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MEMBERS PRESENT: Steve Ethington, David Poole, J.B., Jim Hutchins, Brent Jensen and Fred Nussbaumer.

MEMBERS ABSENT WITH PRIOR NOTICE: Don Wilkerson.

OTHERS PRESENT: Brad Hawkins-Clark- Planning Director, Jennifer Kharl – Development Services Coordinator; David Hargraves- Prosecuting Attorney.

Chairman Ethington opened the public hearing at 7:00 p.m. and welcomed everyone, then explained the public hearing process.

Item One- (Continued) A Planned Unit Development by Landmark Engineering and Planning, Inc. to request approval to allow a reduction to the minimum lot size on 385.63 +/- acres located on Morehouse Road, a portion of Section 6, T 06N; R 02W.

Chairman Ethington- The continuance was for further clarification concerning well and sewer and water protection and also public access to the slough and protection of the slough.

Brad Hawkins-Clark- I didn't have anything else to clarify, I just thought the applicant could address the issues in terms of their update.

Chairman Ethington- The first issue is access as far as the recommendation from ITD.

Clint Boyle- 188 Northside Boulevard.

I'm going to try to clarify some points because it sounds like you went over this extensively at the last hearing. The bulk of the traffic from this project will distribute out onto Morehouse Road. One of the concerns was the bulk of the traffic at Highway 52 and Morehouse Road. We had a traffic consultant, Dan Thompson do a brief traffic impact analysis, and that was included in the letter I put on the table. Roughly 75 of the lots would distribute out onto Morehouse Road. The whole project would roughly be 750 trips per day. The overall project will have approximately 900 trips generated per day, and some of those would be distributed onto Idaho Boulevard. 75 to 80 trips per day will be generated during the peak hour, probably between 5:00 pm and 6:00 pm. We have met with Sue Sullivan from ITD and in those meetings one of the things they looked at was providing a deceleration lane generally traveling northwest turning onto Morehouse Road so traffic on Highway 52 would be able to get into a right turn lane and be able to decelerate and turn onto Morehouse Road from Highway 52. The other point they brought up was to have a left center turn lane out on Highway 52 that would allow traffic traveling the opposite direction to get out of the through travel lanes and turn onto Morehouse Road. The developer is in agreement to do both of those improvements. Those two improvements were the primary improvements ITD wanted to see, the other item they discussed with us was noise abatement and we see that quite often. There will be a berm, ITD requires a ten foot berm or a sound wall to mitigate for noise. With

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regards to the coordination with ITD we feel we have complied with their comments. We are not proposing any approaches onto the State Highway; essentially the approaches will be on Morehouse. The distance we have proposed is in accordance with ITD provisions for what they desire for an offset from a State Highway for the entrance into our project. We had meetings in early October and if the developer will provide the turn lanes and the noise mitigation then that would satisfy their requirements. We will have to design the project to meet their standards.

David Poole- What kind of improvements will you do to Morehouse?

Clint Boyle- Morehouse Road will be paved. This project proposes three phases. It is proposed to be asphalt-paved surface and extend to the first entrance and when the second phase begins it will extend to that. The entire frontage this project has for Morehouse Road will be improved and paved.

Brent Jensen- Do you have sound mitigation planned on Morehouse similar to what you have planned for the highway?

Clint Boyle- We do have landscaping buffers planned but probably not to the extent of what ITD requires. There will be landscape screening but probably not the ten-foot berms.

Brent Jensen- What is the estimate in your plan?

Clint Boyle- I will have to get with the developer on that.

Chairman Ethington- The next item is the fire district restrictions

Clint Boyle- John Carpenter from our office met with Rick Welch a couple of weeks ago. We will supply hydrants in the proposed development. The suppression will be tied in to the pressurized irrigation system. The developer will have to provide an additional pump capacity and it will be on a demand basis so if someone ties into the hydrant and all of a sudden the flow is pulled out of that hydrant, a second pump will kick on to provide the flow and pressure that Rick needs for fire suppression. My understanding with Rick is that he was very supportive of that and he felt it was a better method to use. The Seven Mile Sleuth is year round and the water will be available year round for the suppression.

Chairman Ethington- It will be a community water system as far as drinking water but it the irrigation system will be out of the sleuth?

Clint Boyle- That is correct. This is something we have done in other rural projects where the fire departments have done a similar type of system where they tied into the irrigation system. The advantage here is to provide a source to fill trucks and fight fires and in the area in general to help fight fires.

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Jim Hutchins- This will be a twelve-month thing not just during the irrigation months?

Clint Boyle- Correct. It will be for twelve months. This will be designed for the fire flow to be available all year. We will coordinate with Rick so the pumps will be efficient for the flow they need. This is a good system for rural areas.

Brent Jensen- You would have to make sure the water rights extend through the winter to have access to the slough water. The Army Corps of Engineers takes care of the waters in that area and they do shut off the water sometimes for maintenance so would have to look into that. Before we approve this we need to find out if the water rights are available all throughout the year.

Gary Madenford- The State Statutes in Idaho includes fire-fighting flows for all water rights.

Brent Jensen- If the slough is dried up for maintenance then you would not have water available for fire protection. This something that needs checked on.

Clint Boyle- We can certainly check on that. There are other options for fire protection, but this seemed to make the most sense.

Fred Nussbaumer- With a combination system for fighting fire and irrigation how will you maintain the frost protection to your line in the wintertime. How will you maintain pressure in that system and protect the flow.

Clint Boyle- We would have to build it below the frost line, it will have to be four or more feet down.

Chairman Ethington- Another issue is mosquito abatement.

Clint Boyle- You should have a letter from mosquito abatement. I think in the last paragraphs they indicate that they are comfortable with the project.

Chairman Ethington- There was also wastewater concerns.

Clint Boyle- At the last meeting you had the technical expert here on the treatment systems that are proposed for the individual septic systems that significantly reduce the nitrates that you would have on a typical septic system. Those are the types of systems that are being proposed. It is a system that South West District Health has approved and you should have some comments from them regarding the nutrient pathogen studies and we are using the alternative system.

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David Poole- If engineering passes by South West District Health then I don't think there would be any questions.

Clint Boyle- I know that these systems significantly reduce the nitrate levels and obviously South West District Health has oversight on these and it comply with all of their provisions and we have to comply with these provisions also.

Chairman Ethington- The next issue concerns the traffic impact analysis.

Clint Boyle- The traffic table does consider the overall project. The 15 lots that will access off of Idaho Boulevard, there will be approximately 150 trips generated per day. The trips per day are from more than just the people that live there; it is also the school bus, mailman, and Fed Ex. In the peak hour you would essentially have 15 cars that would enter or come home from Idaho Boulevard. In Ada County they have a specific traffic management policy and in that policy for a neighborhood road. They allow 1,000 trips a day to utilize a new local road. It is not that the roads can't handle more capacity but that is a threshold that they felt was necessary. The 15 homes will be a minimum impact from a traffic trip generation standpoint. My understanding in talking with Brad about this is his concerns were more about access, spacing and sight distance. Recognizing Brad's concern with visibility and distance we could maybe utilize ACHD for the access spacing for the lots that have direct access onto Idaho Boulevard. There was a discussion about lot 31 utilizing the cul-de-sac instead of accessing off of Idaho Boulevard, and we would certainly be for utilizing that so that there wouldn't be two intersections.

David Poole- Did Rick address the fact of not being able to cross the slough as far as time to respond to fires?

Clint Boyle- In the discussion with him he was very agreeable with us to provide the hydrant system that we talked about because it would offset the emergency response time.

Chairman Ethington- The next area of concern is that the area set aside for later development.

Clint Boyle- As it stands right now the developer has the desire of having the proposal approved as it sits today. His preference would be to keep that way. If that was a stumbling block for the entire approval he would concede to the single lot but his preference would be to gain entitlement of the property today and if there is an opportunity at a later for higher density he would like to replat it.

Chairman Ethington- The Columbia Ditch concerns are also an item that needs to be addressed.

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Clint Boyle- I myself did not meet directly with them but John Carpenter from our office did meet with them on site. Right now the developer is proposing to continue to provide the historical water flow and volume. The developer intends to pipe or tile the existing drain ditch as it sits on his property. I think he mentioned in a letter that he thought this would benefit the Oxley's, it will allow for a better flow and by State law we are required to provide them there offsite water rights.

Chairman Ethington- The PUD density bonus was an issue. How large is the open space?

Clint Boyle- We have approximately 66 acres which equates to almost 17 percent of the project.

David Poole- How much of that is the slough?

Clint Boyle- I would need to run a calculation on that. What the developer is proposing is 12 extra lots with the open space and trails and the landscaping. He is proposing some extra amenities.

J.B.- The staff made reference to the suggestion that if you are asking for the bonus lots that a lot be provided with special features like a gazebo or picnic table near lot 20.

Clint Boyle- I will have the developer address that.

Gary Madenford- You are asking about doing some improvements on one of the open space lots? When you make it a public area then the homeowner's association is at a liability for the public.

J.B.- I don't see this being open to the public, but open to the residences.

Gary Madenford- I think that could be a great advantage in the subdivision.

J.B.- The staff is specific to changing the plat to provide an open space lot with special features.

Gary Madenford- I would agree to do that to include this area.

Brent Jensen- One of the unknowns is what we don't know how much of the open space is the slough.

Fred Nussbaumer- At the last meeting we discussed the public access to the slough for fishing and other things, there was a comment made that the access will be closed off, is this correct?

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Clint Boyle- The public would still have access to the high water within the slough and across the slough. Like the developers comment about opening public access it turns into a liability for the developer, but the access to the slough along the slough will remain.

Brent Jensen- Has anything been addressed for a service access easement?

Clint Boyle- We will be required to take that power underground. Normally, Idaho Power is in a joint trench with some of the other utilities out along the street frontage. Through the site we will bury that power line. The power line will be buried along with other utility lines. We have provided a corridor to where those are overhead. Through the site it will follow a road alignment for a joint trench.

Brent Jensen- It isn't an Idaho Power line it is a Reclamation line that powers the C-line pumping station.

Clint Boyle- Normally we would have to get their approvals for the burying of the line and normally they are in a joint trench for those. We will be required to provide access for them. It will very likely be re-routed along the roadways and we are comfortable with that being a condition of approval with their approval of re-routing that line.

Brent Jensen- That will definitely be a condition to have that access added.

Clint Boyle- We are fine with that condition.

Chairman Ethington opened the public portion of the hearing.

Stephanie Oxley- 8326 W Idaho Boulevard.

We are the sole owners of the Columbia Ditch System. It is adjudicated as tail water which reservoirs on phase 1 of the proposed PUD. The Maxfield Ditch is probably the main runoff ditch. Reed Ditch head gates off of the river and it is one of the primary runoff systems into the Columbia Ditch. The Seitz Ditch does irrigate this property and we also have shares on Seitz Ditch. The Seitz Ditch itself although when it is in use and it runs it adequately irrigates into the Columbia System and it does not directly impact the diversion head gate on Brogan. The Wood Ditch runs out by the home site and it does impact our Columbia System and the other ditch on Letha Irrigation of concern is the Pat Rigs which has a head gate off of the slough that runs into a reservoir behind the fire station and it does not impact our system at all.

J.B.- Have you reached an agreement with these people?

Stephanie Oxley- No. We have discussed the pressurized system. Approximately ¼ mile of piping out of the reservoir which again is a collection reservoir that will not collect if there is no flood irrigation run off into that reservoir. So they will need a backup. I spoke with the water master of district 65, Ron Shurtliff, and he suggested that if this was

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coordinated correctly our water right could be transferred from a waste runoff right to a live water right pumped out of the slough. He is my source of reference and we are not doing anything until he says this will work.

J.B.- What is hindering an agreement?

Stephanie Oxley- If they develop the way it is proposed there would not be sufficient runoff into our reservoir for them to pipe out of because the water comes from and floods and the slough floods. Now if they are pressure sprinkling this would not happen. So I guess at that point would be is where the water would collect.

Brent Jensen- Attached here is a letter about the water rights for the property; do you know where the source is? There should be a description of where the source is. It seems to me that it is legally spelled out if you know where the source is.

Stephanie Oxley- The water master is not sure that what they are proposing is going to work. We have not discussed an alternative plan. They would have to change the adjudicated point of diversion, which is a legal process.

Chairman Ethington- The only thing we know as a commission is it is required by State of Idaho requires that the developer gives you full water rights and how he accomplishes that is up to you guys.

Brent Jensen- I farm property and my neighbors' wastewater goes right through my property. If they decided to put in a different irrigation system it would be my loss.

Stephanie Oxley- We fall between opposed and neutral. We do have some concerns. We have lived at this home site for nearly 40 years. There are some homes that use the waste ditches for their septic systems. Our concerns are that we have the Letha Sewer ponds directly west of our home site, and there have been various problems with these ponds. There is a very real annual diminishing of water pressure when the LDS church turns on their sprinkler system and when we blow out our artesian system to keep the sand out everybody in Letha loses their water pressure. We did meet with John Carpenter and we did try to resolve the issues. Comments that I have heard are they have not had problems in other areas, but these statements don't reassure us because what if something does happen? The artesian wells are hard to explain and sand and cobblestone are hard to predict. Most long timers have horror stories of when a new house went up and what happened. What about noise mitigation for the property, what about the neighbors and where would you get the land to mitigate the noise? Who deals with legal hassles and expenses? Or perhaps we have a non-sightly 350 acres that is not developed and it ends up looking like the Industrial Park on the Highway. The reality is the only working with the neighbors that we have seen from them was the required neighborhood meeting before the application was submitted, and the pre-application conference, and meeting with John Carpenter. I learned that one of the joint property owners requested a

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feasibility of a pressurized system for agricultural use. Ron Shurtliff has expressed concern about not having any contact regarding projects being started or engineered for the heads gate of the Wood Ditch. We found out that one of the property owners serves on the Letha Irrigation Board and has never mentioned any intention to develop. We were told in the last meeting that they used more shares of water than they have rights to. We were told that this project would not create any mosquito breeding areas and they have been in touch with the abatement. The developer stated that the remaining properties will continue to be agriculture. I am continually concerned with the amount of traffic that will be generated around Letha. I am concerned with domestic water quality and pressure. We respectfully request that the Board recommend against any development of this magnitude in this area until such time as Ada and Canyon County and the Emmett Impact Area are more urbanized.

Lee Rigdon- 8411 W Idaho Boulevard.

Two items that have not been addressed are an Army Corps of Engineer study and an environmental impact study. I do not begin how a project can even begin to be formulated before these two items are researched, because nothing shows the impact of the proposal. We also have new environmental residents and we have trumpeter swans that use the slough. Since this is flooding type area, how are they going to mitigate the housing problem of being flooded? The wetlands are a public and federal entity and they cannot be used for any type of building. As a resident of Letha I am very opposed to this proposal.

Clint Boyle- Hopefully I can discuss some of the comments. One comment Mrs. Oxley made was how Ron Shurtliff hadn't seen anything from the engineer for the Wood's Ditch and she is absolutely right. Normally in these processes we gain an entitlement that the project is feasible and at that point we get into the engineering and the details on how the ditches and power lines will be relocated. A developer likes to have some sense that the proposal is going to move forward before he invests a lot of time and effort and money in an engineering design. It takes a significant investment just to get it to this point with application fees and traffic analysis and my fees bringing the permits forward. They try to provide enough information for the government entity to make an informed decision and then they get into the engineering. We intend to work with Mr. Shurtliff and any of the other ditch riders or irrigation districts with providing them the engineered plans for how those facilities will be rerouted and handled. We have to prepare storm water pollution plans that are submitted to the EPA and there is a lot of work that goes into it before dirt can be moved. There is a lot of work that needs to be approved before we can move forward and start moving dirt. All of the different agencies, we will have to gain their approval before moving on. We will have a masquerading plan that will keep the houses from flooding. We will have to address all of the comments from the agencies. This is just the first step in the long process. Briefly I came up with about 8 ½ acres of Seven Mile Slough that is in this project and that would leave about 56 acres of open space outside of the waterway. Normally most jurisdictions will allow the waterways to be used as open space with amenities as far as trails go.

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J.B. - Is this a recognized wetland?

Clint Boyle- Portions of the project, yes. We respectfully ask for your approval recommendation this evening.

Chairman Ethington closed the public portion of the hearing.

J.B.- Fred you had a comment earlier about blowing out the irrigation lines, and I don't think we should care how it is done. He will to do it right and have it engineered. Based on the conditions being addressed the staff recommends approval.

Brent Jensen- Although this is a preliminary proposal and we know more precise information to be followed up. I would like to have seen an attempt to contact the Army Corps of Engineers and get their input on what their new regulations and guidelines are for development around the slough area. We know about ten years ago there was a flood event in the valley and there were portions of that area under water. I did not see any flood plans at this point. Even preliminarily I would like to see some contact with those officials. It doesn't have to be in great degree. The same with the power line that is owned by the irrigators at Black Canyon Irrigation District. We have a rough estimate on how much of the water of the slough in the open space. There needs to be a guarantee that there will be water in the slough twelve months out of the year every year, if not we need to have a backup system. The applicant is asking for a density bonus, but I feel that even if the State approves a well for every acre we know that it might not be the best plan for the County and I think the developer needs to consider some deep wells or deep community wells versus several shallow wells to protect the neighboring artesian wells and also the neighboring shallow wells.

Jim Hutchins- I go along with Mr. Jensen with the individual wells and septics. It is approved by the State but we do not have a water survey to know what kind of conditions the aquifer there is. The neighborhood could have a problem with individual septics with that slough out there. I have seen in 1996 and in the 1980's when that area was underwater. They say it is out of the floodplain. I don't think I can go along with this.

David Poole- I think they have a lot of work in front of them before they can do this. I think there is some information we need to make a good decision. My personal feeling is that we have some questions here that we need answered and we should table this so they can have a chance to answer our questions.

Chairman Ethington- My comment would be that with this PUD we are basically looking at the concept. I would think that the concept is workable and the other things can be taken care of later

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Brent Jensen-Lets say we approve the concept based on this plat, and then they contact the Army Corp of Engineers and they say there are development restrictions along that corridor, that would affect this plat entirely. I think it is premature to approve this. There is nothing wrong with tabling this.

Chairman Ethington- Under the circumstances that the Army Corp of Engineers completely changes the concept then they would be required to come back before us. They would have to stay with the concept we approve.

Brent Jensen- I don't support the density bonus with numerous shallow wells.

J.B.- Addressing the two things we start getting into areas where we become more restrictive than the law allows. The State allows a well and a septic on 1-acre lots and this proposal is for 3-acre lots plus 67 acres that will not be developed. This really falls under the Southwest District Health responsibilities to make sure everyone is protected and the law is abided by. Even with the increased density, we are still not close to one well per acre so the saturation is a lot less than the State would allow for. I am back to approving the concept with the conditions in front of us with approving this plat knowing that it may not be economical for him to adjust the plat depending on the agencies comments and he may have to adjust the plat. With the conditions we have been looking at we are looking at approving the concept and approve the plat knowing that with possible restrictions he may have to adjust it.

Fred Nussbaumer- At this point, in the original meeting we had we had eight issues that were brought up as condition of approval and we have added several tonight. I am not prepared to vote for approval until we see all this in writing.

David Hargraves- If you want to receive more information you will need to open the hearing back up so you can have another hearing down the road. If you are not asking for information you can have staff prepare a written decision for you to review and sign at the next meeting.

J.B.-Made a motion to approve the Planned Unit Development with the specific conditions that are stipulated that they are allowed the density bonus but they have to provide an extra lot of open space that provides public amenities near lot 20.

Motion received a second.

In favor: David Poole and J.B.

Opposed: Brent Jensen, Jim Hutchins, and Fred Nussbaumer.

Motion denied.

Brent Jensen- Made a motion to approve the concept plan with the exclusion of the density bonus for later consideration with 78 lots.

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Brad Hawkins-Clark- In order to get a density bonus under our ordinance there are three things, landscaping, sighting and design. I would recommend you make your decision on the PUD based on those three things. If you want to give them 15 percent they have to prove to you landscaping, sighting and design.

Motion received a second.

Vote: Unanimous.

Item Two- (Continued) A Preliminary Plat by Landmark Engineering and Planning, Inc. to request approval to allow 90 buildable lots and 5 common lots on 385.63 +/- acres located on Morehouse Road, a portion of Section 6, T 06N; R 02W.

J.B.- Made a motion to table the preliminary plat for staff to compile our comments into a proposed written decision with the indication of the number of lots we approved.

Motion received a second.

Vote: Unanimous

Item Three- (Continued) A Variance request by Cingular Wireless to allow an increase in the maximum height regulation of 125 feet regulated by the Zoning Ordinance to allow a maximum height of 150 feet in a C-1 zone to place a wireless tower. The property consists of .433 +/- acres and is located at 141 E. Enterprise Street.

No ex parte or conflicts of interest were reported.

Tony Wilson- 2966 Zack Place.

If you look in the packet of information I have responded from the questions from the staff report and detailed them out. The staff did issue another report based on my answers and we agree with all the staff conditions for approval of the site. I have a letter from Cingular, which I will give to the staff, which states that they will agree to the cessation terms and the project manager signed off on it. One of the reasons we picked this location is we only be at 80 feet if we went with the existing tower west of town and we would drop coverage. If we can have 150 feet we wouldn't drop coverage. With the two on Highway 16 the existing towers that are there we will co-locate on those and have continuous coverage to State Street.

Chairman Ethington- What if you extended the present tower just west of town and raise it up more?

Tony Wilson- That would be a considerate cost to that because it was not designed for that. You would probably have to replace the whole foundation and build a new tower. We

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couldn't extend it; it would have to be removed and replaced. It would have to be structurally engineered and you would have to get the okay from the owner of the tower.

Jim Hutchins- It seems to me like replacing a tower as opposed to placing a tower at the end of Washington seems to me like it would work.

Tony Wilson- I can't answer that as far as how much it would cost.

Fred Nussbaumer- Where were the other two locations you looked at?

Tony Wilson- One was north of town at the school bus garage, and one was at the west of town that we are talking about.

Fred Nussbaumer- I just have a real problem with a 150-foot pole sticking in the middle of Emmett. I think it will take away from the City. I don't think this location is the best site. I think if there is another site you should locate your tower there.

Tony Wilson- You can see by the charts why we chose the height of the tower. If we went with less height then we would have to add another tower somewhere else. The wireless internet system that we are proposing will need the 150 feet for coverage.

Chairman Ethington- Let me remind the commission that we have two hearings tonight, the first one is for the variance to allow 150 feet and the second is a special use permit to allow the tower. So first of all we want to listen to his reasons why they want to increase the height from 125 to 150 feet. You want to increase the height for better coverage right?

Tony Wilson- Yes, it definitely increases our coverage and helps us connect with outer sites. The tower just inside Gem County will shoot down Freeze Out Hill and with the proposed tower it will just about make it to where you won't drop a call coming down the hill.

Brent Jensen- Would your company own the tower?

Tony Wilson- Yes. Another one of the reasons for the height would be that it could be a co-locatable tower and an additional two or three carriers could be added. In a year's time, Cingular will install a wireless internet system and the separation would be about 10 feet. We would require anyone that wanted to co-locate a minimum of 10 feet for separation. We would be at 147 and the other would be approximately at 125 feet. The filings came back from the FAA and it is not considered a hazard of flight and it does not require lighting at 150 feet and the Idaho State Aeronautics issued the same statement as well.

David Poole- So there would be no lighting on top?

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Tony Wilson- No lighting.

Chairman Ethington opened the public portion of the hearing.

John Evans-3979 Wills Road.

This is owned by Johns Plumbing and it is in the Impact Area. Will this go through the City Planning and Zoning also?

Chairman Ethington- No. This is all County.

John Evans- I am thinking growth for the area is going in that direction and 150 is a long way up in the sky. I don't like the tower period; there are a lot of beacons up the hill.

Chairman Ethington closed the public portion of the hearing.

David Poole- If we are going to allow it I don't see that 25 more foot variance would not make a difference.

Jim Hutchins- I am opposed to any of it.

Brent Jensen- I think 125 feet is an eyesore.

Fred Nussbaumer- I agree with Mr. Jensen.

J.B.- I am in favor of the additional 25 feet, I happen to be on the road most of the time and I get tired of poor cell service. I don't think the 25 feet makes that much of a difference. I like the idea of having continuous coverage.

Chairman Ethington- I think 25 feet is too much and I would like to see it added to a present tower. That area is going to be growing and it would take away from public views.

David Hargraves- I recommend that your motion revolve around the standards of a variance. (In audible)

Brent Jensen-Made a motion to deny the variance request because it does not meet the conditions and circumstances of the existing structures in the adjacent area and it will not be designed or constructed to be in harmony or appropriate in appearance to the general vicinity and the additional 25 feet will change the character of the area.

Motion received a second.

In Favor: Jim Hutchins, Brent Jensen, and Fred Nussbaumer.

Opposed: David Poole and J.B.

Vote: 3 to 2.

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Item Four- (Continued) A Special Use Permit request by Cingular Wireless to allow the placement of a wireless tower in the C-1 zone. The property consists of .433 +/- acres and is located at 141 E. Enterprise Street.

No ex parte or conflicts of interest were reported.

Tony Wilson-2966 Zack Place.

A special use permit would be necessary to get for a wireless tower. We are trying to get continuous coverage for the highway traffic. Eventually we want to get the wireless internet system. If we were to be granted this we would build it at 125 feet and it would change where we would place additional towers to get continuous coverage towards the Fruitland and interstate areas. That is something we will be okay with but we were hoping to have more coverage north of town and at 125 feet we won't get quite the coverage. The location it is in an area we want to continue coverage for Cingular customers and a site where other carriers could co-locate. The staff report says they recommend approval and we agree with the staff's recommendation.

Fred Nussbaumer- Even with the reduction of the height you could have two other carriers still?

Tony Wilson- Yes, at least two other and our other equipment and the landlord would have to rent additional space to them because our space is taken up with our equipment.

Fred Nussbaumer- So the 40 x 40 block you have talked about would have to be increased?

Tony Wilson- Possibly we could probably get one more person in there.

Chairman Ethington opened the public portion of the hearing.

John Evans- 3979 Wills Road.

The location is not right in that area. I would think there would be a better location for the tower.

Chairman Ethington closed the public portion of the hearing.

J.B. When I drive down McMillan Road between Cloverdale and Eagle Road, there towers near subdivisions and schools. Cell towers have limited coverage and they need to get out there, and they will have to be around houses. I think it is necessary to place these towers.

Fred Nussbaumer- I know we are faced with growth in this area and I know this is part of the growth. I know the cost of applying for and putting it in this area is going to be a sizeable investment. Over a period of time if it was relocated with other towers outside of

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the city area you might be longer at recuperating your investment. At this point I think this is a poor location for the city of Emmett.

Brent Jensen- I feel it does not meet the general standards applicable to all special uses or appropriate in appearance to the general vicinity. I don't think we want it in town I think there are better locations.

Jim Hutchins- Ditto to what Mr. Jensen said, it could be located in other areas. I have set these towers before and I know a little about coverage areas.

David Poole- I think we need to learn to live with it, so I am for it.

Chairman Ethington- I am for cell towers also but I am against this special use permit. I don't know why the other tower cannot be replaced at the west of town and build a bigger and higher tower there. I think is too close to the entrance to the city.

Discussion.

Brent Jensen-Made a motion to deny the Special Use Permit because it does not meet the general standards applicable to all special uses because is not harmonious and appropriate in appearance to with the existing or intended character of the general vicinity.

Motion received a second.

In Favor: Jim Hutchins, Brent Jensen, and Fred Nussbaumer.

Opposed: David Poole and J.B.

Vote: 3 to 2.

Consent Agenda:

Item One- Minor Subdivision Review:

A. Gaul Estates- Edwin Gaul

B. Rockin B Ranch- Terry Bennett

Item Two- Approval of the minutes of September 25, 2006, and October 10, 2006.

J.B.- Made a motion to approve the consent agenda.

Motion received a second.

David Hargraves- By approving the consent agenda you are agreeing with staff's recommendation whether it was to approve or deny the applications.

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Vote: Unanimous.

David Hargraves- What happens now, you basically adopted the administrator's recommendation and it will go before the Board of County Commissioners for final decision.

Brad Hawkins-Clark-All these minor subdivisions, this is your first one, this is your meeting and your agenda. You get our recommendation and you can do with it what you want.

Regular Meeting:

Item One- Items from the public.

Roger Bennie- Tri County Surveying.

I would recommend that you move the consent agenda to the first item on the agenda so they can be done and gone. There is no reason to wait until 9:30 or 10:00.

Terry Bennett- Rockin B Ranch.

My problem with staff information is every time you go to them there is always something different. I have spent a lot of money to come to this point and I get into what I don't understand. I had the preliminary meeting and I had the consent to go ahead and when they had a comment they had two people there one of which didn't need to speak because it was over an electric easement because it was on my property. The other person was over a 40-foot easement that we have. I can get that taken care of but if a denial is there and you don't have the chance to say anything or take care of it then that is wrong because I was going for 4 splits on 68 acres and he wants a 60-foot easement instead of 40. I had no idea about that. First of all staff is very understaffed and you never get any information back fast enough, so every time you come to something like this it is a month later or a month later. I can't run my business like that and I am sure you can't run Gem County like this, they need more staff. If I get denied this without even saying I took care of the issue then that is wrong. There is no reason for this to be denied, if he said that I needed something before it went to the commissioners I should have had a chance to fix it. The process is weak.

David Hargraves- Our process is designed to give people the process they deserve. You had the opportunity to have a hearing and you had that. You had the opportunity to prove that you met the requirements for a subdivision and the County disagreed. The Board of County Commissioners will make the final decision and give what you need to do.

Terry Bennett- You didn't say a word there. There wasn't anything said about the 60-foot easement that I had to have for a minor subdivision.

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David Hargraves- That is in the ordinance and you have to meet the ordinance. You have the burden of proof that you meet the ordinance. That is just the way it works.

Brad Hawkins-Clark- And you don't need a 60-foot easement, there is nothing in there that says that. It says the 40-foot would work as long as you get consent.

Terry Bennett- Why wasn't that brought up at the meeting?

Brad Hawkins-Clark- The ordinance hasn't changed since three months ago. We are telling you what the rules are and there is nothing that has changes since our pre-application conference.

Terry Bennett- The only thing that has changed is the idea of denial. When I met all of it that you wanted.

Chairman Ethington- At this point it is going to go before the Commissioners and you will need to bring up your differences and meet them and you will be set. Sounds like you are really close.

Terry Bennett- The hoops are fine if they are stated at the beginning.

Chairman Ethington- Did you have a chance to look over the ordinance to see what was required?

Terry Bennett- I think that is left for interpretation.

Brad Hawkins-Clark- I realize we have room for improvement but I feel very comfortable telling you and the Board that our office has a subdivision ordinance that you and the Board approved and we use that for our guidance and it hasn't changed for Mr. Bennett or the other 18 minor subdivision applicants that we have had. A 40-foot easement for a private road is one page in the ordinance and we have not changed anything.

Charles Carruth- 5464 El Paso.

There has been negligence from the Planning and Zoning Department since I have lived out there. They have issued building permits and subdivided during the moratorium and constantly told us out there that we cannot do that, nobody could. There are 5 building permits on a private drive; there were four until the fifth one was issued during the moratorium. It ceased to be a private drive when there was that fourth one on there under the old rules. We have had a road maintenance agreement in effect for three years. According to the Planning and Zoning we do not have one because one person didn't sign it that has frontage to El Paso Road and doesn't use the easement. We have an easement through there that is evidently no good either. We were told point blank that our easement was no good because of the wording by the County Council in a letter. That doesn't

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wash. Did they make two mistakes by issuing the fourth and fifth building permits and subdividing the three parcels from 36 acres? That was negligence not mistakes. Thanks, gentlemen I am a little upset.

Item Two – Items from the Planning Director/Administrator.

A. Recent Board of County Commissioner meeting decisions.

Brad Hawkins-Clark- We have an administrative assistant position available and we held nine interviews and we will be hiring this week. Maureen went back to her former employer and we are also hiring a planner and a part time code enforcement officer. You should have received new books on your desk tonight. So you can recycle your old ones and you don't have to bring them back, we all have the same books. There are three cheers for Jennifer on that. Equity One did appeal your decision of the real estate office. The Board has met with the City Council about 4 times and without the City Council about 4 times to talk about the Comprehensive Plan. They did hold one public hearing and they closed it. They are planning another public hearing. They have been talking a lot about your recommendations. They are going with a hybrid some of your recommendations and some of the public.

Chairman Ethington-When will their information be made public as far what they are planning?

Brad Hawkins-Clark- We expect that tomorrow will be the last workshop and we will take their changes along with the City Council's changes and make them available before the next public hearing in January. We also have a Storm Water Ordinance that you will have for a public hearing probably in December.

Item Three – Items from the Deputy Prosecuting Attorney.

David Hargraves- I just want to say good job on picking out the standards and you are trying to show how they have or haven't been met.

Item Four– from the Zoning Commission.

J.B.- Brad any reason we can't put the consent agenda first? Would it be appropriate or not appropriate for the applicant to request something to be pulled off the consent agenda?

David Hargraves- The trouble we get into is it is more of a public hearing and the public would need to have a chance to testify.

Chairman Ethington- I wanted to tell you guys that you are doing a great job with your information and you have things outlined.

David Poole- To pull one item off of the consent agenda it would take a vote right?

Brad Hawkins-Clark- Right.

David Hargraves- The point of the consent agenda is to streamline the ones that you don't need to discuss.

J.B.- Did he know before this evening what your recommendation was?

Brad Hawkins-Clark- He did a copy of it about a week ago. He is just upset tonight because at the hearing we did not announce the decision. We had the hearing contemplated it and then wrote the staff report and he got about a week after that.

Brent Jensen- I think your staff report was very thorough and I appreciate that.

Item Five – Adjourn.

J.B.- Made a motion to adjourn.

The motion received a second.

Vote: Unanimous.

Chairman Ethington closed the meeting at 10:06 p.m.

Chairman

Secretary