. DON WILKERSON: So was there another
15 permit under your name?

16 MR. RUSSEL NELSON: No.

17 MR. DON WILKERSON: You answered the
18 question. I thought this might have been the owner of
19 the house. You're under construction and my thought is
20 if the permit's his, maybe he's not willing to allow
21 another resident to drive through that driveway to get
22 to it.

23 MR. RUSSEL NELSON: No. That permit was
24 from the people I purchased the land from.

25 MR. STEVE ETHINGTON: Okay. Any other

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1 questions?

2 MR. DON WILKERSON: One other question. In
3 your application, I think you mentioned that possibly
4 you might look at a minor sub. Is that something that
5 you were just thinking about or ...

6 MR. RUSSEL NELSON: I understood that the
7 minor sub was what was required to get that split into
8 two pieces.

9 MR. STEVE ETHINGTON: You still have to get
10 a rezone.

11 MR. DON WILKERSON: You still have to get a
12 rezone. Thank you.

13 MR. J. B.: Mr. Chairman. The existing

14 driveway, is that on -- would that end up being on this
15 lot where the house is now being built?

16 MR. RUSSEL NELSON: It would be split down
17 the center of that driveway with an easement for both
18 halves to use.

19 MR. J. B.: Do we have a plat the way that
20 house is situated or the way the land goes?

21 MR. DON WILKERSON: Don Wilkerson. Again,
22 while you're looking, if you split the existing driveway
23 and you break off to go to the other lot, you may have
24 to have, is it 40 feet? You'd have to have a 40 feet
25 easement to get to the other lot. Is that something

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1 you'd work out?

2 MR. RUSSEL NELSON: Yeah. We were also
3 going to put a cul-de-sac at the end for a fire truck
4 turn around.

5 MR. DON WILKERSON: Because your permit for
6 a driveway permit is only for a 30 foot, but I'm sure
7 they're not going to mind if you exceed it 30 feet.

8 MR. RUSSEL NELSON: We would ask them for
9 that permission.

10 MR. DON WILKERSON: So you may have to come
11 off the road with a 40 foot, get to the second lot with
12 a break off to get to this lot, the home under
13 construction.

14 MR. RUSSEL NELSON: I think the best thing
15 would be to put a turn lane there. Even if it wasn't
16 required, I think it would be better for that highway.
17 That highway is scary on that corner.

18 MR. DON WILKERSON: You just brought up

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19 another point. The permit with the State Department of
20 Transportation, has somebody brought up to you about
21 providing a noise buffer there, which by the state is
22 usually a 10 foot high berm on your property.

23 MR. RUSSEL NELSON: It was mentioned but it
24 wasn't part of the application requirements.

25 MR. DON WILKERSON: The information I read,

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1 I think in the packet there was a letter from the state.
2 There was an item, it has to have a berm there for noise
3 making.

4 MR. RUSSEL NELSON: It was suggested in the
5 letter.

6 MR. STEVE ETHINGTON: It was a
7 recommendation.

8 MR. DON WILKERSON: Recommendation?

9 MR. STEVE ETHINGTON: Recommendation, yeah.

10 MR. DON WILKERSON: Okay. Thank you.

11 MR. STEVE ETHINGTON: Any other questions
12 from the commission? Okay. Thank you, Mr. Russel. At
13 this time I'd like to here from those people who would
14 be in favor of this application. Those neutral? Okay.
15 At at this time we'd like to here from those who would
16 be against this application rezone. Please come up and
17 state your name and address, ma'am.

18 MRS. JACKY JERAN: My name is Jacky Jeran.
19 I live at 5280 Highway 52 and we live on the west side
20 of the property, where we're talking about tonight. I
21 also live on the north side. So I live right next to
22 it. We've lived at that location for 28 years. I'd
23 like to address the safety issue of building two houses

24 in that location. In the last 28 years, my husband and
25 I have witnessed numerous accidents. The accidents have

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1 occurred on the west side of Tom's Cabin and on the east
2 side of Tom's Cabin. On highway 52 heading east of
3 Tom's Cabin, a turn lane from Tom Cabins road has been
4 added to help in reducing accidents and to the best of
5 my knowledge, Vanderdassen Road was changed to enhance
6 visibility when entering onto the highway. Since the
7 changes have been made, I can tell you that accidents
8 still have occurred. The accident that happened after
9 changing Vanderdassen, a driver hit a telephone pole at
10 Vanderdassen heading west. It hit so hard, that down at
11 our house the power line swayed, as well as the
12 telephone poles. A neighbor of ours was standing
13 underneath and ran for fear of them falling on top of
14 them.

15 If two houses are built in that area, I am
16 extremely concerned for the safety of the residents of
17 Gem County. The one house that is under construction
18 appears to be at least 3,000 square feet house with a
19 double car garage and I would assume that the other
20 house would be similar. When looking at the possibility
21 of two houses at that location, one could assume that
22 each house would have two cars and school age children.
23 So that would mean that the cars would be pulling out of
24 the driveway at a minimum of eight times a day, and a
25 school bus could be picking up or dropping off children

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1 four times a day. In my opinion, that would only add to

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2 the odds of other accidents happening at that dangerous
3 corner. Excuse me. I have a cold. I do not have the
4 exact number of accidents that have occurred in the last
5 28 years, but I would encourage the committee to discuss
6 this proposal with the police officers that patrol the
7 area for their input. They would be able to provide
8 specific facts about accidents and incidents that have
9 happened at that corner.

10 In conclusion, if the committee chooses to
11 change the zoning, this would give the residents on the
12 south side of the highway opportunity to petition to
13 have their property zoned to our three, which again
14 would add to the safety concerns of the residents of Gem
15 County. Thank you.

16 MR. STEVE ETHINGTON: Thank you. Is there
17 any other public against the applicant? Please state
18 your name in the mic.

19 MR. EVERETT HILL: Everett Hill, 2119 Tom's
20 Cabin Road. I'm not against it. I'm just wondering how
21 it happened. How you can build in a wetland like that?
22 That's a wetland area and they told me that you couldn't
23 build in a wetland area. Now their building in it. So
24 if that gives us priority, that's what we need. So,
25 that's my question.

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1 MR. STEVE ETHINGTON: Any other from the
2 public? Okay. There's been a submittal that we
3 received on our desk today. We haven't had a chance to
4 look at it in our packets. It's received on the 8th of
5 December. Darrel Beth, and I can not pronounce the last
6 name. I can't read it. It's Summershine, 5211 West

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7 Highway 52, and basically they have two issues. They
8 are against the rezone. They state here that they would
9 keep a five acre minimum, A-2 rural transitional
10 agricultural zone, and also they stated the safety issue
11 too of that being extremely dangerous. "A very very
12 dangerous curve corner".

13 MR. DAVID HARGRAVES: Mr. Chairman, did the
14 applicant get a copy of that letter?

15 MR. STEVE ETHINGTON: I don't know. He
16 might want to look at that So we can put that in for the
17 record. At this time, Mr. Nelson, you can have the
18 opportunity for rebutal on those against if you'd like
19 to.

20 MR. RUSSEL NELSON: The first issue is the
21 safety, and I agree that is an unsafe corner and there
22 wasn't a house there before and were having accidents.
23 I think with a turn lane there, you're going to see
24 accidents go down, even with the extra cars coming out
25 of that driveway.

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1 The wetlands. We didn't build that house in
2 the wet lands. We built it back up on what was a gravel
3 bar with very little vegetation. There wasn't much
4 grass growing there when we built that house. I think
5 that address's both issues.

6 MR. STEVE ETHINGTON: J. B.

7 MR. J. B.: You're not building on the
8 portion of the property that was wetlands, but how much
9 of that property is wetlands?

10 MR. RUSSEL NELSON: My calculations is about
11 an acre, and I'm not sure that it's true wetlands. It

12 dries up when the slough goes down. I cleaned the ditch
13 out quite a ways down in it. I don't know if it's
14 wetlands or not, but it really doesn't matter. We're
15 not disturbing that part of it.

16 MR. J. B.: Well actually, it really does
17 matter, and that's a concern of mine. If it is and,
18 Brad, I would have a question, how do we know it's zone
19 or if it's been determined to be wetlands because it has
20 a large impact on location of driveways and access and
21 location of house and whether or not you're going to be
22 able to get how you're going to use the land. So it is
23 a big issue.

24 MR. RUSSEL NELSON: The part where the
25 catails are growing would go with the house that's there

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1 and the driveway was put in next to where that would
2 start.

3 MR. J. B.: I'll address that with Brad.
4 Thank you. No more questions.

5 MR. STEVE ETHINGTON: Thank you, J. B. Don
6 Wilkerson.

7 MR. DON WILKERSON: A couple of items. You
8 mentioned a turn lane. You're saying a turn lane coming
9 from the east, so you can turn right into the property?

10 MR. RUSSEL NELSON: Yes.

11 MR. DON WILKERSON: Are you going to fund
12 the cost of that turn lane?

13 MR. RUSSEL NELSON: I would have to.

14 MR. DON WILKERSON: I don't see where the
15 state has required a turn lane.

16 MR. RUSSEL NELSON: They have not but I

17 think it would help a lot of the safety issues on that
18 corner.

19 MR. DON WILKERSON: Okay. Another item,
20 maybe you can address the wetlands. How much fill did
21 you have to bring in to put that house there?

22 MR. RUSSEL NELSON: We set the house right
23 on top of the ground and just built up around it to get
24 the flow away from --

25 MR. DON WILKERSON: So you set the footings

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1 right on top and --

2 MR. RUSSEL NELSON: Yes.

3 MR. DON WILKERSON: I have to maybe
4 contradict to the chairman about the noise abatement.
5 It says in here that if noise abatement is not provided,
6 we recommend wires receive full disclosure of
7 anticipated noise levels from the highway traffic.
8 Anything in our ordinance says that there has to be
9 noise abatement berms for development of this size. I
10 know just down the road there's noise abatement berms
11 required. So are they required or not for something of
12 this size?

13 MR. BRAD HAWKINS-CLARK: The landscape
14 ordinance does require berms for subdivisions in our
15 district. So if it was a subdivision, if you approved
16 it, there would probably be some landscaping in the
17 ordinance required, unless the commission or board
18 decided to waive that, but the ordinance does require
19 along the state highway, for a subdivision, it does not
20 require a berm. I should clarify. The landscape
21 ordinance requires trees and landscaping but it doesn't

22 require it to be bermed.

23 MR. STEVE ETHINGTON: Thank you. Any other
24 questions? Thank you. Okay. I'd like to close this
25 portion of the public hearing with the rezone with

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1 Russel Nelson and discuss it amongst the board. J. B.

2 MR. J. B.: I'm very opposed to this for a
3 variety of reasons. Knowing that I would have to come
4 before this board for splitting a piece of land, shame on
5 me if I don't have something surveyed to know what I'm
6 dealing with. It does not meet the requirements. He's
7 in a five acre zone. We turned someone down this
8 evening I think had more put on the table of legitment,
9 good faith work in the past and turned it down. It's
10 not in a five acre zone, I mean it's in a 5 acre zone.
11 The lands doesn't comply. So I'm very opposed to it,
12 and the fact he thought it was ten acres, that's just
13 bad business.

14 MR. STEVE ETHINGTON: Jim.

15 MR. JIM HUTCHINS: Basically what J. B. said,
16 plus this intersection, and it says the State Highway
17 Department says it should -- the developer provide a
18 berm in there and it goes on down here on the bottom
19 with the addition of a berm or any type of noise
20 abatement it's going to make that corner more blind than
21 it already is. So with the traffic, we don't know the
22 size of it. Your reclamation evidently has not been
23 consulted as to how much of that is wetland and there
24 again, when it gets very high water, that we've seen
25 several times, I'm certain that does go under water at

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1 times because it's off a seven mile slough. A
2 seven-mile slough has overflowed and I think we're
3 getting into something there that's kind of like Eagle
4 Island. So I am very much opposed to this myself.

5 MR. STEVE ETHINGTON: I would have to say, I
6 definitely feel somewhat sympathy for Mr. Nelson. You
7 know, thinking that you purchased a piece of land with a
8 certain amount of acres and then find out it isn't, but
9 as a commission we can't weigh the reasons why a persons
10 coming to rezone the land but just the facts of you
11 know, whether or not it follows the present
12 comprehensive plan, and our zoning.

13 The comp plan here states that no, or excuse
14 me, the ordinance states no rezone shall be recommended
15 for approval by the commission unless the following
16 findings are made by the commission -- the board. The
17 first, number eight shall comply with the comprehensive
18 plan. It does not. So, right. That very first one
19 would be the reasons for denial, and then it goes on
20 with four other conditions that it has too.

21 The second one has to do with public health
22 safety and welfare. I would think that this curve, it's
23 a very very dangerous curve, would be another reason and
24 so on and so forth, and each one would be a reason for
25 denial.

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1 The other reason what I would state though,
2 if it wasn't just for that reason, was that on a
3 comprehensive plan it does allow for limited residential
4 in an A-2, but in the past and long past the county has

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5 always interpreted the Ag natural resource category to
6 apply a minimum size of five acres, not two. If we were
7 to do this, I think it would set a precedence that we
8 would change from our historical interpretation of that,
9 of being from five and we would automatically change to
10 two. Such as this lady from the audience stated, that
11 with that being done there'd be no reason why that whole
12 area there, that they couldn't come in and re-apply for
13 a rezone, and it would take away completely from what
14 the comprehensive plan states and that's what we really
15 have to follow is the comprehensive plan. Don.

16 MR. DON WILKERSON: Don Wilkerson. I have
17 nothing further to add to what the other three
18 Commissioner's stated, but again I'm concerned about the
19 safety and at this time, I would probably be in denial
20 of the application.

21 MR. STEVE ETHINGTON: Thank you. Any other
22 address from the Commissioner's? Okay. Enertain a
23 motion?

24 MR. J. B.: I move that we deny this rezone
25 application or that we reccomend -- is this going to the

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1 Commissioner's?

2 MR. STEVE ETHINGTON: Yeah.

3 MR. J. B.: -- or that we reccomend this to
4 the Commissioner's as being denied. The proposed rezone
5 can not meet all the required findings of the zoning
6 ordinance. This section 7 here, as submitted and does
7 not conform to the overall intent of the applicable
8 comprehensive plan policies that are in effect.

9 MR. JIM HUTCHINS: Seconded.

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10 MR. STEVE ETHINGTON: Second by Jim Motion
11 by J. D. All those in favor?

12 (Vote unanimous.)

13 MR. STEVE ETHINGTON: So, Mr. Nelson, you
14 have an opportunity to go before the Board of
15 Commissioner's and you can be in contact with Brad on
16 that situation. 5 minute recess.

17 (Whereupon a short recess was taken.)

18

19 Item Three - A Final Planned Unit Development
20 application by Serge Engurasoff for a mixed use
21 development in the MX, Mixed Use Zone, located at the
22 northwest corner of W. Central Road and North Washington
23 Avenue, a portion of T 07N; R 01W; Section 30. The
24 Commercial PUD comprises 10.9 +/- acres.

25

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1 MR. STEVE ETHINGTON: Next on our agenda is
2 final plat unit development Black Stone, and there's
3 been a question -- where's our Administrator at?

4 MR. DAVID HARGRAVES: He'll be back in just
5 a second.

6 MR. STEVE ETHINGTON: Well, there's been
7 some questions arise that Administrator is requesting
8 that we have a continuance on this with the commission
9 recommendation on a few issues and so we should take a
10 moment and see what those issues are. I think we've
11 probably heard them before and probably need to clarify.
12 Has everybody looked at the minutes we've had in the
13 past that we go to this particular applicant? I'm going
14 to wait for Brad. Maybe what we could do until he gets

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15 here, we could have -- I can not pronounce her last
16 name. Why doesn't it just say Angela?

17 MR. DAVID HARGRAVES: She's representing the
18 applicant.

19 MS. ANGELA COMISH: Angela Comish, 1523 West
20 Hayes in Boise.

21 MR. STEVE ETHINGTON: What was it exactly
22 they were having -- they were having problems with or
23 had complications with?

24 MS. ANGELA COMISH: I'm not sure, to be
25 honest with you. I looked through Brad's report and I

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1 see that he had some questions but none of them are real
2 significant one's that I can't answer if you'll give me
3 a few minutes to go over it with you. I'd be happy to.

4 MR. STEVE ETHINGTON: Go ahead.

5 MS. ANGELA COMISH: Okay. Here comes Brad.

6 MR. STEVE ETHINGTON: Brad, what I mentioned
7 to her and everybody is that we were in here last week,
8 okayed in the PUD with certain things and then they have
9 come forward with their primary subdivision plat but
10 you're asking questions you want clarification from the
11 commission and with the recommended continuance, and so
12 we just wanted to hear from both of you to what we need
13 to clarify or what we need to do. Why don't you go
14 first and then she can respond.

15 MR. BRAD HAWKINS-CLARK: It sounds like you
16 got the background. You know they have a preliminary
17 PUD approval already. This is a new hearing on both of
18 these. So the planned unit development, the reason you
19 have that is because they are requesting a couple of

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20 exceptions to the MX zone, which again is 660 feet from
21 the centerline of state highway 52 to the west. So
22 they've got that strip of 660 feet which is currently MX
23 mixed use zoning, which allows down to one-acre lots and
24 they are proposing less than one-acre lots. So that's
25 one reason for the plan development.

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1 The uses that they're proposing are actually
2 not necessary for a PUD because in the MX with a special
3 use permit you can do retail, you can do offices, you
4 can do multifamily as part of a special use permit. So,
5 let's see. I think there seems like there were two
6 reasons for a planned unit development and I'm not
7 remembering what the other one was.

8 MS. ANGELA COMISH: Was that three
9 exceptions that you noted? You had the building height,
10 lot size, and then private roads you have on there.

11 MR. BRAD HAWKINS-CLARK: Oh yeah. The
12 private road would be in their concept and I'll let
13 Angela talk more about their proposal, but depending on
14 what type of roadway is requested along the kind of west
15 boundary, if their proposing a private road today's
16 subdivision ordinance only allows 10 units on a private
17 road. That needs to be looked at. If you support the
18 concept then that's going to be an exception to the
19 subdivision ordinance because they're showing up there
20 on their plan they're showing more than 10 dwelling
21 units on that private road. So those are the PUD. The
22 PUD does require all residential lots to have some kind
23 of adjacency to open space.

24 They also are required to have some

25 amenities in the residential planning of developments.

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1 This is technically a commercial planning unit
2 development since more of this property is
3 nonresidential.

4 So just to clarify that the ordinance does
5 distinguish between residential planned unit
6 developments and commercial planned unit developments,
7 the Woods Ranch, which you have later on your agenda, is
8 a residential PUD. This is a commercial PUD since it
9 has a greater majority of the land use designated for
10 nonresidential uses. So there are some differences
11 between those two, just to clarify that.

12 MR. STEVE ETHINGTON: You're saying that the
13 residential have to be butted up next to some open
14 space?

15 MR. BRAD HAWKINS-CLARK: Right, right. But
16 that's not true for commercial buildings. The ordinance
17 distinguishes there if you have a commercial building,
18 that lot doesn't have to be up against open space, but
19 if you have a residential use, then that does. So
20 that's why I brought that up. So I think that address's
21 the PUD application. The preliminary plat application
22 is for the full 92 acres, which is not shown on that
23 first sheet there because under our ordinance if you
24 have one piece of ground today and you want to subdivide
25 it, all of that ground needs to be brought into the

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1 plat. You can't just break off a piece and leave it
2 hanging out there. So their preliminary plat deals with

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3 all 92 acres and the planning and development just deals
4 with this.

5 They actually have 12 acres shown on here
6 and that should be one of the things that we talk about
7 and clarify because your approval of their preliminary
8 PUD a couple months ago, I believe was J. B. 's motion,
9 did specify 11 acres because that is what they showed
10 before. So that will need to be addressed. I think
11 they're showing a little bit more than an acre, more
12 than the 11, more than what you show. There's a list of
13 I think 12 or 15 items there in the staff report,
14 questions that I raised. I won't go through all those
15 unless you want me to but that's my recommendation, is
16 to have the applicant present so you know where they're
17 coming from and receive any testimony tonight and then
18 continue it so we have an opportunity to address these
19 issues together before your next meeting.

20 MR. STEVE ETHINGTON: So in the event that
21 the applicant address's your concerns here adequately,
22 would that satisfy you where we wouldn't have to have a
23 continuance?

24 MR. BRAD HAWKINS-CLARK: Well, if she can
25 provide all the data that I've asked for here, I will

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1 bow down to her.

2 MR. STEVE ETHINGTON: Okay. Well, then why
3 don't we turn the time over to Angela and let her do her
4 best.

5 MS. ANGELA COMISH: Again, Angela Comish,
6 1523 West Hayes in Boise. I was not made aware by staff
7 that you did not have a computer and power point. So I

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8 have a really lovely power point presentation. So bear
9 with me as I kind of wing it a little bit. I think you
10 probably have most all the information in front of you
11 that we'll be going through. As Brad said, this is for
12 the preliminary plat for this and the final PUD. So
13 those are the two things that we're talking about for
14 this. So my hope today is to show you that we've taken
15 your requests and the stuff that we came back from --
16 from our approved sketch plat and our recommendations,
17 we've taken those into account and hopefully at this
18 point we can get your approval to proceed with this
19 process, but we'll see.

20 Things that came out of the sketch plat. If
21 you remember some of the things that we talked about, is
22 that if we were going to put commercial in there. It
23 needed to be lite commercial, lite retail kind of stuff
24 kinds of neighborhood things, neighborhood services that
25 the people in the area could use.

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1 One of the other things we talked about was
2 putting in medium to high density housing and possibly
3 some senior housing. I can't recall the Commissioner's
4 name that isn't here. Is he no longer part of the
5 commission I'm guessing?

6 MR. STEVE ETHINGTON: He's not here tonight.

7 MS. ANGELA COMISH: He was one of the people
8 that specifically requested that and it seemed like that
9 received support for that and also we did have a public
10 meeting before we presented that sketch plat and some of
11 the comments we had from that public meeting were, we
12 really don't want anything in that field but if you're

13 going to put something there we would really like a
14 restaurant. We would really like some sort of a
15 post-office drop box place so we don't have to head all
16 the way downtown and we'd like everything to be like low
17 rise buildings and low rise houses and things like that.
18 So in June, do you remember what we had? Do you
19 remember the picture that we had that talked about the
20 different uses? That's kind of what we had looked at.

21 MR. J. B. : Right.

22 MS. ANGELA COMISH: It was just kind of in
23 that corner, correct? Okay. So what's now -- and I'll
24 have to see if it's back here or not. That's the
25 landscape plan. That's houses. Doesn't look like we

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1 have a full one. So I'll just walk and show you.

2 MR. DAVID HARGRAVES: Mr. Chairman.

3 MR. STEVE ETHINGTON: Mr. Hargraves.

4 MR. DAVID HARGRAVES: I'm sorry to
5 interrupt. Do you have a copy of that that we can keep
6 for the record?

7 MS. ANGELA COMISH: Sure. I can do that.
8 It's not very clear because it's a power point copy but
9 yes I can.

10 Basically that's the overall site. That's
11 the 55 acres of Ag. That is still zoned prime Ag. It
12 is not going to change unless the comprehensive plan
13 shows that being changed. My client has no intent at
14 this point of requesting for that to be rezoned. So I
15 thought I saw something in there was like 55 acres of
16 residential. That is not proposed residential. That is
17 zoned Ag. He excepts that. He is leasing it out to be

18 farmed. So that's where that stays.

19 Our corner is this piece over here on the
20 south corner and then there's of course, the northern
21 portion next to the highway. As Brad pointed out that
22 piece is bigger than it was before and the reason that
23 is bigger than it was before is because I met with the
24 Idaho Transportation Department and their requirement is
25 that that approach that we put in on the highway is a

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1 minimum of a thousand feet from central. I can't put
2 that any closer than that. So that limited our access
3 that suddenly was the length of the project, and in fact
4 there will be no more approaches on Washington. That
5 will be the only approach. We agreed that this was too
6 unsafe with that corner there and visibility-wise to put
7 another approach closer to Black Canyon. So that's why
8 it grew a little bit in size. It wasn't trying to snow
9 anybody or add anything to it mischievously. It was
10 just the way that when I met with them, they agreed
11 that's what we needed to do. So that current proposed
12 layout of our area in question puts us down here and as
13 you can see we've rearranged it pretty significantly
14 from what we had shown of anything before. I basically
15 talked the client into firing his New Orleans architect
16 and got a local one. So that helped quite a bit. He
17 suddenly saw what we were dealing with and what our
18 community was like. So basically, we put houses and
19 buildings on the edge of the road and put the parking in
20 the middle. So that when you're driving down the road,
21 you don't just drive up and see this massive parking
22 lot. To me if I'm going to live around this area and

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23 I'm going to work here and drive this road I would
24 rather see the nice backs of buildings with brick and
25 stone and stucco and things with some nice landscaping

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1 and houses and have the parking in the middle where its
2 hidden a little bit more from view. So that was one of
3 the major things we did to rearrange it.

4 One of the things that we had discussed in
5 our sketch plat was the central well. We have a central
6 well located right here on the property for the whole
7 piece of property. I've met with the Health Department.
8 They're in agreement with this. They've looked at the
9 different well logs in the area with me. They're in
10 agreement that it looks like this area should support
11 this central well. I called the Department of Water
12 Resources. They are the governing agency over a central
13 well, and they basically said you know what, we're in
14 control. You come in and request a central well, we
15 will determine how many water rights are available for
16 you, for that piece of property and we will be
17 determining what the limits of that use are going to be.
18 So really, in a certain way, it's kind of out of our
19 hands. When we take that in there, they're going to say
20 you have so many shares no more no less.

21 MR. STEVE ETHINGTON: Which agency was that
22 again?

23 MS. ANGELA COMISH: That's the Idaho
24 Department of Water Resources, IDWR. So that's one of
25 the key things that I think is in everybodys benefit.

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1 So we know that they're going to look at this and
2 they're going to say there's only so many shares
3 available, you either have enough or you don't or you
4 have -- what you're trying to do as far as uses. So to
5 me I think that's a positive for all of us because
6 nobody, including me, wants to see anybody's wells
7 effected out in this area. So clearly that's going to
8 be a big concern to them.

9 Another thing that we talked about when we
10 did our sketch plat was the central septic system. I've
11 met with the Health Department on that and I've actually
12 talked with some of the folks over at the Department of
13 Environmental Quality and I have shown here is a
14 commercial building and here is a commercial building,
15 there's one and there's one. I have shown a drain field
16 here that would be shared by these two buildings. One
17 here for this building and one here for this building
18 and a couple back in here that would be shared by these
19 various locations. I did not do one central sewer
20 treatment facility for this. Talking with the guy at
21 the Health Department he said if you do something like
22 that it typically has to go someplace. Well where's the
23 logical place for it to go? Like a waterway, Hawk
24 Creek, and I thought no. That doesn't make sense. I
25 don't want that. We don't want that, and see the other

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1 thing is you have to tell me what you're uses are so we
2 can design a system, or approve a system and he says
3 until you have a use we can't approve a system and so
4 it's kind of a chicken and egg kind of thing. Until we
5 know what the uses are going to be, we can not design

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6 appropriately the systems that are going to go in there.
7 So I have left adequate space here for these buildings.
8 One here and one here. That's assuming this is a
9 restaraunt. I just put that in there, in that space so
10 that's available. If these end up being large scale
11 absorption systems, which means it's over 2500 gallons a
12 day for any of them, then the D.E.Q. takes over. Same
13 thing, they're almost like the Idaho Department of Water
14 Resources. They will tell us what system will be put in
15 there and what will be acceptable or not. It may be an
16 advanced treatment package that reduces nitrates and
17 things like that. I don't know. They're going to base
18 that on the uses that we propose, but again, I can't
19 tell you what those uses are going to be until somebody
20 walks in with cash and says I'd like to lease this piece
21 of ground and put a building on it. That's where it is.
22 We've got them accounted for. They are there. We
23 definitely are considering, if it makes the most sense
24 especially with these houses along back here, maybe
25 they're just advanced treatment. Maybe they just simply

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1 have one of the packages put on them that reduces the
2 nitrates. Just given the fact that they've got highway
3 on the other side of them, they're still plenty of
4 distance away but it might just be the most appropriate
5 thing to do.

6 As far as the uses, Brad said we've got
7 these four buildings. The fifth lot would be this
8 commercial one over here. The further north, I don't
9 know if my client will end up selling that piece of
10 property or developing that one at some point. There's

11 residential lots. What we have shown on here is six
12 lots that are individual homes. They are not touching
13 each other. They're simple, separate, 1700 foot single
14 family home. Brad had some questions about how these
15 were laid out. These are laid out with lot lines around
16 them. They will be individual homes with a patch of
17 grass and a fence and the whole shu-bang, but I don't
18 know because it's part of the way this is all laid out
19 will they be considered town homes? I'm not quite sure
20 what the development of this -- obviously they're going
21 to have a home owners association and they're going to
22 have someone to maintain the open space around them.

23 All of these do have actual open space
24 around them. If you can see, and I don't know if you
25 can see from that far away or not, but they all have

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1 grass. There is a strip. It goes all the way around
2 them. They don't touch the fence behind there. So all
3 of them have -- they required open space around them.
4 It is all this space here. This is all open space.

5 MR. DON WILKERSON: Did you say there was
6 going to be six individual lots here right?

7 MS. ANGELA COMISH: Yep. So there will be
8 six right there and then the other ones -- there's
9 twelve of them.

10 MR. DON WILKERSON: Twelve individual lots?

11 MS. ANGELA COMISH: Correct.

12 MR. DON WILKERSON: Can you tell me the size
13 of those lots? Square footage.

14 MS. ANGELA COMISH: The size of those lots,
15 especially since these would be touching each other,

16 these are the exact same ones. These units here are the
17 exact same as these, the walls just touch on the other
18 side of the garages, that's it. I had submitted and I
19 hadn't taken it out of the package unfortunately, a
20 three story unit for these, but we talked about it. I
21 talked to my client and he agreed, not appropriate. We
22 don't want three stories. They're quite little, kind of
23 townhouse things, but we agreed not. So they're the
24 exact same thing as these --

25 MR. J. B. : So what's the size of the lot?

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1 MS. ANGELA COMISH: Well, if it's the bottom
2 floor of it, it's roughly 1400 square feet.

3 MR. J. B. : The house or the lot?

4 MS. ANGELA COMISH: The house.

5 MR. DON WILKERSON: What's the size of the
6 lot, square feet of the lot?

7 MS. ANGELA COMISH: Well, in talking with
8 Roger, the fact that these touch each other these would
9 probably be considered townhouses. So the lot itself
10 would be the dimensions of the house and then all of the
11 area around it would be part of the open space and
12 common space.

13 MR. DON WILKERSON: What's the size of these
14 lots here?

15 MS. ANGELA COMISH: Those with their yards,
16 I'm going to guess would be maybe 3000 square foot and
17 I'm shooting from the hip but same thing, they would
18 still have open space around thus would be maintained by
19 the home owners association with the CCNR's and
20 everything. As well as the stuff on the end, which is

21 the senior housing and we have ten senior housing units
22 shown and they are -- I'm not sure if you saw on here --
23 they're very, very, very nice looking homes. If you
24 look at them from the front that will face the road,
25 they don't even look like they're dual units. They just

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1 look like they're a really nice home, which of course,
2 is the intent. It's just a very nice home with a nice
3 entry way, nice windows. The inside area where the
4 garages will be just looks like that.

5 MR. STEVE ETHINGTON: Let me see that
6 profile of the townhouses to there, Angela.

7 MS. ANGELA COMISH: Sure.

8 MR. STEVE ETHINGTON: These are the ones
9 that are three story?

10 MS. ANGELA COMISH: No. We're not doing
11 those.

12 MR. STEVE ETHINGTON: Just two stories?

13 MS. ANGELA COMISH: Just two.

14 MR. DON WILKERSON: So are they going to
15 have the same footprint?

16 MS. ANGELA COMISH: Exactly, and I had that
17 shown on the plan. I have it shown here on this plan.
18 As you can see this is the exact same size as this.
19 They just have walls touching between them that's all.
20 Exact same unit and I accidently put in the one that my
21 architect sent me that showed the three story which we
22 considered at one point but agreed that it wasn't
23 appropriate. That's the 3 story units and I've seen
24 them before. They're not bad but I personally think
25 that this one is actually a nice little home, 1700

1 square feet. It's a nice home.

2 MR. STEVE ETHINGTON: So the footprint is
3 14?

4 MS. ANGELA COMISH: Well, I was just kind of
5 roughly saying 38 by 37 and I think that's around 14 for
6 that bottom story.

7 MR. STEVE ETHINGTON: So this with the open
8 spaces then --

9 MS. ANGELA COMISH: So the open space is
10 actually much higher than what is shown on here and
11 that's something that Roger and I didn't coordinate well
12 on for him to calculate what that open space would be.
13 So there actually is significantly greater amount of
14 open space.

15 One of the things is variance. So I guess
16 the variance we'd be requesting then is the reduced lot
17 size. The minimum of one acre being reduced down to the
18 minimum size of one of these houses. That is the only
19 variance. We are not requesting this to be a private
20 road at all. That's just driveways basically for those
21 units.

22 MR. STEVE ETHINGTON: Common driveway.

23 MS. ANGELA COMISH: Yeah, exactly. So it
24 will not -- we didn't expect that to be a road. That's
25 just driveway. If we need to, for safety or whatever

1 reasons, we can always put something as there's a gap
2 between the units right here to not have traffic flow
3 through there but I guess I was thinking for fire

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4 protection and stuff you'd want it from both directions
5 but we can adjust that if that's an issue.

6 Let me see. Central well. As I've stated
7 and I think you can see we are in conformance with the
8 comprehensive plan. Brad's report says that as well.
9 The uses are appropriate for the mixed used zoning. We
10 do have open space for all the residences and list of
11 allowed uses. That is one thing that Brad said is that
12 we didn't have it. We had it listed on the one we had
13 for the sketch plat and basically I took that exact same
14 list and just put it on here for my presentation, which
15 I can't give. But it's the exact same list that we had
16 shown. I don't have anything else proposed, anything
17 different. The exact same stuff that we had talked
18 about before. If we think we should limit those even
19 further, we can.

20 MR. STEVE ETHINGTON: So you're referring to
21 the special use. In other words, if these are the items
22 there's no sense in coming before for a special use
23 permit.

24 MS. ANGELA COMISH: Unless somebody comes
25 and says they want something besides that. So that was

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1 the same list that we had talked about before that I had
2 listed up there. If we want to mark things off of here
3 if we think it's too big we can definitely adjust it but
4 it would be good to at least have a handful so that my
5 client can take the piece of property to somebody and
6 market it because right now he can't do anything you
7 know his hands are pretty much tied. Oh, I forgot to
8 point out one of the things that I had concern about and

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9 I think one of the things most of neighbors would too
10 would probably just be traffic on central. So one of
11 the things that I proposed is -- this approach is on
12 here but I also proposed a right in only right here so
13 that if some guys coming in here and he wants to hit
14 this building, he can come right in here, he can do his
15 business, he can come right back out here and leave. I
16 was thinking if it were me I would not want the main
17 entrance -- I would not want everybody coming in and
18 out across from these houses. So my hope was to try and
19 get as much traffic as possible coming in to use this
20 approach in here and access these. So maybe, if you
21 live here, you're coming back in to here but if you're
22 doing business hopefully a majority of that traffic will
23 come in here.

24 MR. STEVE ETHINGTON: So that would be just
25 another lane. A turning right lane.

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1 MS. ANGELA COMISH: Exactly. Just a
2 separate lane. Turnig right in only. No exit. Nothing
3 out, but to me, that's a good way to get commercial use
4 in and out of this area back in here and then if
5 someone's coming this direction they can come out that
6 way you know if they need to come out here they can but
7 I would hopefully funnel most of the traffic away from
8 the residences back in this area. The existing ones as
9 well as the proposed ones. Just my thought. I think
10 that was the majority of the things. Oh, Brad had his
11 list of 20 things on the back pages. I was going to go
12 through those with you and make sure I had all those
13 covered. I think item number 1 on the bottom of page 7.

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14 Residence must all have common -- bottom sentence --
15 every residence must all have common area. I've shown
16 that we can do that. Item number 2 multifamily unclear
17 are intended to be plat as individual lots. Yes they are
18 going to be individual lots.

19 MR. STEVE ETHINGTON: The staff recommended
20 having detail, more detail on the CCNR's --

21 MS. ANGELA COMISH: Which we are probably
22 going to need to do that if those are going to be all
23 townhomes. I think that would probably be appropriate
24 because one thing we want to do is make sure that those
25 are maintained well if they are going to be for sale for

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1 individual ownership which is my intent and my clients
2 intent I don't think we want an apartment complex here
3 we want some nice quality townhomes that young couples
4 or you know single people could move into a nice high
5 quality development which that's what we want to keep
6 because we want to be able to market this to everybody.
7 So common sense says we're going to want those CCNR's
8 tight as possible so this stays as a nice development.
9 Number 2, multifamily single lots. So those will be
10 single. Number 3, plat shows only one building out for
11 the six single family homes. As I've clarified, those
12 will all be individuals. Special use permits commission
13 should approve each of allowed uses. So that was the
14 list that we looked at. Number 5, exceptions.
15 Applicant needs to specify the dimensions and land use
16 exception the only exception we are requesting is a
17 minimum lot size and like I said it's going to be
18 approximately 1400 square feet.

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19 MR. STEVE ETHINGTON: Do you think it's a
20 problem, Brad, if they don't have an exacts -- exact
21 dimension you requested.

22 MS. ANGELA COMISH: I mean I can give you
23 the dimension because we have the dimensions of the
24 housing units up there.

25 MR. STEVE ETHINGTON: Do you want the

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1 approximate or do you want something that's exact?

2 MR. BRAD HAWKINS-CLARK: Yeah. We should
3 have a minimum -- I mean the clear minimum.

4 MS. ANGELA COMISH: Okay. Well, it's on
5 there.

6 MR. STEVE ETHINGTON: Do you have a --

7 MS. ANGELA COMISH: Sure. I can do that.

8 Senior housing, number 6. Any age
9 restricted housing must comply with federal fair housing
10 act. Of course, obviously it will. We'll definitely
11 look into what it would require you know to have senior
12 housing restricted to that area but to me they're single
13 level, they're nice, they're in a 4-plex where somebody
14 can actually get to know their neighbor, there's 10 of
15 them. We can duplicate and do more of them down the
16 road if somebody wants to.

17 Simple building elevations. This is a good
18 point. No. 7 sample building elevations submitted with
19 the preliminary plat show mix of brick and stucco
20 construction both on the two-story both metal and
21 asphalt roofs are shown however the residential units
22 only show vinyl siding.

23 MR. STEVE ETHINGTON: Where are you at now?

24 MS. ANGELA COMISH: I'm on Item No. 7 on
25 page 8.

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1 MR. STEVE ETHINGTON: Okay.

2 MS. ANGELA COMISH: However the residential
3 units only show a vinyl siding and more non-needed
4 materials. As a single PD is recommended the materials
5 throughout the project compliment each other. Agreed.
6 Consider amending the residential units to require a mix
7 of brick, stucco, stone, or other more needed materials.
8 Agreed. I think we should probably do that. They need
9 to match and they need to be consistent. I think that
10 will be a nice feature.

11 MR. JIM HUTCHINS: What about the metal
12 roofs on those?

13 MS. ANGELA COMISH: Well, we'll have to ask
14 my architect what his thoughts are. Whether or not all
15 those should all be metal roofs or whether they should
16 all be the asphalt shingles. I don't know that much
17 about commercial buildings. To me, a residential house
18 ought to have an asphalt shingle on it.

19 MR. JIM HUTCHINS: I got to look at this. I
20 can see it out of my yard.

21 MS. ANGELA COMISH: Exactly, and if it's
22 going to shine like crazy, it's going to be really
23 annoying. So common sense would say -- I would
24 recommend that they all be consistent.

25 MR. J. B.: Would you be willing to live with

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1 composite shingles or something like that?

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2 MR. JIM HUTCHINS: Yeah.

3 MS. ANGELA COMISH: Exactly.

4 Staff recommends this site photo submitted
5 show brick and stucco material condition be added
6 requiring at least 30 percent of the fasauuds facing the
7 highway and central contain these materials. I think
8 that's reasonable. I think we all want it to look nice.
9 I think that's reasonable, and since my clients not
10 here, I can speak for him. So yeah. Let's do that.

11 Area for future expansion. All areas
12 designed for future expansion or not intended for
13 immediate improvement or development shall be landscaped
14 or otherwise maintained in a neat and orderly manner.
15 Would you consider ag to be neat and orderly manner?

16 MR. STEVE ETHINGTON: No. I mean yes. I
17 wouldn't think it landscaped around ag.

18 MS. ANGELA COMISH: Thank you. Thank you.
19 I would prefer to see anything that's --

20 MR. J. B. : No, no, no. You missed her
21 question.

22 MR. STEVE ETHINGTON: She was asking whether
23 or not we should require landscaping around the ag.

24 MS. ANGELA COMISH: Because look, this is
25 all a PUD.

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1 MR. J. B. : No, no, no. That wasn't her
2 question.

3 MS. ANGELA COMISH: No, no, no. The whole
4 thing is a PUD and this is considered a commercial lot
5 right now. I don't want to landscape this and I don't
6 think --

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7 MR. J. B.: Does she have to landscape this
8 one before they develop it?

9 MR. STEVE ETHINGTON: I would think, no.

10 MS. ANGELA COMISH: I don't think any of us
11 should. I think it ought to stay prime ag with this
12 piece as long as possible.

13 MR. J. B.: As long as its being farmed and
14 it's ag--

15 MS. ANGELA COMISH: Exactly. Exactly.

16 MR. J. B.: As long as its being farmed yeah.

17 MS. ANGELA COMISH: Does that make sense to
18 everybody?

19 MR. STEVE ETHINGTON: Yes, ma'am

20 MS. ANGELA COMISH: Okay. Good.

21 Commercial signs. This is kind of
22 interesting. Number of commercial signs in the PUD
23 shall be limited to a maximum of one center sign along
24 Main Street and another sign along Substation Road. I'm
25 assuming that should have been Central and Washington.

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1 Agreed. I think that we don't want big flashing neon
2 signs. We want nice, attractive, low monument signs that
3 are appropriate for that area and I think that a twelve
4 foot high max is more than enough and 50 foot background
5 area is fine.

6 MR. DON WILKERSON: What about your signs on
7 your commercial buildings, etcetera? Are there
8 limitations to what can be on those commercial
9 buildings?

10 MS. ANGELA COMISH: That's something that I
11 don't know. Are there limitations to what can be on

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12 those commercial buildings? I would assume that -- I
13 assume you could probably put some on the back side of
14 them, but it's going to all be landscaped. So I don't
15 really know. I don't know. Is there any sort of
16 limitation as far as something like that?

17 MR. STEVE ETHINGTON: They're talking about
18 signs on the back of their establishment.

19 MS. ANGELA COMISH: On the back of those
20 buildings?

21 MR. STEVE ETHINGTON: It will be landscaped
22 in the back of those buildings and there'll be signs on
23 parking lot side. Is there signs on the back of the
24 buildings? That's never been addressed before.

25 MS. ANGELA COMISH: Or if we did, would we

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1 do the same thing and make it a 50 foot max for each
2 building or something like that?

3 MR. BRAD HAWKINS-CLARK: I think that the
4 sign chapter in the ordinance probably is silent on that
5 so --

6 MR. STEVE ETHINGTON: Would look kind of
7 funny, I would think.

8 MS. ANGELA COMISH: I would too. I think
9 you're going to need at least some sort of signage for
10 the development that kind of states uses and stuff but
11 I --

12 MR. J. B.: But when you're driving back
13 down, I think it needs to be addressed because I think
14 when you're driving down a highway and you got the backs
15 of buildings there, to know that one is a Staples or one
16 is a --

17 MS. ANGELA COMISH: Coffee shop or
18 something.

19 MR. J. B.: It's appropriate to know what it
20 is. So to outline them completely. That's what's going
21 to bring my business in. I'm driving down the road and
22 I see that there's a coffee shop so I take the time to
23 drive off the road but I do think we need to address
24 appropriate signs.

25 MS. ANGELA COMISH: Agreed. Agreed.

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1 MR. JIM HUTCHINS: And I guess my concern
2 would be lighting on those signs --

3 MS. ANGELA COMISH: And I was just thinking
4 the exact same thing.

5 MR. JIM HUTCHINS: -- blaring into the
6 people accross the road.

7 MR. J. B.: And I would hope that they would
8 not be lit.

9 MS. ANGELA COMISH: Exactly, and that's it.
10 I think that we would limit them to not be lit and that
11 they would need to be a size that would be appropriate
12 for the size of the building face, or the face along the
13 highway.

14 MR. J. B.: But unlit. That doesn't mean a
15 light couldn't be on it but not lighted signs. Is that
16 what we're talking about?

17 MS. ANGELA COMISH: Right. Maybe a light
18 could shine that direction, towards it but it shouldn't
19 be a neon or it shouldn't be a lit sign.

20 MR. STEVE ETHINGTON: So if we were to
21 address the size of the back size what -- is this

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22 something you want to address right now?

23 MS. ANGELA COMISH: No. I think it's
24 something we can agree that needs to be addressed but I
25 can't tell you an appropriate size. What I'm going to

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1 do, I'm probably going to drive around --

2 MR. J. B.: But I think we can agree that it
3 couldn't be lit.

4 MS. ANGELA COMISH: But I think it needs to
5 be not a lit sign. It can have a light shining towards
6 it.

7 MR. J. B.: They can not be electric signs
8 isn't that it?

9 MS. ANGELA COMISH: Yeah, exactly. It can't
10 be an electric sign, and we'll research an appropriate
11 size for the building face.

12 MR. STEVE ETHINGTON: And just leave it for
13 the staff to approve or disapprove.

14 MS. ANGELA COMISH: Exactly.

15 MR. STEVE ETHINGTON: Or for the
16 Administrator to approve or disapprove.

17 MR. DON WILKERSON: The signs went from 50
18 square feet to -- from 32 to 50 or is this a special for
19 a PUD? I thought signs were restricted to 32 square
20 feet.

21 MR. BRAD HAWKINS-CLARK: I believe that's
22 correct.

23 MR. STEVE ETHINGTON: 4 by 8.

24 MR. DON WILKERSON: This says 50 square
25 feet.

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1 MR. BRAD HAWKINS-CLARK: Yeah. No, that's
2 definitely a mistake as a carry over from the other.
3 One line of thinking is that rather than having multiple
4 signs you limit the number of signs but you allow the
5 bigger --

6 MS. ANGELA COMISH: And you stack the uses
7 right on there so this --

8 MR. DON WILKERSON: If you had two firms
9 wanting to combine sign it would still be 32 per firm or
10 business, or total?

11 MS. ANGELA COMISH: No. It would be a total
12 of the 50 but you would add a couple people on it if it
13 was a 50.

14 MR. BRAD HAWKINS-CLARK: Yeah. You would
15 probably --

16 MR. STEVE ETHINGTON: So they're waiving the
17 individual signs and going for one big sign.

18 MR. DON WILKERSON: Well, what I'm talking
19 about on a building.

20 MR. STEVE ETHINGTON: Oh, on a building.

21 MR. DON WILKERSON: Right on front of a
22 building should it be -- even the one out on the corner
23 of the highway and central, should that be restricted to
24 what the ordinance says, 32 square feet? I didn't see
25 anything in the PUD that allows them to have an

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1 exception on signs on a PUD

2 MR. BRAD HAWKINS-CLARK: That's correct,
3 yeah. If they didn't ask for an exception.

4 MS. ANGELA COMISH: We didn't ask for

5 anything.

6 MR. STEVE ETHINGTON: The thing is though
7 too is, it's either 50 square feet or could they legally
8 put in, you know, how many business's, eight business's
9 --

10 MS. ANGELA COMISH: A bunch of 32 square
11 footers.

12 MR. STEVE ETHINGTON: -- Eight 32 square
13 feet signs. If that be the case, I think one 50 square
14 feet would be better than eight 32 square footers.

15 MR. DON WILKERSON: Maybe we need to ask for
16 an exception to the standards.

17 MR. J. B.: And that can be addressed later
18 because they either need to comply with the sign
19 ordinance or ask for an exception so --

20 MR. STEVE ETHINGTON: This can be addressed
21 right here though too on this and we could clarify right
22 now. Go ahead Angela.

23 MS. ANGELA COMISH: I know. I'm just
24 pondering it as well. I'm thinking where would we put a
25 sign or what would be the best way to do that. I

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1 suppose you could definitely put one here, but if you're
2 coming from town, you're going to go "woah" and you're
3 going to swing around and you know if you could put
4 something here like I say, either one sign that would
5 list the things on there and someone could turn here or
6 turn here. I don't know. It would seem like it might
7 not be a bad idea to put something there but I don't
8 know whether it makes sense to do a bunch of them or
9 just one. That's a good question. I don't have the

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10 answer on that.

11 MR. DON WILKERSON: Brad, is this in the
12 city area impact? This is outside the cities area
13 impact. Okay.

14 MS. ANGELA COMISH: Okay. Last page. Item
15 number 9, up at the top. Central sewer. I think I kind
16 of explained the sewer systems and that they are
17 somewhat central. This being the one for these two.
18 This ones for this one, this ones for this one, this one
19 is for these over here, these are for these on these
20 sides, and that one is for these, and that one is for
21 that one.

22 Wetlands. The applicant should contact Army
23 Corp of Engineers regarding any wetland areas within the
24 boundry of the subdivision. I did that. I met with
25 Greg Martinez today of the Army Corp of Engineers and

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1 Greg said that according to his maps the only place that
2 he saw a tiny little dot that could be considered
3 possibley a wetland appears that it is either on this
4 piece of property or right here next to it. He said it
5 doesn't seem like it's being affected at all by what
6 we're doing. If anything ended up coming down this
7 direction we would be required to stay a minimum of 25
8 feet away from it. That is their restriction.

9 A traffic study. ITD recommends a traffic
10 study. By all means, definitely, don't argue with that.
11 We will prepare a traffic study. I'm not anticipating
12 that traffic study is going to be a negative thing. I
13 think it needs to be done for any project that's going
14 to impact a state highway like this or that has this

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15 many residents on it. We definitely can do that.

16 Surface water study by Kell & Associates.

17 I've never seen a requirement for a surface water study

18 before and I'm not sure if that's something that's new.

19 Is that something in new ordinances that's been adopted?

20 A surface water study.

21 MR. BRAD HAWKINS-CLARK: The subdivision

22 ordinance that was passed in late June did add a new

23 requirement about drainage and --

24 MS. ANGELA COMISH: Which a drainage study

25 I've heard of. Is that basically what they're asking

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1 for is a drainage study?

2 MR. BRAD HAWKINS-CLARK: Yeah. I think so.

3 I mean I think he's tying that off of the new standard

4 and subdivision ordinance. Yeah, the half mile is not

5 in there.

6 MS. ANGELA COMISH: Yeah. That seems a

7 little extensive.

8 MR. BRAD HAWKINS-CLARK: That's one of the

9 reasons I brought it up.

10 MS. ANGELA COMISH: Yeah. I think their

11 concern must be that we would be impacting, I'm guessing

12 probably the irrigation. I've met with Carla and with

13 Roy both. I've actually been out on the site with Roy

14 and Rogers been out there with them as well, and we have

15 agreed and we will be taking care of that ditch that

16 runs along here and comes here and crosses this

17 direction. We've said, whatever you need us to do we

18 will be doing. So we have not -- we're definitely

19 taking care of that and he's satisfied that we're doing

20 that. We're perpetuating the system. I mean, common
21 sense says you've got water going through your land,
22 you've got to perpetuate the system so the people get
23 the same thing they've got now. So we've met with them.
24 We've talked about what kind of structure he wants here,
25 the kind of structure he wants here, the kind of

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1 structure that goes across the road. So we're working
2 with him on that. So we'll definitely take care of
3 that.

4 MR. JIM HUTCHINS: Just piping that existing
5 lateral or is that going to have to be moved for future
6 of the widening of that highway?

7 MS. ANGELA COMISH: And that's probably what
8 we're going to have to do is relocate that further in.
9 Exactly. That's going to have to be moved in and in
10 addition, we're going to have to maintain water supply
11 for this whole area. So that this whole thing can
12 continue to be ag.

13 MR. JIM HUTCHINS: Right.

14 MS. ANGELA COMISH: So we're going to have
15 to basically do dual system. We'll have a pipe and
16 again, then we'll have an open ditch that will serve
17 this as well. The concrete lined ditch that will serve
18 that. See, we've started right up here and we went out
19 and we looked through this whole thing together and
20 scratched our heads.

21 MR. JIM HUTCHINS: There is a question, that
22 highway may be widened at some point in the future, and
23 I'm assuming that you're going to have to put turn lanes
24 at that entry point also and on Central is that correct?

25

MS. ANGELA COMISH: They haven't said

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1 anything to us about that at ITD. I have met with them.
2 I have not submitted the request because I didn't know
3 how far this was going to go but if it does go through
4 they could very well come back and say, "you need a turn
5 lane there and a turn lane there and add another x
6 number of feet." We have anticipated that they will
7 need 60 feet of right of way on our side of the highway.
8 So we have already accommodated for that. So that's on
9 there and everything is set off, you know, here's the
10 centerline, section line, and that 60 feet. So we
11 pushed our property line over in anticipation that
12 that's probably going to happen.

13 MR. DON WILKERSON: Another letter here from
14 the Department of Transportation that wanted 100 feet of
15 right of way from the centerline not 60.

16 MS. ANGELA COMISH: Oh, really. Well --

17 MR. DON WILKERSON: That's what they
18 recommend in most other letters along state highways.

19 MS. ANGELA COMISH: Like I said, I met with
20 them and they didn't say anything but if we apply for
21 our access and they say we need a hundred feet which
22 they may very well be if we're talking turn lanes and
23 stuff then deffinetly we'll plan on doing that.

24 MR. DON WILKERSON: Any plans to provide
25 additional right of way along that section of Central

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1 also?

2 MS. ANGELA COMISH: Rogers, the one that

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3 went ahead and did that according to county standards.

4 MR. ROGER BENNY: It's 40 feet.

5 MS. ANGELA COMISH: 40 feet, okay.

6 MR. DON WILKERSON: Okay.

7 MR. STEVE ETHINGTON: Roger, you need to
8 come up and identify yourself.

9 MR. ROGER BENNY: Roger benny, Tri County
10 Surveying. The 60 feet shows in our transportation plan
11 I do believe for a 120 foot right of way along our
12 corridor. That's what our transportation plan shows on
13 the county website anyway.

14 MR. DON WILKERSON: Don Wilkerson. Is that
15 the counties transpertation plan?

16 MR. ROGER BENNY: Yes.

17 MR. DON WILKERSON: I think you probably
18 need to get from clarification from the Department of
19 Transportation.

20 MR. ROGER BENNY: Oh, understood. But if
21 that's the way it is, the county should change their
22 plan.

23 MR. DON WILKERSON: You just mentioned the
24 irrigation company. It's going to come up later, just
25 as well address it, pressurized irrigation.

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1 MS. ANGELA COMISH: Yes. Oh yes.

2 MR. DON WILKERSON: Are you going to do that
3 because initially you said you weren't.

4 MS. ANGELA COMISH: No. You know, we looked
5 at it and common sense says its there, its part of the
6 property, it's an asset, let's use it.

7 MR. DON WILKERSON: If not you're going to

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8 have to use your domestic water.

9 MS. ANGELA COMISH: Exactly, and that
10 doesn't make sense. So by all means.

11 MR. JIM HUTCHINS: Because in your CC&R's
12 you say you're not going to.

13 MS. ANGELA COMISH: Well thank you for
14 pointing that out because I didn't put those together
15 and I will confirm -- I'll make sure that get's changed.

16 MR. JIM HUTCHINS: Page 8, bottom paragraph.

17 MS. ANGELA COMISH: See and you read it
18 better than I did. So thank you for catching that. I
19 got those back from an attorney the day before I
20 submitted them. I apologize. I should have taken time
21 to read that. I didn't get to. I'm glad you caught
22 that, I'll write that down.

23 Lets see, surface water study. We're doing
24 that.

25 Neighborhood meeting. Well, we can do

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1 another neighborhood meeting. We did a neighborhood
2 meeting. They saw our initial sketch that showed full
3 blown everything. We got all their comments. I think
4 we've actually provided something that is actually more
5 desirable to them now than what we had shown before. My
6 thought is I would like to have a neighborhood meeting
7 and show them what we're planning to do. Say, "here's
8 your opportunity, I'm showing this to you, you can see
9 what's happening." I think they would be more pleased
10 now, than what they were initially by far, because we
11 are showing, you know, services that they are going to
12 definitely, hopefully be able to use. As well as

13 residences not going 3 stories. We're maxing it to 2
14 stories. I agree. I definitely think we need a
15 meeting. I don't know if I think that meeting should
16 hold up whether or not what happens here. But I
17 definitely will do that.

18 MR. JIM HUTCHINS: Angela, can I step back
19 from the committee because I'm a neighbor up there too?

20 MS. ANGELA COMISH: Sure. By all means.

21 MR. JIM HUTCHINS: The residence in that
22 area are totally, 100 percent opposed to this. I would
23 suggest you do hold a meeting, not from the commission
24 here, but from a neighborhood situation. I know most of
25 those neighbors and I know the comments that's going on.

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1 MS. ANGELA COMISH: Agreed. That makes
2 sense.

3 MR. STEVE ETHINGTON: Also, it's required by
4 the ordinance that you need to that since it's changed.

5 MS. ANGELA COMISH: Yeah. So we'll do it.
6 We'll do a meeting.

7 Stub Street. Staff recommends the street
8 extended from highway 52 sub to the A-1 zone for future
9 connection. I'm guessing that must be this one street
10 back but I guess I'm not sure why since that's not
11 changing from Ag. I'm not sure. Were you thinking that
12 was going to be residential and we were going to request
13 a rezone, or were you thinking this was prime Ag and we
14 just had a stub through anyway?

15 MR. BRAD HAWKINS-CLARK: I'm thinking we
16 need to think 15 years out, and if the sub street
17 doesn't get there now then it never will.

18 MS. ANGELA COMISH: What do you guy's
19 think?

20 MR. DON WILKERSON: In most cases, in a
21 subdivision they require stub streets to undevelop
22 ground and usually it's a cul-de-sac, it's a temporary
23 cul-de-sac. So like Brad said, 10 years from now, you
24 develop that as residential it's access to it.

25 MS. ANGELA COMISH: If that's what you want.

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1 Personally, I would say no because that's prime Ag and I
2 don't anticipate that it's going to change from prime Ag
3 but if we think that's the most appropriate thing to do
4 then lets -- we'll do it.

5 MR. DON WILKERSON: To me, if you put the
6 stub street straight through the west you're going to
7 have to increase the size of the PUD they're requesting
8 aren't you? Because you're going to go right through
9 the middle of that house.

10 MR. BRAD HAWKINS-CLARK: Well, correct. I
11 mean, it would involve a change to their plan. Again
12 I'm --

13 MR. DON WILKERSON: What if they stub
14 between those two units? Stub right through there.
15 It's going to put more traffic potentially in that area.

16 MR. STEVE ETHINGTON: That wouldn't keep the
17 designing your subdivision that would make a road that
18 would be about right.

19 MR. BRAD HAWKINS-CLARK: I'm not necessarily
20 suggesting to staff that it be built with the plat. It
21 could just be preserved.

22 MR. STEVE ETHINGTON: The houses would have

23 to be moved though.

24 MS. ANGELA COMISH: Since the whole thing is
25 part of our plat, correct, could we put one in this

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1 section here that we don't have anything shown in as far
2 as anything developed? Could we require one or two
3 accesses through here and could Roger show that?

4 MR. BRAD HAWKINS-CLARK: Isn't ITD -- did I
5 not hear you say that they're only allowing one?

6 MS. ANGELA COMISH: Exactly. So what's
7 going to happen then, is here's this approach and
8 there'll be a road that will continue this direction.
9 So you're just going to have an access in between these
10 two lots basically. A cross access agreement. Could we
11 simply specify that has to happen?

12 MR. BRAD HAWKINS-CLARK: I think it would be
13 important to have it fairly centralized.

14 MS. ANGELA COMISH: If this road continues
15 on, which I would assume it would, could you have one or
16 two right there? I don't know. What do you guys think?

17 MR. JIM HUTCHINS: Question. Is there plans
18 to develop on to the north?

19 MS. ANGELA COMISH: At this point, my client
20 has said not. Given this process thus far he's a
21 little discouraged but who knows.

22 MR. STEVE ETHINGTON: But 15 years from now
23 as the growth goes out that's going to be changed. You
24 could put one-acre lots in there. There'll be a
25 subdivision in there. It seems to me --

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1 MR. J. B.: But they might come off of Black
2 Canyon then with a road or --

3 MR. JIM HUTCHINS: They can't.

4 MR. J. B.: No. I'm talking about back --
5 we're talking about this Ag land. What's going to
6 happen back here, if they develop this whole area here,
7 there's going to have to be an access up here somewhere
8 and an access down here somewhere.

9 MR. JIM HUTCHINS: I don't think that
10 they'll ever allow an access because this drops off very
11 severely right at the edge of this property it drops
12 down into a very steep draw --

13 MS. ANGELA COMISH: Yeah. That was part of
14 our concern when we limited access here, was just
15 because of that.

16 MR. JIM HUTCHINS: -- and also off of this
17 corner. I don't think that there would ever be --

18 MS. ANGELA COMISH: The only way they would
19 ever do it is if you had a full central turn lane in the
20 middle so that people could get out of the lane of
21 traffic. That's the only way it would ever happen.

22 MR. JIM HUTCHINS: It's worse than Tom's
23 Cabin, which we discussed here a few minutes ago.

24 MR. J. B.: So on this house here, she'd
25 loose that. We'd make her take this straight in.

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1 MS. ANGELA COMISH: Or could it --

2 MR. J. B.: Could she jog into this lot here?

3 MR. JIM HUTCHINS: That was going to be my
4 suggestion would be that right into it as you do this,
5 put an easement jog over with a curve --

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6 MS. ANGELA COMISH: Yep.

7 MR. JIM HUTCHINS: -- and an easment through
8 there that could be recorded in future years.

9 MS. ANGELA COMISH: Yeah, and that we could
10 use for future.

11 MR. J. B. : Put the easement. I'm satisfied
12 yeah.

13 MS. ANGELA COMISH: Does that make sense?
14 What are you thinking, Steve?

15 MR. DON WILKERSON: It gives you an option
16 to look at.

17 MS. ANGELA COMISH: Exactly.

18 MR. DON WILKERSON: I think it should be
19 there because that's the way be look at other
20 subdivisions.

21 MR. STEVE ETHINGTON: What should be there
22 Don?

23 MR. DON WILKERSON: The future access to
24 this --

25 MS. ANGELA COMISH: Just an easement.

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1 MR. DON WILKERSON: -- as an extension to
2 that road.

3 MR. STEVE ETHINGTON: Just a jog in right
4 there?

5 MS. ANGELA COMISH: The jog right there.

6 MR. DON WILKERSON: Like Brad said, it
7 doesn't have to be constructed but it's showing on the
8 plat map, could be a future road.

9 MS. ANGELA COMISH: And if anybody ever did
10 purchase this from my client, they would know that is

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11 part of it and that easment is in there as recorded and
12 that covers everybody in case something ever did happen
13 down the road. Does that make sense?

14 MR. STEVE ETHINGTON: Does that satisfy the
15 staff?

16 MR. BRAD HAWKINS-CLARK: I have to see. I
17 mean, I do have concerns about just using the easment
18 for future right of way because we loose control
19 sometimes. Depending on how the easement is created
20 and --

21 MS. ANGELA COMISH: Well, that's something
22 that Roger can sit down with staff and we can develop an
23 easement that's worded appropriately.

24 MR. J. B.: What if you made them deeded, but
25 the big question we're asking is could you live with it

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1 jogging over into the north side --

2 MR. STEVE ETHINGTON: Instead of straight.

3 MR. J. B.: -- instead of being straight
4 through. Could you live with it jogging over to go just
5 beyond that to the north side, and maybe you don't want
6 the easement maybe you want it dedicated or deeded.

7 MS. ANGELA COMISH: But we only have to
8 construct to a certain point or something like that as
9 far as this PUD construction.

10 MR. J. B.: So our question -- my question to
11 you is could you live with it jogging accross on the
12 north side, Brad?

13 MR. BRAD HAWKINS-CLARK: To me the most
14 important thing is that in the future there's not just
15 one access to the north and one access to the south to

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16 get out of that 55 acre lot. I think there should be
17 some activity to the highway. So yeah, if it jogged,
18 that would be a traffic slowing device that would be
19 good too.

20 MR. J. B. : Okay.

21 MR. STEVE ETHINGTON: Okay.

22 MS. ANGELA COMISH: Okay. Let's just see, I
23 think we got like three left. CC&R's, prosecuting
24 attorney needs to review.

25 MR. DAVID HARGRAVES: Dave from the

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1 Prosecutor's office. The County's review of CC&R's are
2 very limited. It's just to make sure there's nothing
3 really confidential other than what we have in our
4 ordinances. If she wants anything specified in the
5 CC&R's you need to make that clear. Staff would have to
6 let me know to make sure to attend the CC&R's.

7 MS. ANGELA COMISH: Well I think Jim's
8 probably brought up the biggest point which I think is
9 the irrigation. And I think, as we've all discussed, if
10 we are to change these to official town homes we
11 definitely have to tighten those CC&R's so that our
12 building materials and that kind of stuff are all --

13 MR. STEVE ETHINGTON: And common areas need
14 to be maintained by one company.

15 MS. ANGELA COMISH: Exactly.

16 MR. BRAD HAWKINS-CLARK: Mr. Chairman, I
17 think this would be the appropriate place to talk about
18 signs too. The kind of designs of the signs --

19 MS. ANGELA COMISH: Yep, that's a good
20 point. All right, let's make notes to talk about that,

21 Brad.

22 MR. DON WILKERSON: Mr. Chairman, Don

23 Wilkerson.

24 MR. STEVE ETHINGTON: Don.

25 MR. DON WILKERSON: Talking on CC&R's, you

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1 gave us a draft here CC&R's for the townhouses, which
2 will change and CC&R's for the commercial center. You
3 do not have a board that controls the CC&R's for the
4 residential just for the commercial was that on purpose
5 or a reason behind that?

6 MS. ANGELA COMISH: No. I left that to my
7 client to provide those for me.

8 MR. DON WILKERSON: I don't think it would
9 be fair to the residential to be tied to a board that
10 mainly look at commercial.

11 MS. ANGELA COMISH: Yeah. I think they need
12 their own. Agreed.

13 MR. JIM HUTCHINS: Also in your CC&R's it's
14 recorded in Ada County.

15 MS. ANGELA COMISH: That's where his
16 attorney is so that's probably why that's brought up.

17 MR. JIM HUTCHINS: There's several
18 references to Ada county in the CC&R's.

19 MR. J. B. : The six individual homes should
20 they not be tied to the townhomes, I mean, because we're
21 looking at residential altogether shouldn't those CC&R's
22 somehow be tied together with --

23 MS. ANGELA COMISH: All the residential.

24 MR. DON WILKERSON: Because they're doing
25 away with what they call townhomes, they'll just have to

1 change the title to CC&R's. Also in the CC&R's it talks
2 about parking. On those residential units I don't see
3 any parking other than for the people that live there.
4 Where's the mom that comes to stay for a week going to
5 park her car? I don't see any parking in the
6 residential, unless you wanted to park over in the
7 commercial area. I wouldn't want to leave my car
8 overnight in the a commercial area.

9 MS. ANGELA COMISH: Agreed. You've got one
10 parking spot that's right in front of them plus the
11 garage but that's only adding one extra spot. So I
12 think we definitely --

13 MR. DON WILKERSON: Most people have two
14 cars and those are already gone.

15 MS. ANGELA COMISH: We definitely need to
16 account for some additional parking. That's a good
17 point. Agreed.

18 MR. DON WILKERSON: I guess there was a
19 concern about especially the townhouses or I guess
20 they're going to be individual houses, do you have
21 something in the CC&R's that will control that they are
22 kept up in a good manner, that the lots are maintained
23 and etcetera. It says here, enforcement in exterior
24 maintenance, and I guess again that's to the Board of
25 Directors whether there is no statement about the Board

1 of Directors. Also, I guess, just a thought here,
2 you're showing that on your annual assessment \$25 per
3 lot. Then over here, it says annual assess would

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4 collect on a monthly basis so you going to collect \$2.08
5 a month?

6 MS. ANGELA COMISH: That seems kind of
7 ridiculous. I'll have to clarify that and see whether
8 or not --

9 MR. DON WILKERSON: Yeah, you seem like you'd
10 want your annual assessment collected on an annual
11 basis.

12 MS. ANGELA COMISH: Exactly.

13 MR. J. B. : On your maintenance agreement I
14 have seen in subdivisions where there are townhouses
15 that have community property and then there are
16 individually owned homes but the individually owned
17 homes, their front yards are maintained by the same
18 company that does the townhomes and that's part of the
19 CC&R's and so it doesn't become to separate issues and I
20 would recommend that the lawns the front lawns be
21 maintained by the same CC&R's and company whose
22 maintaining your common area lawns and that way you're
23 gauranteed that these six houses don't end up being
24 something like over here on Locust.

25 MR. DON WILKERSON: You really address

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1 maintenance on the commercial but not too much on the
2 residential.

3 MS. ANGELA COMISH: Got ya. I believe that
4 probably one of the partners pulled that from another
5 project he had seen so it probably is not very
6 applicable to this. So I'll take that and take it
7 actually to the attorney, the commercial one and ask him
8 to help me draft it so it's consistant with that one.

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9 MR. DON WILKERSON: Then again, there's got
10 a clause in there about not providing pressurized
11 irrigation, which you ought to address that.

12 MS. ANGELA COMISH: Yep, got that one. Got
13 that one.

14 Okay. Item 16, fire. Actually talked today
15 with Rick about fire protection and as I told him we are
16 putting in a central well. He says, "are you going to
17 put in hydrants?" I said yes I am and he said "that's
18 perfect." So, we'll have hydrants put in and definitely
19 of course the commercial will be sprinkled. I think
20 we're good to go there.

21 Local streets will come through Gem County
22 Road Department. Applicant should meet with Kim Reed.
23 I'll be happy to meet with them. I didn't realize that
24 he hadn't gotten any sort of comments back until I read
25 this late last week. So I'll definitely check with him

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1 He's had it since 1st of December or November but if I
2 need to get with him and double check and make sure he's
3 okay with our approaches of things we definitely can do
4 that.

5 MR. STEVE ETHINGTON: You know, Angela, it
6 seems like on all sixteen of these you got most of them
7 taken care of. There's just a few that I think is going
8 to require us to continue this. So, you want to review
9 those it looks like, and help me if I've missed one but
10 number 8 the sign issue needs to be addressed and the
11 surface water, number 12 needs to be addressed with the
12 staff.

13 MR. J. B.: Are we really saying that's

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14 drainage water? Where is the rain going when it drains?

15 MR. STEVE ETHINGTON: Irrigation. And then
16 the traffic study, number 11, needs to be addressed as
17 well as the neighborhood meeting, as well as the CC&R's
18 with the residential and limited parking for the
19 residents needs to be addressed. Is there anything
20 else?

21 MR. DON WILKERSON: Also number 14. The
22 stub street needs to be addressed.

23 MR. STEVE ETHINGTON: Stub street.

24 MR. JIM HUTCHINS: Mr. Chairman.

25 MR. STEVE ETHINGTON: Jim Hutchins.

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1 MR. JIM HUTCHINS: On your CC&R's, the right
2 farm act is not worth the paper that it's written on.
3 There's been numerous court cases that it's just been
4 thrown at. You're butting houses up against
5 agriculture. Farmer's bail at night. There's dust,
6 there's machinery noise, there's a burning ordinance if
7 they burn a field. How is this going to be addressed
8 because --

9 MR. STEVE ETHINGTON: You're recommending,
10 Jim, that they put that in the CC&R that they sign they
11 realize it's a farming area and they should probably --

12 MS. ANGELA COMISH: Yeah, I think that's
13 appropriate.

14 MR. JIM HUTCHINS: -- because there's cases
15 after cases that have gone to court and the right to
16 farm act is not worth a darn.

17 MS. ANGELA COMISH: I have a friend in Nampa
18 that's struggling with that right himself so I know

19 that's valid.

20 MR. J. B.: It just gives the farmer one more
21 tool.

22 MR. STEVE ETHINGTON: Good point, Jim.

23 MS. ANGELA COMISH: Yeah. One more tool that
24 says you are aware that you are living next to an active
25 agricultural farm.

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1 MR. DAVID HARGRAVES: We do have an
2 ordinance in Gem County as well, that relates to that.

3 MR. STEVE ETHINGTON: I don't think you're
4 going to put that in to many places though. Is there
5 anything else that we have here that -- we need to move
6 on here -- is there anything else that she needs to
7 address?

8 MR. DON WILKERSON: Mr. Chairman.

9 MR. STEVE ETHINGTON: Don Wilkerson.

10 MR. DON WILKERSON: I noticed in your
11 application you want an exception to the height of the
12 buildings.

13 MS. ANGELA COMISH: No. The building
14 height, I think is 30 feet. I think Brad had noted that
15 we had shown the three story units and like I said that
16 shouldn't have been in there. It's the two story units
17 and those are below 30 feet.

18 MR. STEVE ETHINGTON: How do -- that's one
19 thing that I think what you mean is the reduced lot from
20 one-acre. That's what you need to address too is the
21 exact dimension of the lot --

22 MS. ANGELA COMISH: Exact square footage.

23 MR. STEVE ETHINGTON: -- minimum lot size.

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24 MR. DON WILKERSON: Sounds like we're on
25 board on the height. How about set backs? An MX says

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1 you have to have a 30 foot set back on the frontage.

2 MS. ANGELA COMISH: I'm going to trust my
3 handy dandy surveyer over there that he's taken care of
4 that.

5 MR. DON WILKERSON: Side street 30 foot set
6 backs.

7 MS. ANGELA COMISH: He's nodding his head.

8 MR. DON WILKERSON: Well, with your houses
9 there I don't see how you get 30 foot set backs on the
10 street.

11 MS. ANGELA COMISH: Oh, you mean between
12 them.

13 MR. DON WILKERSON: No. Frontage.

14 MS. ANGELA COMISH: Frontage.

15 MR. DON WILKERSON: And side. 30 foot on
16 the side street, 30 foot in the front.

17 MS. ANGELA COMISH: I can't recall, Roger,
18 but I believe this at least 20 or 24 feet it seemed like
19 from that property line to the sidewalk.

20 MR. DON WILKERSON: She said it wasn't going
21 to be a private road.

22 MR. J. B.: No it's driveways. That's all
23 interior driveways. It's not private road.

24 MR. DON WILKERSON: I guess that's a
25 question to the staff. Do they have to maintain those

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1 set backs on the residential portion of those,

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2 eventhough it's driveways, private road, etcetera?

3 MR. BRAD HAWKINS-CLARK: I would say from
4 our Building Department, that we just need a clear set
5 of what is approved for that area. I mean, the
6 ordinance addresses a public street. So if the
7 commission is going to lean toward approval of this,
8 then I think as they're proposing it then we would need
9 to address what set backs we do want to set, but 30 foot
10 would not apply in that area because the ordinance is
11 really only a public street.

12 MS. ANGELA COMISH: But if that street that
13 goes through there is a public street, then it does
14 apply. So let me just check. I think I checked it
15 before I left, and that scales to that property line.
16 It looks like it's about 24 feet. And the one on the
17 other side is also about that same as well.

18 MR. DON WILKERSON: See the rear of
19 residential you only need 8 foot set backs. So, I'm
20 just talking about the front and the side streets. So
21 how much do you scale on the front of those houses for
22 set backs?

23 MR. STEVE ETHINGTON: You said 20 foot,
24 Angela, is that right?

25 MR. J. B.: 24, she said.

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1 MR. STEVE ETHINGTON: 24.

2 MR. BRAD HAWKINS-CLARK: That would be the
3 rear.

4 MR. DON WILKERSON: That's the rear of them
5 The front of them

6 MS. ANGELA COMISH: Well from the front of

7 the building to the front of the building across from it
8 appears to --

9 MR. DON WILKERSON: No. That wouldn't be
10 it. From the building to the curb, on the street, on
11 the same side.

12 MS. ANGELA COMISH: It appears that it's
13 about 16 feet.

14 MR. DON WILKERSON: Well, I think you need
15 to write that in your application, what it is and see if
16 we agree but maybe that's a discussion we need to make
17 tonight --

18 MS. ANGELA COMISH: But I think one thing we
19 were talking about is that this in fact is a public road
20 but this in fact is just a driveway.

21 MR. DON WILKERSON: Okay and that's just
22 something that maybe the staff needs to look at. Okay.
23 While we're at it, do we need to make an exception for
24 amendment to the concept to increase the acreage size
25 for this? Directed to Brad. Where we had a motion to

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1 approve the concept PUD at about 11 acres and they've
2 increased the size.

3 MR. STEVE ETHINGTON: If they continue this
4 and I mean if I understand this right, for a continue
5 and that's what you are, when they come back then how
6 about an increase at that time approve it?

7 MR. STEVE ETHINGTON: Okay.

8 MR. J. B.: Since it's the state that's
9 requiring the 1,000 feet for the road, they're ending up
10 with the extra acre.

11 MR. DON WILKERSON: Well I just want to know

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12 if we have to make an amendment to the motion that you
13 made or the concept. I'm just asking a question.

14 MR. J. B.: Brad or David, should we?

15 MR. DAVID HARGRAVES: My personal thought, I
16 mean my thought on that is the concept is fairly
17 general. I don't feel it needs amendment. It still
18 meets with the concept that was presented.

19 MR. J. B.: Its not a huge difference.

20 MR. DON WILKERSON: Page 95 of the ordinance
21 on PUD's it states residential with commercial or
22 industrial use minimum size on PUD's five acres for
23 residential use with subordinant commercial or
24 industrial uses. I read that as, on a PUD you have to
25 have a minimum of five acres of residential, regardless

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1 of the size of the PUD. Page 95 of the new ordinance.

2 MR. BRAD HAWKINS-CLARK: Right. Chairman, I
3 guess I would classify this as C.

4 MR. STEVE ETHINGTON: What page?

5 MR. BRAD HAWKINS-CLARK: 95.

6 MR. DON WILKERSON: So you're saying it's a
7 commercial PUD.

8 MS. ANGELA COMISH: Yeah, because there's
9 greater acreage of the PUD or of the commercial than the
10 residential.

11 MR. DON WILKERSON: Okay, and then that
12 doesn't address the residential. So, with the
13 commercial, do they still need 10 percent of the
14 property to be open space? In their drawings they only
15 show .98 acres or 9.59 acres as common space.

16 MS. ANGELA COMISH: Actually, I'm thinking

17 that's probably bigger because these three lots are all
18 common space as well as the central well would be part
19 of that as well and I was thinking -- Roger, wasn't that
20 quite a bit bigger?

21 MR. DON WILKERSON: The notes just say here
22 you got .59 acres of common area and if it's 10 percent
23 it's got to be almost 1.3.

24 MS. ANGELA COMISH: I'll double check that
25 with Roger.

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1 MR. STEVE ETHINGTON: Brad, this is the new
2 copy of our -- we were dealing with a PUD where it was
3 residential minimum was one acre. This one says three
4 acres for residential. Now, is this a type-o?

5 MR. BRAD HAWKINS-CLARK: Well, three acres
6 would be the total parcel size that you could even apply
7 for a PUD.

8 MR. STEVE ETHINGTON: All right. I got you.
9 We're dealing with one-acre individual lots.

10 MR. DON WILKERSON: Okay. Also it mentions
11 here that no more than eight townhouses in any
12 continuous group, even though you're changing those
13 you're not calling them townhouses, they're going to go
14 to two stories? Those 12?

15 MS. ANGELA COMISH: These 12 are 2 story.
16 These six are also two story.

17 MR. DON WILKERSON: Yeah but, those 12, even
18 though they have a common wall, to me they're considered
19 townhouses. They're still townhouses.

20 MS. ANGELA COMISH: Yep and there's three of
21 them together there, three of them together there, three

22 there, and three there.

23 MR. DON WILKERSON: Is that considered a
24 continuous group or do they have to be touching?

25 MR. BRAD HAWKINS-CLARK: It is an

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1 interesting point. I've never seen that in an
2 ordinance. I guess I interpreted it to be one building.

3 MR. DON WILKERSON: Eight units at one
4 building?

5 MR. BRAD HAWKINS-CLARK: Yeah.

6 MR. DON WILKERSON: So if they had ten in
7 one building, they would violate the ordinance then.
8 Okay.

9 One last item on my side. I'm a little
10 concerned about your private driveways between the
11 residential units. Getting in and out. Your going to
12 be backing fire trucks up or I don't know where your
13 fire hydrants are going to be located. But, does the
14 fire district have a concern with that? Has it been
15 addressed with the applicant at all?

16 MS. ANGELA COMISH: The only thing that he
17 and I discussed today was the fact that we would
18 definitely be putting in fire hydrants to accomodate
19 those. But if there's something that we need to do
20 additionally in order to get either radiuses or widths,
21 or whatever he's got to have in there, obviously we're
22 going to comply with whatever he needs.

23 MR. STEVE ETHINGTON: Have you talked to him
24 about the radiuses he needs?

25 MS. ANGELA COMISH: I haven't but I can

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1 definitely do that. We can change those radiuses if we
2 need to and if we need to make those throats --

3 MR. STEVE ETHINGTON: Okay. I would check
4 with him and have him approve it.

5 MS. ANGELA COMISH: -- if we need we need to
6 make those throats bigger we can.

7 MR. DON WILKERSON: Maybe another option to
8 look at is to make that private drive and stub it clear
9 into central where they can come in and go out they
10 don't have to back up or things like that. Just a
11 thought you might want to look at.

12 MS. ANGELA COMISH: Yeah. I know. I
13 thought about that. I guess I'm really trying to be
14 courteous to these people over here on this side and
15 trying to limit the number of accesses but I see your
16 point.

17 MR. DON WILKERSON: Well, the guy that has
18 his house burn down probably isn't going to be worried
19 whether you're courteous or not.

20 MS. ANGELA COMISH: That's a good point.

21 MR. JIM HUTCHINS: Could that be a gated
22 access?

23 MR. J. B.: Could it be gated?

24 MS. ANGELA COMISH: That's a possibility.

25 MR. J. B.: They do that over at Plantation

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1 Golf Course. There's a road that's not used for
2 anything except fire engines, if they need to come in.

3 MS. ANGELA COMISH: The depth of this is
4 only from the edge of this driveway the depth is about

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5 140 feet. So I don't know as far as fire truck
6 access --

7 MR. STEVE ETHINGTON: Angela, what I would
8 do on that is -- we got to move on here -- just the get
9 approval of the Administrator and work it out with him
10 and as long as he approves it, we'll be happy with it.

11 MS. ANGELA COMISH: Got ya.

12 MR. DON WILKERSON: One last item I think
13 you need to discuss -- well I think it's already been
14 mentioned, pardon me -- you got a 40 foot easement along
15 the south side of this project totaling right?

16 (Ms. Angela Comish nods head, yes.)

17 MR. DON WILKERSON: Okay, thanks.

18 MR. STEVE ETHINGTON: Any other items from
19 the commission? Okay, we need to have a motion.

20 MR. BRAD HAWKINS-CLARK: Since this is a
21 public hearing I don't know if you want to --

22 MR. STEVE ETHINGTON: Oh, yes. All right,
23 Angela, thank you.

24 MS. ANGELA COMISH: Thank you.

25 MR. STEVE ETHINGTON: Is there anyone from

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1 the public that want to say a few words before we
2 continue this? Come on up and state your name.

3 MR. KARL PETERSON: Karl Peterson. I live
4 at 2434 Haw Creek. I was just curious. Is there a
5 requirement for a berm on that residential side there?

6 MR. STEVE ETHINGTON: Only on a state
7 highway is required the berm, I believe.

8 MR. KARL PETERSON: I was just curious from
9 the other discussions that we had.

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10 MR. STEVE ETHINGTON: Yeah. But I tell you
11 at what time they will address the landscape issue will
12 be during the preliminary plat, and if you have any
13 issues then if you're a concerned neighbor there, by all
14 means, get involved.

15 MR. KARL PETERSON: Okay. Will we have
16 opportunity in the continuance to be able to speak?

17 MR. STEVE ETHINGTON: Yes. Absolutely.

18 MR. KARL PETERSON: Okay.

19 MR. STEVE ETHINGTON: All right. Any other
20 from the public before we close this? Okay, go right
21 ahead.

22 MS. SHERRY GORDON: My name is Sherry
23 Gordon. I live on Scenic Drive, two blocks east of
24 Central and Washington, and I'm just very concerned
25 about the traffic situation on because there's a lot of

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1 traffic on Central Avenue. There's a lot of traffic on
2 Washington. And I would think that a middle turn lane
3 would be the only thing that would be safe between the
4 edge of the development -- let's see how do I say this
5 -- between Central and Black Canyon because there are
6 homes all along the other side and a near turn lane on
7 the west side of the road would only help the traffic
8 situation for people going south on Washington and
9 people who turn off of Black Canyon on to Washington
10 going south are usually in a big fat hurry and have to
11 be in order to accommodate the other traffic because you
12 can't see there as you turn onto the road very well. So
13 you really have to speed up when you're merging. So I'm
14 just wondering what kind of accommodations are going to

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15 be made for this whole problem here. Like is there
16 going to be a light at Central and Washington at some
17 point? That sort of thing is my big concern.

18 MR. STEVE ETHINGTON: One of the things
19 they're required to do is come back with a traffic
20 study. So, I would definitely attend the next continued
21 hearing because that will be addressed.

22 MS. SHERRY GORDON: Yeah.

23 MR. STEVE ETHINGTON: And I can see that
24 being a real issue.

25 MS. SHERRY GORDON: So, I just wonder for

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1 general purposes I guess, what a neighborhood is
2 considered to be. How far does the neighborhood extend
3 because I never heard about this. I was gone during the
4 summer but, I mean, people on Scenic Drive didn't get
5 any notices or anything.

6 MR. STEVE ETHINGTON: 300 feet is the
7 requirement.

8 MS. SHERRY GORDON: 300 feet. But when its
9 along a highway, at a major cross section, I would think
10 it would be nice to notify other people who are
11 effected. You know, driving through there all the time,
12 walking through there so that's all. Thank you.

13 MR. STEVE ETHINGTON: You bet. It's also in
14 the paperm, in the public hearing parts. But I know
15 that's a pretty boring thing to read all the time too.

16 MS. SHERRY GORDON: I was gone.

17 MR. STEVE ETHINGTON: Okay. Anybody else in
18 the public like to say a few comments? All right. We'd
19 like to close this portion of the public hearing.

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20 MR. DAVID HARGRAVES: If you could just
21 allow the applicant to address any of the concerns.

22 MR. STEVE ETHINGTON: Would the applicant
23 like to address this now or do you want to wait until we
24 continue it?

25 MS. ANGELA COMISH: I think that we'll just

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1 go ahead and wait just because obviously, those are
2 going to be impacted. The state's going to address
3 those. The one thing I would like to ask though, is we
4 talked about it did state in Brad's report the timing of
5 these studies. There's a number of studies and things
6 that I have to get completed. Are we going to require
7 those to be done before your next hearing?

8 MR. STEVE ETHINGTON: I would think they
9 have to be done.

10 MS. ANGELA COMISH: So I'll do those
11 Christmas Eve, Christmas Day?

12 MR. STEVE ETHINGTON: Those are pretty big
13 issues to the public and stuff so we ought to. If you
14 need more time we could make the schedule for February.

15 MR. J. B.: What if we continue this to
16 February.

17 MS. ANGELA COMISH: Well, I'll check and
18 I'll talk with Brad about it but there's a good chance
19 that we may need to do that because there's a lot of
20 stuff that needs to be done and I want to make sure I do
21 a thorough job of it and obviously I have to get it in
22 time for you to take a look at and it review it as well.
23 So it might be more appropriate if we continue it in
24 February.

25

MR. J. B. : Are you going to be offended if

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1 we go until February?

2

3

MS. ANGELA COMISH: No. I think that February would probably be appropriate.

4

MR. STEVE ETHINGTON: Thanks, Angela.

5

6

MR. J. B. : I move that we continue this PUD that's in front of us until February.

7

MR. STEVE ETHINGTON: Okay.

8

MR. DON WILKERSON: I second.

9

MR. STEVE ETHINGTON: All those in favor say

10 I.

11

(Vote unanimous.)

12

MR. STEVE ETHINGTON: Unanimous. February meeting we'll continue this hearing.

14

MR. BRAD HAWKINS-CLARK: Mr. Chairman.

15

MR. STEVE ETHINGTON: Yes.

16

MR. BRAD HAWKINS-CLARK: Can I just clarify the motion? Was that for both applications?

18

MR. STEVE ETHINGTON: Both applications, the preliminary subdivision plat and the final PUD.

20

MR. DAVID HARGRAVES: And what's the date in February?

22

MR. STEVE ETHINGTON: February 12th. That's the second Monday is February 12th.

24

MR. DAVID HARGRAVES: The reason I ask,

25

Mr. Chairman, it helps us with the noticing

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1 requirements. Helps us out so --

2

MR. J. B. : So we continue in both, is that

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3 the end of the public hearing?

4 MR. STEVE ETHINGTON: Well, let's move along
5 because it is getting late. The next one we want to
6 hear from is the preliminary subdivision plat Black
7 Stone also. No, excuse me, we are done. Now it's the
8 regular meeting. Okay. Yeah okay. We need to discuss
9 the Woods Ranch preliminary. Take it away, Brad.

10 MR. BRAD HAWKINS-CLARK: Chairman. So I
11 think what you did at the beginning of the meeting was
12 you moved the decision of Woods Ranch preliminary plat
13 down to this item. So really what you have before you
14 right now is a written decision on the preliminary plat,
15 which you closed the public hearing at your last
16 meeting. So I think if you wanted to, you could open it
17 up, but I wouldn't necessarily recommend that. So you
18 have your preliminary plat decision written up from your
19 last meeting. That's what's before you. The final
20 planned unit development was not noticed as a public
21 hearing. The ordinance doesn't require it, but you
22 could take information from the applicant if you wanted
23 to on the planned unit development since that was not a
24 closed hearing at your last meeting it's really just for
25 your review. So I think you have two decisions before

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1 you. One decision is the preliminary plat, and then the
2 other decision that's already written up is the planned
3 unit development. As my memo pointed out, the big thing
4 here is that at your last meeting you made a motion to
5 approve the concept but at 78 lots and the reason that
6 you stated was because you wanted to see -- you would
7 entertain something more than 78 lots if they provided a

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8 central well. On your desk tonight was a letter from --
9 well the cover sheet says Harris Construction but the
10 letter's actually from Frank Skinner, S. O. S. Well
11 Drilling and Pump regarding the possibilities of a
12 community well. It says in the second paragraph in this
13 area, individual wells would work better than community
14 wells. The applicant also sent in an e-mail from
15 another -- stating that they had talked to Mr. George
16 Post, another well driller who had a similar comment.
17 There was not a letter from Mr. Post about water in the
18 record. It's simply a representation of a conversation
19 on the phone. So to be honest with you, the staff -- I
20 struggled with this because your motion on the
21 preliminary plat said that you would approve the
22 preliminary plat. Well, the old preliminary plat had 89
23 lots, but then your planned unit development motion said
24 you approved the concept with 78 lots. Since most of
25 the discussion, which was kind of spear headed by

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1 Commissioner Jensen, dealt with the well and that seemed
2 to be what was driving it and you also wanted
3 information about the possibility of a community well
4 out here that's what they're attempting to do with these
5 two well drillers who have experience in the area is to
6 demonstrate that they do not believe that a community
7 well would be in the best interest and that individual
8 wells would work. So I think number one if you chose to
9 support their argument, then the way that the decisions
10 are before you it's pretty clean. If you decided that
11 you disagreed with their argument and you still wanted
12 to have it at 78 lots, then there would be 5 acre lots.

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13 Not what you see before you. And I think it would
14 substantially change the layout and the streets.

15 MR. STEVE ETHINGTON: The open spaces too.

16 MR. BRAD HAWKINS-CLARK: Well, there
17 wouldn't be any open space required because there would
18 be no PUD. It would not be necessary to have a PUD at
19 78 lots because they would not need an exception to go
20 below five acres because 78 lots is five acres. So does
21 that make sense?

22 MR. STEVE ETHINGTON: Mm-hmm.

23 MR. BRAD HAWKINS-CLARK: So what you see in
24 terms of the pathway and the open space and the three
25 acres and new park in there would all go away,

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1 presumably -- this is my conversation with the
2 applicant -- because there would be no necessity for the
3 planned unit development, which is what is requiring
4 these amenities and which is requiring the open space.
5 So if you went with a denial of the PUD that's on here
6 tonight, then I think that would be the outcome is that
7 they would basically have to come back to you with a
8 completely new plan, a new drawing that would show it at
9 five-acre lots. We would not have a PUD and then you
10 would basically just have a preliminary plat application
11 before you only.

12 MR. J. B. : This was last month right? Don,
13 you weren't here were you?

14 MR. DON WILKERSON: No, I wasn't.

15 MR. J. B. : Mr. Chairman.

16 MR. STEVE ETHINGTON: J. B.

17 MR. J. B. : Trying not to speak for Brent, he

18 and I were having most of the discussion regarding the
19 lots.

20 MR. STEVE ETHINGTON: You mean the water
21 issue?

22 MR. J. B. : Yeah. The water issue. They
23 were asking for a variance. Don, they were asking for a
24 variance to allow the higher density and the extra lots
25 and Brent's position was really, if you're asking us for

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1 a variance, then we want you to put -- we can't require
2 it, but we would favorably look at the higher density if
3 you put in community wells and if you don't want to do
4 the community well that's fine that's your choice but if
5 you choose not to put that forward then we really have
6 no reason to go with the higher density. So we were
7 trying to protect the community on the water issues and
8 I'm going to stand by that if they're going to stand by
9 their well drillers to say it will support that's fine
10 with me at the 78 lots. If they want the higher number
11 of lots then they would have to be coming and saying you
12 know, I know it's not required but in consideration of
13 other wells in the area and this and that we're willing
14 to put in that because we would like the higher density.
15 So, my position would remain the same. I came to agree
16 with Brent on that after further discussion.

17 MR. STEVE ETHINGTON: How would you address,
18 J. B., where they got the open spaces and the pads?

19 MR. J. B. : It's not required because they
20 wouldn't have to have a PUD it's not required.

21 MR. STEVE ETHINGTON: I mean, if we accept
22 what they got here -- if we don't accept what they got,

23 then it would decrease the lots -- decrease the size of
24 the lots, and do away with the pathways and --

25 MR. J. B.: Over five acres they're not

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1 required and over five acres we don't have requirements
2 for the common areas and such.

3 MR. STEVE ETHINGTON: I know that. I'm just
4 saying, do you like the way they've got that concept
5 all --

6 MR. J. B.: Oh, I like the concept but I also
7 like the concept of give me the community wells with
8 this. You're asking for an exception to the rule by
9 allowing the higher density.

10 MR. DAVID HARGRAVES: Mr. Chairman.

11 MR. STEVE ETHINGTON: Mr. Hargraves.

12 MR. DAVID HARGRAVES: I'm not sure I'm
13 understanding the well issue. Did the report come back
14 and say that it wasn't necessary or that it would not be
15 good to have the well there? Could we get some
16 clarification on that?

17 MR. J. B.: It wasn't required.

18 MR. DAVID HARGRAVES: I mean, from a water
19 experts stand-point.

20 MR. STEVE ETHINGTON: Correct me if I'm
21 mistaken but Brent and your issue, J. B., was the fact if
22 you had the deeper wells, you'd have less chance of
23 polutance in the well and what not, right?

24 MR. J. B.: Less chance of drawing other
25 wells down. Less chance of that, and so having fewer

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1 wells and -- as David asked, what are the exact words
2 from the well driller?

3 MR. DAVID HARGRAVES: I'm just wondering if
4 the well drillers report supports what you're saying
5 about drawing down the well. I mean, drawing down other
6 wells in the area.

7 MR. J. B.: The five acres can handle a well
8 on each land or whatever the lot sizes are.

9 MR. STEVE ETHINGTON: Basically what you're
10 saying is you have less sulfur the way the aquafer is in
11 shallower wells than a deeper well you'd pick up the
12 sulfur. My wells only 15 feet deep and I got sulfur. 50
13 feet.

14 MR. DAVID HARGRAVES: So the sulfur, that's
15 going to effect those that are hooked up to the well.
16 The central well right?

17 MR. DON WILKERSON: What he's saying is, if
18 they go deeper, they will get into the sulfur. So,
19 you're right, if they have a community well they could
20 have sulfur in the water. But also, we here testimony
21 and there's written testimony here that in that area
22 -- maybe not in that same area but in that general
23 area -- people turn on their sprinkler system, it sounds
24 like it draws down the other wells in the area. There's
25 other factors that may be involved but one example is

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1 someone turned on their sprinkler system, it must be a
2 big sprinkler system, so their quality of water or
3 quantity of water drops down.

4 There's ways to probably mitigate that
5 sulfur through treatment. If they drill a common well

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6 that's 200 foot deep or however far they have to go to
7 get water. But I think to answer your question, the
8 deeper you go the more chances you're going to have to
9 have sulfur.

10 MR. STEVE ETHINGTON: Then we're looking at
11 more -- we were more concerned about the neighboring
12 quantity of water rather than the quality of the sulfur.
13 The sulfur you can treat.

14 MR. DAVID HARGRAVES: I thought that water
15 was not an issue out there. I mean, we're talking about
16 a building in swamp land. So I didn't think water
17 quantity was ever an issue out there.

18 MR. STEVE ETHINGTON: That's surface water.

19 MR. DON WILKERSON: I think it's the quality
20 not the quantity.

21 MR. DAVID HARGRAVES: Yeah. I mean, that's
22 my understanding. It's the quality not quantity.

23 MR. STEVE ETHINGTON: Well what they're
24 saying though too is -- what he's saying though is, and
25 I'm trying to decipher this too, is that there's not a

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1 lot of -- it effects the wells out there. Right now
2 they're having problems with some of the wells.

3 MR. DON WILKERSON: And that may be where it
4 comes into the quantity.

5 MR. DAVID HARGRAVES: Did somebody testify
6 about that in the hearing? Is that where that came
7 from?

8 MR. DON WILKERSON: It's in the
9 documentation here that it draws down the wells.

10 MR. STEVE ETHINGTON: And I guess that was

11 the issue.

12 MR. DON WILKERSON: I think that's where
13 J. B. and possibly Brent Jensen were discussing it.
14 Shallow wells in this area will probably, most likely,
15 effect other wells that's already there.

16 MR. J. B.: And Brent was much more adamant
17 about it. My first notion was to approve the entire
18 thing. It did not pass. Brent -- the question came,
19 "what could you support tonight to give them an initial
20 go ahead," and Brent said well, I could approve the 78
21 for an initial go ahead, and if they want the addition
22 lots, I would have to see that they were doing something
23 to address water. We can't tie them together. We can't
24 require it. So we said take it back, submit what you
25 want to and we'll make the decision. They have

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1 submitted it tonight, as far as what I can see, with
2 individual wells and so I am opposed to the higher
3 density, the way they've submitted it.

4 MR. DON WILKERSON: A question to Brad, if
5 they don't have the PUD, 300 and some acres divided out
6 by five comes out to 77 plus lots, 77.2 I think. Is
7 that the total acreage including the slough? Is that
8 the total acreage and maybe the engineers can say that.
9 Does that include from Idaho Boulevard clear to
10 Morehouse Road? So when you take out the slough, and
11 you take out the roads, and if you've got to have a
12 deeded lot of five acres, you're going to have less than
13 78 lots, right?

14 MR. STEVE ETHINGTON: Are we addressing it
15 to them now or are going to open it up?

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16 MR. DON WILKERSON: I'm addressing this to
17 Brad.

18 MR. BRAD HAWKINS-CLARK: Well, my
19 interpretation of that would be that the only part that
20 they couldn't put into new private individual lots would
21 be land that today is owned fee simple by another
22 entity.

23 MR. DON WILKERSON: Okay.

24 MR. BRAD HAWKINS-CLARK: So that would meet
25 for example, the seven-mile slough is not owned from

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1 what I've be able to tell. Now there was some earlier
2 argument that maybe the Department of Lands actually
3 owns the land underneath the slough. That's a question
4 but -- so they would have the five-acre lots that would
5 include the slough.

6 MR. DON WILKERSON: Okay, but do you have to
7 take out roads to be able to come up with their
8 five-acre deeded lots? So to me that would decrease
9 number of lots available to them to build on. If you
10 take that out of the acreage, forget about the slough,
11 you take it out of the acreage, to me, they would have
12 less than 78 available lots if they wanted to come in
13 with their subdivision without a PUD.

14 MR. BRAD HAWKINS-CLARK: Right. To answer
15 your question, they would have to come back with
16 five-acre minimum lots.

17 MR. STEVE ETHINGTON: Doesn't the five acres
18 include the centerline of the roads?

19 MR. DAVID HARGRAVES: If its deeded it
20 doesn't.

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21 MR. STEVE ETHINGTON: It doesn't. Okay.

22 MR. DAVID HARGRAVES: That's typically the
23 way -- I mean in my experience. Minor subdivisions and
24 things like that when they --

25 MR. J. B.: But we've talked about making

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1 things and that -- a guy's got 20 acres, by the time he
2 cuts it to four and we've given him a little bit of the
3 road, it's no longer five deeded, but it was the
4 intension was there.

5 MR. DAVID HARGRAVES: We just don't have
6 that built in to our ordinances is the problem

7 MR. STEVE ETHINGTON: Okay.

8 MR. J. B.: So I make a motion that we deny
9 the application of the increased number of lots.

10 MR. STEVE ETHINGTON: You're wanting to
11 reject it with --

12 MR. J. B.: I reject it with their higher
13 density.

14 MR. DON WILKERSON: Just to clarify, you're
15 addressing the PUD only right.

16 MR. DAVID HARGRAVES: Mr. Chairman, before
17 you vote on it we have some other side bar information
18 about the motion but go ahead and just give us a shot
19 when you're done there.

20 MR. J. B.: Now's as good of time as any.

21 MR. DAVID HARGRAVES: Is it?

22 MR. DON WILKERSON: Yeah. I second the
23 motion.

24 MR. STEVE ETHINGTON: Well, this is for the
25 PUD.

1 MR. DON WILKERSON: Right.

2 MR. STEVE ETHINGTON: All those in favor?

3 MR. J. B.: Dave had wanted some information
4 before we voted on it.

5 MR. DON WILKERSON: Now I think it's
6 discussion on the motion, right?

7 MR. STEVE ETHINGTON: Oh, discussion on the
8 motion.

9 MR. DAVID HARGRAVES: We need to clarify the
10 condition that was placed on the -- the approval, the
11 conditional approval about the wells. The applicant
12 thinks that the motion was worded a little bit
13 different, that it may have given an option for deep
14 wells.

15 MR. STEVE ETHINGTON: Let's clarify this
16 right now. We are dealing with the woods river
17 preliminary plat.

18 MR. DAVID HARGRAVES: We're on the PUD right
19 now.

20 MR. STEVE ETHINGTON: Okay right. Excuse
21 me. I was looking at the top here where we moved it
22 from the consent agenda down. So we're working on the
23 PUD. And so what was your question then, Dave?

24 MR. DAVID HARGRAVES: The applicant thinks
25 that the motion was made so that it could be a community

1 well. It would be deep and wouldn't draw down other
2 wells in the surrounding area or it could be individual
3 wells that it were drilled deep enough that it wouldn't

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4 draw down. He thinks that was part of the motion.

5 MR. STEVE ETHINGTON: Last time.

6 MR. DAVID HARGRAVES: Last time, yeah.

7 MR. STEVE ETHINGTON: Last time the motion

8 was we agreed on the 78 lots and then it was --

9 MR. J. B.: We agreed on the 78 lots last
10 time. Dave, we couldn't tie in the wells.

11 MR. STEVE ETHINGTON: We couldn't tie in the
12 wells. We sort of said hey, unless we come up with
13 something different --

14 MR. J. B.: We couldn't make it a condition
15 on the approval.

16 MR. STEVE ETHINGTON: Tying in the deeper
17 well.

18 MR. J. B.: We couldn't tie in the wells --

19 MR. STEVE ETHINGTON: To be deeper, with the
20 central well being deeper.

21 MR. DAVID HARGRAVES: If you couldn't tie it
22 in --

23 MR. STEVE ETHINGTON: With the PUD.

24 MR. DAVID HARGRAVES: -- as a condition for
25 PUD approval, how can you make that your basis of your

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1 decision for denying it then.

2 MR. J. B.: He was asking for an exception
3 for higher density and we said no.

4 MR. STEVE ETHINGTON: So we did approve the
5 PUD last month for 78 homes, and so what we're doing
6 now, if they came in with higher than 78 homes, we have
7 to deny it because we're approving the 78 homes that we
8 approved last month.

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9 MR. J. B. : Brad, help me here. We approved
10 78 lots last time. We denied the higher density last
11 time and we approved their 78 lots.

12 MR. DAVID HARGRAVES: I don't see any
13 conditions in there, in the minutes.

14 MR. J. B. : There are not conditions. We
15 could not make them conditions. Brent specifically
16 said, "if you want the higher density, you would have to
17 be coming to us with something just to warrant the
18 exception. "

19 MR. STEVE ETHINGTON: That wasn't tied as a
20 condition though.

21 MR. BRAD HAWKINS-CLARK: This is Brent
22 Jensen talking at the last public hearing, "there needs
23 to be a guarantee there will be water in the slough 12
24 months out of the year. The applicant is asking for a
25 density bonus. But I feel that even if the State

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1 approves a well for every acre, we know that it might
2 not be the best plan for the county and I think the
3 developer needs to consider some deep wells or deep
4 community wells versus several shallow wells to protect
5 the neighboring artesian wells and the neighboring
6 shallow wells. "

7 MR. STEVE ETHINGTON: He was touching on two
8 different issues. One was a fire issue with the slough.
9 Okay, but that wasn't after his motion though that was
10 during the discussion. The discussion was basically --
11 the motion was 78 homes or lots.

12 MR. BRAD HAWKINS-CLARK: That was a little
13 bit before the motion. That's correct. Brent then

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14 later does say, "I don't support the density bonus with
15 numerous shallow wells." And J. B. Comments that "a
16 well and septic on one-acre lots and this proposal is
17 for three-acre lots plus 67 that will not be developed."
18 Lets see, that does not address this issue. And then
19 the motion, as J. B. mentioned, was for approval at first
20 that failed and Brent Jensen's motion with the exclusion
21 of the density bonus for later consideration with 78
22 lots. So his motion really -- that's what I say we were
23 struggling with -- needs to refer back and if you go
24 back --

25 MR. STEVE ETHINGTON: We were told too, that

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1 we couldn't go back because they qualified basically
2 they qualified for the extra bonus and we didn't --

3 MR. J. B.: Why were they qualified for the
4 bonus?

5 MR. BRAD HAWKINS-CLARK: Yeah. That was my
6 position at the last meeting and remains the same that
7 the ordinance, in order to give a density bonus, has
8 nothing to do with water. It has three issues,
9 landscaping, siteing, and design. Do you or do you not
10 feel that they meet those three things? If you do not,
11 then they should not get the density bonus. If they do,
12 then you can and there's five percent on each, but you
13 went on to have the focus on the discussion about the
14 wells and just to point out again, and it did say some
15 deep wells, or deep community wells, which could be
16 implied to mean not just one central well.

17 MR. STEVE ETHINGTON: So the issue was --
18 basically is the commission denied the extra bonus, and

19 to have those three criteria's and they had to put their
20 opinion whether or not those three criteria's were met
21 and they determined that it wasn't met with the back
22 drop of the water issue being a problem. So where do we
23 go at this point here now? I'm trying to dissect this
24 thing here too. There's been a motion to reject the
25 present PUD the way it's presented now.

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1 MR. DAVID HARGRAVES: Is there a motion on
2 the floor?

3 MR. STEVE ETHINGTON: Yeah. There is a
4 motion on the floor and there's a second.

5 MR. DON WILKERSON: Question to Brad. We as
6 a commission could approve the PUD for the bonus but
7 again with the stipulation of a community well.

8 MR. STEVE ETHINGTON: Could we do that?

9 MR. BRAD HAWKINS-CLARK: A planned unit
10 development is a special use permit basically. A
11 special use permit by definition allows the commission
12 to place conditions. So this is more my opinion, David
13 might have something else, I don't think that you are
14 stepping into, what shall we say, illegal territory by
15 putting a condition on like that.

16 MR. STEVE ETHINGTON: If it's treated like a
17 special use permit, we've always done that in the past,
18 putting on stipulations before we allow that use to be
19 permitted. That was my contention last month was why
20 couldn't we do that --

21 MR. BRAD HAWKINS-CLARK: Well the written
22 decision that I gave you has three pages of conditions.
23 So they are there, and most of those I took from your

24 discussion and your motion and added a couple some from
25 the other report.

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1 MR. DAVID HARGRAVES: The standard says the
2 commission shall consider the general standards
3 applicable to special use permits and criteria for
4 special uses before approving in principle, a
5 preliminary development. So I think you should go
6 through each of those nine things. Those are the
7 standards.

8 MR. J. B.: And in principle we did approve
9 it at 78 lots. We did not approve the higher density.
10 What intitles them to higher density?

11 MR. DAVID HARGRAVES: Well, at this point
12 what you have is a concept that's approved for 78 lots.

13 MR. J. B.: Exactly and I stand by that.
14 We've approved it.

15 MR. DAVID HARGRAVES: Maybe that's a --
16 sounds like Brad made it sound like that is a higher
17 density. I mean, after you subtract out the streets,
18 sloughs and stuff like that.

19 MR. J. B.: Well, it's not the 90 something,
20 the higher density that he was looking for.

21 MR. DAVID HARGRAVES: Right.

22 MR. STEVE ETHINGTON: So we can go ahead and
23 vote on the motion and then make a recommendation. Vote
24 on the PUD and then --

25 MR. DAVID HARGRAVES: I don't like how this

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1 ordinance is written but anyway, if we're looking at the
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2 PUD which is going to be a recommendation, your other
3 approval was based on the 78. So now I think you need
4 to compare final application to what you approved
5 before.

6 MR. J. B.: And the final applications is
7 for --

8 MR. DAVID HARGRAVES: It's different.

9 MR. J. B.: -- is for 93 and I'm opposed to
10 the higher density. I don't see that it's warranted.
11 Again, you come in and apply for five-acre lots and we
12 don't have a say, but once we start allowing special
13 uses and other people are saying well, why did you give
14 this guy a higher density than me, I can say I gave him
15 higher density because he had good landscaping and some
16 common areas or he put deep wells in or he put community
17 wells in and I can't justify it. I can't justify, for
18 me, the higher density.

19 MR. STEVE ETHINGTON: So we can make it a --
20 we need to vote on this motion and then be advisable
21 that we could also make a recommendation that we could
22 entertain a different PUD that met some qualifications
23 that we asked for last month. What do you want to do?

24 MR. J. B.: Well, I've got one last question
25 for Brad, excuse me, for David. Are you of the opinion

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1 that we could approve this with the conditions that he
2 put in deep wells or community wells?

3 MR. DAVID HARGRAVES: I didn't see that as
4 part of the -- I need to see the minutes.

5 MR. STEVE ETHINGTON: It wasn't in the
6 minutes.

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7 MR. DAVID HARGRAVES: I don't think the
8 condition was part of your final motion.

9 MR. J. B.: No. Our motion that's on the
10 table, we can withdraw and start over. My question to
11 you is, if we kill the one that's on the table, can we
12 approve it with conditions of the wells?

13 MR. STEVE ETHINGTON: Sure we can. We can.

14 MR. BRAD HAWKINS-CLARK: Yes.

15 MR. DAVID HARGRAVES: I'm not sure I follow
16 the question.

17 MR. J. B.: Don, I'm willing to withdraw and
18 to change it. I'm not being a hardass on this. I just
19 want to get on with it.

20 MR. STEVE ETHINGTON: We've done it before.
21 We can approve these applications with conditions. So go
22 ahead and make the conditions.

23 MR. J. B.: Don, do we have to formally
24 withdraw our motion and our second?

25 MR. DON WILKERSON: I think we ought to. I

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1 withdraw the second.

2 MR. J. B.: I'll withdraw the initial motion.

3 MR. STEVE ETHINGTON: Okay. Motion
4 withdrawn.

5 MR. DON WILKERSON: I have questions. We're
6 talking two things tonight, the final PUD approval and
7 preliminary plat. Any issues that I have questions -- I
8 have questions concerning open space, how these lots
9 will be used and etcetera. That can all be addressed
10 under the preliminary site of the issue tonight.

11 MR. BRAD HAWKINS-CLARK: Yes. Well, the

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12 landscaping is more of a preliminary plat issue. The
13 amount of open space is more of a PUD.

14 MR. DON WILKERSON: Can I bring up a
15 question I have at this time on the final PUD?

16 MR. STEVE ETHINGTON: Go ahead.

17 MR. DON WILKERSON: Okay. It states in the
18 letter from Landmark Engineering, it's second page, "the
19 final PUD plan was adjusted to add an additional 1.33
20 acres of common area lot 21-C block one. They'll place
21 a gazebo, picnic tables, and etcetera." But if you go
22 into other documentation, it says that lot is a high
23 water table, catails, and is wet lands. So my question
24 is, should that lot be designated as a common lot?
25 Those are questions I have. Did that reflect on the

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1 preliminary, or the final PUD?

2 MR. DAVID HARGRAVES: Mr. Chairman. Here's
3 another question, and maybe Brad needs to hear this too.
4 They presented a PUD for 90 lots. They wanted extra lot
5 space. You granted approval for the PUD with 78 lots.
6 That's not a PUD. So in effect it was a denial of the
7 PUD of the concept.

8 MR. J. B.: See, we needed you here last
9 time, David.

10 MR. BRAD HAWKINS-CLARK: I just read a
11 little bit more into your motion. I take the motion and
12 I go back and I look at your discussion prior to the
13 motion, which the motion itself did not say that, you're
14 right, but to me you can gather the commission's intent
15 by going back a page and a half in their discussion
16 which seems to very much indicate that the community

17 well was tied to the 78. So there you have some
18 ambiguity in your motion.

19 MR. STEVE ETHINGTON: Well, if you look at
20 last months motion, and they made that motion in
21 relationship to the old discussion so it was just 78
22 lots.

23 MR. DAVID HARGRAVES: I mean this is the
24 first time I've seen this discussion and --

25 MR. STEVE ETHINGTON: And you saw 78 lots is

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1 what you saw.

2 MR. DAVID HARGRAVES: Yes.

3 MR. STEVE ETHINGTON: So what you're saying
4 is basically is we need to -- because we're taking that
5 motion which we approved and now we got this -- it came
6 back with a totally different PUD now.

7 MR. DAVID HARGRAVES: Well that's one way to
8 look at it. Where are those minutes?

9 MR. STEVE ETHINGTON: So what do we do? We
10 just have to -- they need to come back to us and --

11 MR. BRAD HAWKINS-CLARK: Just to muddy the
12 waters a little bit more --

13 MR. J. B.: Go ahead. I can't see anyway.

14 MR. BRAD HAWKINS-CLARK: This is closed
15 hearing so the applicant can't testify but I was told
16 here at the staff desk that they would do the community
17 well if you allow the density bonus.

18 MR. J. B.: Which is exactly where we were
19 last week, and based on that, I make a motion that we
20 approve the PUD with the stipulation and the special
21 use, that they have community wells.

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22 MR. DAVID HARGRAVES: There you go. You
23 resolved it I think.

24 MR. DON WILKERSON: I think we have.

25 MR. J. B.: If there's a second in the vote.

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1 MR. DON WILKERSON: I'll put a second to
2 that motion.

3 MR. STEVE ETHINGTON: Okay. The motion and
4 the second to approve the PUD with the higher density
5 and condition that they have a deep community well
6 servicing the lots. All those in favor?

7 (Vote unanimous.)

8 MR. STEVE ETHINGTON: Good. All right. Now
9 we're going to go over the preliminary plat of the Woods
10 Ranch.

11 MR. DON WILKERSON: Mr. Chairman.

12 MR. STEVE ETHINGTON: Yes, Mr. Wilkerson.

13 MR. DON WILKERSON: I'd like to make a
14 motion here. Is that the preliminary plat right there?

15 MR. BRAD HAWKINS-CLARK: This is --
16 Commissioner, just to clarify, there's two lot 21's
17 shown on here.

18 MR. DON WILKERSON: That's a 21-C down
19 there.

20 MR. BRAD HAWKINS-CLARK: This is 21, where
21 the reference to the catails and wetlands --

22 MR. DON WILKERSON: Oh, is that that one?
23 Okay.

24 MR. BRAD HAWKINS-CLARK: That's this one.

25 MR. DON WILKERSON: Okay.

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1 MR. BRAD HAWKINS-CLARK: Here's the new 1.3
2 acre, which is not identified as being as high water but
3 they both have 21's. So, I can see where you're
4 confused.

5 MR. DON WILKERSON: But that's the
6 preliminary plat.

7 MR. BRAD HAWKINS-CLARK: That is actually
8 the planned unit development.

9 MR. DON WILKERSON: Okay. So where do we
10 see the plat for the preliminary plat. A drawing that
11 shows the preliminary plat.

12 MR. BRAD HAWKINS-CLARK: It looks the same
13 but we do have a separate one that was referred to in the
14 decision and --

15 MR. STEVE ETHINGTON: It looks just like
16 that.

17 MR. BRAD HAWKINS-CLARK: It does, okay.

18 MR. DON WILKERSON: It looks just like that.
19 Okay. I make a motion that we table the decision on the
20 preliminary plat until we get something better than that
21 to make a decision on. Something that will show
22 easements, roadway widths, whatever's required on a
23 preliminary plat.

24 MR. BRAD HAWKINS-CLARK: It's all here.

25 MR. DON WILKERSON: Is it there?

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1 MR. BRAD HAWKINS-CLARK: It was attached to
2 your decision. They had five pages of easments.

3 MR. DON WILKERSON: That's not attachment
4 five that we never had on our deal here? Okay. We

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5 didn't have page 5.

6 MR. BRAD HAWKINS-CLARK: It should have been
7 inserted. It wasn't labeled five but it should have had
8 an insert.

9 MR. DON WILKERSON: Okay.

10 MR. DAVID HARGRAVES: Did it actually have
11 this in there?

12 MR. DON WILKERSON: It wasn't in our
13 package.

14 MR. BRAD HAWKINS-CLARK: It was one page.

15 MR. DON WILKERSON: It was that right there,
16 is what it was.

17 MR. STEVE ETHINGTON: Brad, is there any
18 concerns on your check off sheets that we need to be
19 aware -- that we need to look at, at all? Are you
20 satisfied with everything there?

21 MR. BRAD HAWKINS-CLARK: Chairman, there's a
22 number of conditions on that preliminary plat. I feel
23 like, if you were to forward a recommendation on to the
24 board with those conditions, that -- I think most of the
25 conditions are dealt with there.

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1 MR. DAVID HARGRAVES: With the PUD right?
2 Did we get that clarified? So they're both
3 recommendations.

4 MR. DON WILKERSON: Okay. I withdraw my
5 motion. I'd like to maybe have a continuous discussion
6 on the preliminary plat.

7 MR. STEVE ETHINGTON: You withdrew your
8 motion.

9 MR. DON WILKERSON: Yeah. I withdraw my

10 motion.

11 MR. STEVE ETHINGTON: Okay. There never was
12 a second I don't think.

13 MR. DON WILKERSON: No. There was never a
14 second.

15 MR. STEVE ETHINGTON: Go ahead. Start it
16 off.

17 MR. DON WILKERSON: I have some questions.
18 There's mentions that there's going to be a ten foot
19 wide path around the perimeters of phase one and two, if
20 I'm correct. Does there have to be an easement for that
21 path?

22 MR. BRAD HAWKINS-CLARK: No, because it's on
23 a common lot.

24 MR. DON WILKERSON: So let me point out
25 where I have my concerns. You say a ground phase. I

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1 can see here it's a common lot but what about here? Is
2 that a common lot?

3 MR. BRAD HAWKINS-CLARK: Yes.

4 MR. DON WILKERSON: Is that ten foot wide.

5 MR. BRAD HAWKINS-CLARK: I believe it's
6 between 16 and 18. Just to clarify, that's 25 feet.

7 MR. DON WILKERSON: Okay. Another item. In
8 the letter from the Gem County Road and Bridge, it was
9 concerned about one road having three street names. Has
10 that been addressed?

11 MR. BRAD HAWKINS-CLARK: Yeah.
12 Commissioner, I think the plat that was attached as
13 exhibit B, again it's in my packet, so I'm sorry if it's
14 not in yours but it's not the same as the colored one.

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15 It's a black and white and it says sheet one on it. It
16 should be right before exhibit B.

17 MR. DON WILKERSON: I have that. Can't
18 hardly read it. So did they change the name of that
19 road, or has that been discussed with them?

20 MR. BRAD HAWKINS-CLARK: The street name
21 committee is going to have to review those streets. I
22 mean, the applicant is going to have to comply. The
23 plat that is shown before you tonight does not change
24 it. It still has three names but --

25 MR. DON WILKERSON: On exhibit B, conditions

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1 for approval on the Woods Ranch subdivision, you've
2 added several thoughts and one of the new ones is
3 concerning CC&R's. Do we address the CC&R's at this
4 juncture? We got a new CC&R that may differ from the
5 one we got in our packet, and there's been some
6 additions but I guess I have a concern about it said,
7 "all building lots are exclusively for single family
8 residential purposes." You see a lot of single family
9 subdivisions where they have a lot of home based
10 business's from daycares, to tile, to air conditioning,
11 to building swimming pools, to realty offices. Maybe
12 that's something they need to look at if they want this
13 strictly residential.

14 Another item I don't see in CC&R's is a
15 limit, type, and a number of animals per lot. I know --
16 I think that was a discussion. That was discussion
17 during one of our first meetings. The limit to type and
18 number of animals per lot. I thought that was discussed
19 at one of our permit meetings.

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20 Another item that they maybe want to
21 consider on their CC&R's is the use of temporary
22 structures such as RV's, tents, and etcetera that some
23 people might want to use during the construction of the
24 home. Restrict that.

25 MR. JIM HUTCHINS: Something else that I

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1 think -- that in a restriction or at least be put in
2 there somewhere. Number one is that this area, even
3 though it is not considered in the flood plain, has gone
4 under water numerous times. That the buyer be made
5 aware that it can be flooded and number two, it is in a
6 bad mosquito area and these things should be part of the
7 knowledge to people that are buying these lots.

8 MR. DON WILKERSON: Another item I have is
9 in exhibit C required findings from Gem County
10 subdivision ordinance Woods Ranch subdivision. Typical
11 subdivision, drain field, and well locations. I think
12 this was addressed one time before. I think the
13 standard is 100 feet between this drain field and the
14 domestic wells but maybe that's not the issue being as
15 they're going to have community wells.

16 One last item. I know it wasn't discussed
17 about maybe it should have been in the PUD about public
18 access to that portion of the seven mile slough, rather
19 than the high water mark. I know that it stated in
20 several spots that they didn't want to have access to
21 that from within the subdivision for liability reasons
22 and I want to refer to Jim Hutchins. Has that over the
23 years -- has it been public access to that slough in
24 that area.

25

MR. STEVE ETHINGTON: That was discussed

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1 last meeting. Presently there's no public access
2 anywhere there.

3 MR. DON WILKERSON: Okay.

4 MR. JIM HUTCHINS: It had been public
5 access. Just like going hunting on private or something
6 like that. If you talk to the owner you could. I've
7 accessed it before to fish there.

8 MR. DON WILKERSON: So what's on the books,
9 the only way you have access of that is you get into it
10 outside of the subdivision and you float through it or
11 stay within high water mark.

12 MR. STEVE ETHINGTON: Yeah. Walk on the
13 banks.

14 MR. DON WILKERSON: Okay. Thank you.

15 MR. STEVE ETHINGTON: Anybody else have any
16 comments? Do we want to have the applicant respond to
17 these or do you want to --

18 MR. DON WILKERSON: No public hearing so we
19 can't.

20 MR. J. B.: Mr. Chairman, I think Brad
21 indicated that the conditions put on it would be
22 adequate to address most of that and, Brad, you maintain
23 that even after the questions that Don asked?

24 MR. BRAD HAWKINS-CLARK: I do.

25 MR. STEVE ETHINGTON: Okay. Let's hear a

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1 motion then. Don, do you want to -- well first of all,
2 do we have anything that -- Don made several

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3 recommendations -- do we have anything that we want to
4 discuss with his recommendations or do we want to go
5 ahead and have those included in with Brad's conditions?

6 MR. J. B.: Well that's what I asked. I
7 think Brad said they were already included.

8 MR. STEVE ETHINGTON: I don't think those
9 were issues that Don brought up though. These were out
10 separate.

11 MR. DON WILKERSON: I saw the applicants in
12 the public area making notes maybe on some CCR's and
13 stuff. So, maybe that will be included in their final.
14 So if that's the case, I have no problem with it. I
15 make a motion that we approve the preliminary plat for
16 the Woods Ranch subdivision, make a recommendation to
17 the County Board of Commissioner's, excuse me, as per
18 the summary of recommendations provided us with
19 conditions that were placed on it by the staff.

20 MR. STEVE ETHINGTON: Okay. Is there a
21 second?

22 MR. J. B.: I'll second it. J. B. second it.

23 MR. STEVE ETHINGTON: Okay. J. B. second it.
24 All those in favor?

25 (Vote unanimous.)

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1 MR. STEVE ETHINGTON: Okay. Next on the
2 agenda is items from the public. Any items from the
3 public? Okay.

4 Next on the agenda then is items from the
5 planning director, Administrator and perhaps recent
6 board decisions from the Commissioner's.

7 MR. BRAD HAWKINS-CLARK: Chairman, the only

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8 thing I had for you -- two decisions you might be
9 interested in. One is the equity one appeal of your
10 decision to deny was heard by the Board of County
11 Commissioner's today.

12 MR. J. B.: Was that the real estate office?

13 MR. BRAD HAWKINS-CLARK: The real estate
14 office but they took it under advisement and have not
15 made a decision on that but I wanted to let you know
16 that hearing was held.

17 MR. STEVE ETHINGTON: Was it well attended?

18 MR. BRAD HAWKINS-CLARK: Well attended. Yes
19 it was. Standing room only.

20 Then they also upheld your Crane rezone
21 which is on Airport Road just north of the airport. He
22 had nine acres in there and they did uphold your
23 decision to deny.

24 MR. STEVE ETHINGTON: Was that a rezone?

25 MR. BRAD HAWKINS-CLARK: That was a rezone.

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1 Yes.

2 MR. DAVID HARGRAVES: The main issue they
3 focused on was airport buffering.

4 MR. DON WILKERSON: Thank you, appreciate
5 your willingness to compromise.

6 MR. STEVE ETHINGTON: What was his rezone on
7 that? What did we approve it? What was he asking for?
8 I can't remember.

9 MR. DAVID HARGRAVES: He was asking for an
10 R-3 two acre. A-2 R-3.

11 MR. STEVE ETHINGTON: Hey, was anything new
12 brought up on this equity one hearing today? Anything

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13 that was different then what we heard from?

14 MR. BRAD HAWKINS-CLARK: There was. There
15 was a traffic study prepared. A fairly in depth one,
16 but David in his sage wisdom said that they couldn't
17 consider that.

18 MR. DAVID HARGRAVES: When it goes up on
19 appeal they need to focus on what was presented to the
20 Planning and Zoning Commission.

21 MR. STEVE ETHINGTON: They couldn't bring up
22 anything new then.

23 MR. DAVID HARGRAVES: Well, not present new
24 factual information, and that was new factual
25 information. So if the Commissioner's decide that's

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1 important for someone to see, it will probably come back
2 to the Planning and Zoning Commission to see that. I
3 think that's the procedure that would have to be
4 followed.

5 MR. STEVE ETHINGTON: You're on top of it.

6 MR. BRAD HAWKINS-CLARK: These little things
7 that happen here are scrutinized like crazy by
8 attorney's who spend hours on it. We spend an hour here
9 on a couple of issues and somebody will come back and
10 pick it apart for hours. So we try to do the best we
11 can.

12 MR. STEVE ETHINGTON: That's good. Anything
13 else, Brad?

14 MR. BRAD HAWKINS-CLARK: That's it.

15 MR. STEVE ETHINGTON: Okay. Items from
16 Mr. Hargraves.

17 MR. DAVID HARGRAVES: One of the things I

18 wanted to ask you is if you had any questions about my
19 last letter?

20 MR. STEVE ETHINGTON: Did everybody see that
21 last e-mail to us?

22 MR. DAVID HARGRAVES: Again, that kind of a
23 role's out of the equity one appeal. It was a learning
24 experiance for me because when we got the transscript
25 the reporter, or the transcriptionist had a hard time

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1 tracking who was saying what and so the Board of County
2 Commissioner's had a little concern with that. So I
3 thought well, since -- I would write you a letter to
4 discuss ways we can kind of improve the process and I
5 thought we did a pretty good job tonight directing the
6 comments so it's more easy to identify whose speaking.
7 Also, I took the opportunity to just remind you again,
8 that when we get it in writing it's there for the whole
9 world to see. We've got to be careful what we say and
10 we have to make sure our decisions are based on the
11 ordinances and the facts that are in the record.
12 Nothing outside of the record. If we base our decisions
13 on something that's not in the record it will be
14 overturned. In fact, that happened here in Gem County
15 with the Sanders case. I can give you a copy of that.
16 You might enjoy reading it just to see what the courts
17 look at.

18 MR. STEVE ETHINGTON: What did that cost the
19 county? Do you remember?

20 MR. DAVID HARGRAVES: That happened before I
21 got here.

22 MR. STEVE ETHINGTON: That happened -- it

23 was about eight years ago.

24 MR. J. B. : Oh good, before we got here. I'm
25 not responsible.

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1 MR. DAVID HARGRAVES: But the final decision
2 was only made in 2004. So this was in the court system
3 for years.

4 MR. STEVE ETHINGTON: It was five or six
5 years at least.

6 MR. DAVID HARGRAVES: So that's what you get
7 into when they start nit-picking this stuff apart. We
8 have to be real careful.

9 MR. DON WILKERSON: I think the final
10 decision was by the higher courts. They just referred
11 it back to the county and the county had to pay their
12 fair share and the applicant had to pay his fair share
13 of attorney fees, I think.

14 MR. DAVID HARGRAVES: Yeah. The result was
15 -- the decision was based on information that was not in
16 the record and it was remanded back. So basically, you
17 either start over again or the parties settle and that's
18 what happened is the parties settled.

19 One thing, let me just caution you also
20 about is be careful. Your role here is to be judges of
21 particular cases and not give general advice about how
22 an ordinance would apply and things like that. Be
23 careful about expressing opinions like, J. B. here, on
24 the one about this guy who's been out there on Cascade
25 Road for years and years and had that one acre that he's

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1 been renting. I just caution you to be careful about
2 what we say here. I don't want him to go rely on that
3 and find out that maybe we weren't exactly right on it.
4 I don't know how that would shake out is what I'm
5 saying.

6 MR. J. B. : All right.

7 MR. DAVID HARGRAVES: Just be careful about
8 expressing opinions like that. I don't want it to come
9 back and bite us. And you may very well be right about
10 how it would turn out, I just -- I don't know that.

11 MR. J. B. : And if I had a question about
12 that, it would be more appropriate after the microphones
13 are turned off. I think, maybe, I do have a question.

14 MR. DAVID HARGRAVES: We can visit with it
15 after.

16 MR. J. B. : Yeah. Let's not do it now.

17 MR. STEVE ETHINGTON: Okay. Any other items
18 there, Deputy Prosecuting Attorney?

19 MR. DAVID HARGRAVES: No, Mr. Chairman.

20 MR. STEVE ETHINGTON: I want to make sure we
21 get these titles correct there. Hey, you know we're up
22 for election here too here. My term is up. I think
23 it's at the end of this month.

24 MR. DAVID HARGRAVES: Do you mean the
25 Chairmanship?

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1 MR. STEVE ETHINGTON: Isn't it done by --

2 MR. DON WILKERSON: Four years.

3 MR. STEVE ETHINGTON: No. I think we better
4 check the record. I think it's one year.

5 Items from the zoning commission. Anyone

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6 have any items from the zoning commission? Any
7 commissioner's have any items.

8 MR. JIM HUTCHINS: Yes.

9 MR. STEVE ETHINGTON: Okay, Jim, you have
10 the floor.

11 MR. JIM HUTCHINS: I've got some problems
12 with his consent agenda. If -- the way I'm
13 understanding -- if there is an objection in the public
14 hearing is held -- it's held strictly before you, right?

15 MR. BRAD HAWKINS-CLARK: On minor
16 subdivisions that's correct.

17 MR. JIM HUTCHINS: Correct. We are not
18 hearing what the public input is. The other problem is
19 these is held during the day when a lot of people can't,
20 that are working, get there.

21

22 (The transcriber was not provided audio for the
23 balance of the meeting.)

24

25 (Whereupon the meeting was adjourned at 10:22 p.m.)

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1 Certificate of Transcription

2

3 The undersigned does hereby certify that she
4 correctly and to the best of her skill and ability, the
5 above transcription from the tape recording of the Gem
6 County Planning and Zoning Meeting which was recorded on
7 the 11th day of December 2006.

8

9 DATED AND CERTIFIED this 4th day of January 2007.

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Amanda Shaw
Transcriber