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MEMBERS PRESENT: Don Wilkerson, Steve Ethington, David Poole, J.B., and Fred Nussbaumer.

MEMBERS ABSENT WITH PRIOR NOTICE: Jim Hutchins.

MEMBERS ABSENT WITHOUT PRIOR NOTICE: Brent Jensen.

OTHERS PRESENT: Maureen Hill- Planning Analyst, Jennifer Kharrl –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- 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.**

Don Wilkerson stated that he has exparte communication because he spoke with the ditch company.

Maureen Hill showed a power point presentation of different views of the property and described the application. Staff recommended that the application be continued or more information.

**Tony Wilson-2966 South Zach Place.**

One thing we do when we select a site is imagine the cover area to be like a sprinkler system. This site would have continuous coverage and would tie in and push to the North and handle Highway 16 to Highway 44 with continuous coverage. We are looking at collocating with two other towers in Gem County. One reason we asked for the variance for an additional 25 feet is to cover further on Freezeout Hill and stop dropping of calls. Another reason is to cover further North around Black Canyon. We try to make a tower big enough for others to collocate. Staff had some concerns with the area and we will have a concrete shelter and a fence around the tower. The site itself will not put out any glare, odor or noise. It will meet all FCC requirements as far as emissions. We will not create any additional costs for public utilities. Once the site is built we might have techs there once every couple of months, there will be little or no traffic to this site. This area is a commercial area. Cingular is also developing wireless internet, within a year we will launch that. The FCC Telecommunications Act of 1996 prohibits the jurisdictional use of any sort of radiation. We had a site over at Lake Lowell and the landlord went to a physics professor and he said there are no proven risks from transmission signals.

**David Poole-** Will you be using a generator for backup?

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**Tony Wilson-** No, what we will have is a battery cabinet that is good for 48 hours. The FCC regulates us and we cannot be out service ever especially for emergency phone calls. We are licensed and we pay millions of dollars for these and we are regulated heavily from the FCC. I do have a letter from the FAA with their approval. We will have a tech come by every couple of months and keep the site clean from weeds or rust. We have to keep the site clean. Our licensing agreement asks for 120 days after cessation of the tower, the staff report says 60 days. By the time you get it shut down it takes about 120 days. We have never shut a site down in the ten years I have worked here. We will agree with what the ordinance requires. This is a very well thought out and programmed site.

**Don Wilkerson-** With a 15-foot setback and the size of your building, you can't meet the setback. The fall zone has to be a 30-foot circle and with a 12x28 building you can't meet that.

**Tony Wilson-** When we first met with staff we were told that there were no setbacks in a commercial zone.

**Don Wilkerson-** Our Zoning Ordinance has it right here in the matrix chart. You are okay on the front and rear but not on the side. The fall zone has to be a 30-foot circle, not 15- feet like the staff report says, and with a 12x28 building you can't meet that.

**Maureen Hill-** I addressed this issue with Brad and he thought this building would not get in the way of the requirement there.

**Don Wilkerson-** How come the staff report says that the proposed shelter will be located approximately 3 feet from any fall zone and will not infringe on the boundary?

**Tony Wilson-** It is an unoccupied building.

**J.B. -** Is the fall zone there to protect other property owners?

**Don Wilkerson-** It seems you might have to have a bigger site area.

**Tony Wilson-** If the fall zone change would require a variance, is the variance something we can ask for tonight?

**Don Wilkerson-** No, it will have to be a separate application. It looks like you will be building a fence in the ditch company's easement and they do not allow that.

**Tony Wilson-** How much are you figuring we would have to increase the site?

**Don Wilkerson-** You will have to scale that out.

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**Tony Wilson-** What is the fall zone referring to?

**Don Wilkerson-** Not necessarily the tower but the antennas.

**David Hargraves-** The ordinance says that there cannot be development in the fall zone.

**Tony Wilson-** What if we get rid of the building and only have outdoor equipment?

**Don Wilkerson-** Yes, whatever you have to do to clear the fall zone.

**Chairman Ethington-** How does that fit in with the application?

**Maureen Hill-** You could make that a condition of approval on the variance.

**David Poole-** Will that be siteful for the neighbors though?

**Tony Wilson-** No, typically there will be metal equipment.

**Don Wilkerson-** If you are talking about putting equipment in the fall zone, you may not meet the fall zone.

**David Poole-** I think there needs to be more research done on this.

**Tony Wilson-** I have a signed lease agreement about the removal of the tower.

**Don Wilkerson-** I haven't seen the paperwork describing the topography.

**Tony Wilson-** I will provide that. The batteries that we use are self-sealed with FCC and fire district requirements. There is no radioactivity from the towers. There is no noise or frequency you cannot hear the sites. There is no air pollution and no vibration.

**Don Wilkerson-** On your sites, you mentioned that the Cambridge cell site is not useable for you?

**Tony Wilson-** We cannot use that site because it would not meet our criteria as far as the coverage area, it is too short.

**Don Wilkerson-** Can you use that site?

**Tony Wilson-** No, it would not meet our needs.

**Don Wilkerson-** With today's technology, couldn't you raise the tower?

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**Tony Wilson-** It depends on the foundation, the equipment and it would have to be structurally engineered.

**Chairman Ethington-** The ordinance requires us to encourage the placement of towers to be compatible with the surrounding areas.

**Tony Wilson-** If we went with one of the 80-foot sites, it could not meet our coverage needs so we would have to put up another tower to compensate.

**Don Wilkerson-** For a tower it seems like your coverage area is small.

**Tony Wilson-** It all depends; there are several types of coverage.

**Chairman Ethington-** How would it affect your coverage if you stayed with 125 feet?

**Tony Wilson-** It would affect the coverage to the north and up Freezeout and have more dropped calls. The tower would work, just not as well.

**Don Wilkerson-** Will you need a landline from Qwest?

**Tony Wilson-** The landline will be a copper line, we will use existing facilities.

**Don Wilkerson-** The tower will not be compatible with the uses in that area. The highest thing out in that area is a light stand. It would be more compatible out in the middle of a pasture.

**J.B.-** According to our ordinance a tower won't be compatible anywhere. At least this in a commercial area, if it was in the middle of a pasture it would eventually be surrounded by homes.

**Don Wilkerson-** Have you thought about a camouflage tower like a flagpole?

**Tony Wilson-** We have done them before, but it reduces your coverage.

**J.B.-** If you were to get approved, when would you complete the construction?

**Tony Wilson-** The first or second quarter of next year.

**Don Wilkerson-** Will lights be required on this because of the height?

**Tony Wilson-** There is a study going on about that right now. Most likely we will have a similar light to the other towers around.

**Don Wilkerson-** Will this tower have a heater to get rid of ice?

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**Tony Wilson-** Not at all.

**David Hargraves-** Who makes that determination on the lights?

**Tony Wilson-** We are doing a study with the FAA.

**Fred Nussbaumer-** We are looking at a total of 150 feet in this tower? Any guide wires or is this self-supporting?

**Tony Wilson-** Yes, we are asking for 150 feet. The tower will be self-supporting.

**David Hargraves-** I would like the applicant to address the standards for a variance.

**Tony Wilson-** We are building a cell tower here and that makes it unique in itself. I don't feel I understand what you are asking. We are searching for a site for maximum coverage and 150-feet meets our needs for our coverage. You don't want towers too close or too far away from one another.

**Chairman Ethington-** So, you don't feel that there are better places in the County that would work?

**Tony Wilson-** This area is perfect for tying in with towers that already on the highway. This is an unusual structure, but it does provide a service to the public. Coverage depends on who the carrier is and it depends on different bandwidths, frequency, CBMA's and how the carrier lays out their grid.

**J.B.-** I have both a T-mobile and a Cingular phone which are both digital and I have a Verizon that is not digital. The type of phone does make a difference.

**Chairman Ethington opened the public portion of the hearing.**

None.

**David Poole-**Made a motion to continue the variance request to November 13, 2006 by Cingular Wireless to allow the applicant to provide more information on the fall zone, further information from FAA, moving the site location out of the ditch company easement, and provide a new drawing of the site with the new plans.

**Motion received a second.**

**Vote:** Unanimous.

**Discussion.**

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**Item Two- 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.**

**J.B.** - Made a motion to continue the special use permit application to the November 13, 2006 public hearing due to the continuance of the previous variance.

**Motion received a second.**

**Vote:** Unanimous.

**Item Three- A Special Use Permit request by Equity One Real Estate to allow the operation of a real estate office in the MX zone. Located at 1990 Substation Road. T 06N, R 01W, Section 16.**

No exparte or conflicts of interest were reported.

**Don Wilkerson-** We received an e-mail from Brad stating he would not be able to attend tonight, so he said if we had any questions to call. I did call with a question and I talked to Maureen on whether or not this is a valid application because of the lot size. The ordinance says that the minimum lot size in the Mixed Use zone is 1-acre. I would like to address to Maureen if there is an answer.

**Maureen Hill-** We did extended research on the subject parcel. This parcel has the same legal description today as it did prior to the zoning ordinance coming into effect on October 10, 1978. This is considered a legal non-conforming lot. There is a provision in the zoning ordinance that says a special use permit can be used as a change of use on a legal non-conforming parcel. The structure isn't changing as far as the square footage; they are just asking to change the use to an office. This parcel is in the Mixed-Use zone and it is a legal non-conforming parcel therefore it is eligible to apply for a special use permit.

**Chairman Ethington-** So what you are saying is even though the ordinance says it has to be a 1-acre minimum lot size, this parcel is considered a legal non-conforming parcel and a special use permit can be applicable.

Maureen Hill showed a power point presentation of different views of the property and described the application.

**Don Wilkerson-** On the application, the staff report shows a different sign than the application.

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**Maureen Hill-** The sign permit application was modified a few days prior to our deadline to send you the new information. The sign that is not considered now was originally put into your packet. I will let the applicant discuss the sign.

**Don Wilkerson-** The ordinance states that a sign cannot be larger than 32 square feet and if you add all the measurements of the sign on this application it exceeds the size limit.

**Maureen Hill-** We can set the condition on that and that will be handled prior to final approval.

**David Hargraves-** You are not being asked to make a decision on the sign permit, that is a decision of the administrator.

**Don Wilkerson-** The ordinance says that a sign cannot be lit to be construed as an emergency light. But the lighting of the time of day and temperature on the proposed sign will be red or amber and to me that will be construed as an emergency light. I think the staff should consider that in their decision.

**Kari Crisp-** Representative for Equity One Real Estate.

I want to thank you for considering our proposal this evening. We are hoping to relocate our office to the corner of Substation Road and Highway 16. Our intention is to create an office space that is inviting and appealing to the community. There were some concerns from the neighborhood regarding commercializing their neighborhood. We have cleaned up the property and upgraded the overall look of the property. We have removed all the bushes that were in the front of the house. We have not removed the bushes at the south of the property as of yet that will increase the visibility for that corner quite a bit. We are planning on removing everything but three sizeable trees and a blue spruce. All of the rest of the bushes that would block any visibility will be removed and the remaining trees will be trimmed up to help with visibility. We also have tried really hard to keep it looking residential, to look inviting and appealing to people coming into our community. We consist of 16 agents, 2 brokers, and an office staff. Approximately 1/3 of the agents are part time and come to the office maybe once a week. The remaining real estate agents don't come into the office on a daily basis, the only person that does come to the office daily is the office staff and that is one person. If you know anything about real estate you would know that most work is done outside of the office. This is a business that has people outside of the office writing offers or showing properties at restaurants or other people's homes. We do not have to do our work at the office. Once an offer is made most of the work is done through faxes or e-mail. There will never be a huge amount of traffic that will ever come into or out of the office. People are not meeting at our office; our clients never sit down with 10 or 12 people for a meeting. We might take 10 or 12 people through a house, but never at the office. The traffic flow is very limited. We do meet the requirements of the zoning regulation, it is a pre-existing original parcel. There is no intention to increase the size of the building. We have a licensed landscaper that will finish the landscaping. There currently is a six-foot fence between us and the residential property behind us. My understanding is that there will have to be

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additional foliage. The Medicoff's don't want a division of the two properties. In addition to the landscaping we will follow the parking regulations that are set down. There is more than enough parking space. We will be producing client parking along the north side of the house and between the house and the outbuilding. They will be diagonal parking spaces; the agents will park behind the outbuilding. We are intending to use a black lava rock that crushes down with very little movement and produces little dust for the driveway area and parking area. We do have our own water tank that the agents use for their source. The property does have irrigation for the landscaping. As far as wastewater usage in the septic, there will be no washing machines, no meals prepared and the shower will be not be used on a regular basis. The traffic flow that we have will be less than a family using the shower, washer and dryer and preparing meals. Brad felt that the original sign was the incorrect size and he was concerned that we did not get any feedback from Idaho Department of Transportation. We took his input and redesigned the sign as per the Idaho Transportation Department guidelines and making it coordinate with the County regulations. The dimensions you are talking about the posts and the hanging part is completely based on the Idaho Department of Transportation guidelines since it was not specified in the County we by the state regulations since the sign will be sitting on the highway side.

**Don Wilkerson-** So, the County has no jurisdiction on the sign?

**Maureen Hill-** The state has jurisdiction on the sign and we hope that we can work together. One of the last conditions of approval on the staff report states that the sign needs to conform to the state regulations.

**Don Wilkerson-** So the 32 square feet size is out the door?

**Maureen Hill-** I wouldn't say that it is out the door, but this will be dealt with by the Planning Director. There will be an acceptable plan that complies with the State and the County.

**Don Wilkerson-** She just said it was up to the State.

**Kari Crisp-** Mr. Wilkerson if I can clarify that, you said earlier that whether or not the county meant that they included the posts in the size requirements could be left to interpretation. The two regulations do not disagree; the State regulations clarify in more detail where the dimensions are to come from.

**Don Wilkerson-** You said the sign was built on the State regulations and I just wanted to know if the County has input or not.

**Maureen Hill-** The County does have input.

**David Hargraves-** Typically we see that the most restrictive regulation will be upheld.

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**J.B.-** We can be more restrictive than the State. This will have to meet our regulations.

**Chairman Ethington-** The question is, our Ordinance says 32 square feet but what does that mean?

**Maureen Hill-** This is not something that needs to be discussed in this session but will be discussed with the Planning Director.

**Kari Crisp-** We based it on the fact that the County Ordinance did not specify and did not give us any specifications but the State did. We went with the ordinance that gave us the details we needed for our measurements.

**Don Wilkerson-** The County Ordinance says 32 square feet, I agree I did ask what is readable and what is the size of the sign, but the County says 32 square feet. I don't like your thought that the County did not have any regulation.

**Kari Crisp-** The County lacks clarification on the size whether or not that is readable face or posting.

**David Poole-** If we state that the size will be 32 square feet you will have to live by.

**Kari Crisp-** We will live with whatever Brad determines. I think we are talking about two feet.

**Chairman Ethington-** I personally like the design of the sign.

**Kari Crisp-** The other change in the design and the reason we went with the angle design is because the State gave is that the sign cannot cause traffic to slow down. That is why we went with the angles and range of vision on the State Highway.

**J.B.-** My frustration is I don't like this going back to Brad for interpretation, we specifically said that the sign needs to be 32 feet. I am not comfortable without adding that to our approval, because I am not comfortable giving additional footage back at the office.

**Chairman Ethington-** I think the problem is that the ordinance says 32 feet but is also left for the interpretation of the office.

**David Hargraves-** The ordinance is left for interpretation for the administrator to make the determination.

**Chairman Ethington-** We should move on.

**David Poole-** I think we have the opportunity to restrict here like we do because we just say sign ordinance. With the special use permit we have the opportunity to stipulate the sign.

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**Chairman Ethington-** David, with a special use permit application we have always set parameters on things, but can we put a stipulation on the sign?

**David Hargraves-** (Inaudible.)

**Kari Crisp-** We weren't trying to cause a controversy, we were just trying to base it off the best information we had. The biggest concern with people in the audience and the planning and zoning commission is the traffic flow. I think our office is the lowest impacted office you would find in the mixed-use zone. We are proposing to widen the access and allow it to come at a more gradual angle so that the turn can begin sooner to the property and so there would be sufficient space for two cars so you wouldn't have to wait for a car to come out before you could go in. We did talk with the postmaster regarding the mailboxes on the corner that is at the corner of Sundown and Substation and he is unhappy with the placement of those because of the safety factor for the postal agents and the people checking their mail. The Medicoffs have generously offered to let that be relocated further into their property on Sundown that would allow both the postal workers and keep the residents of the community to collect their mail safer and not so close to a busy corner. On the exit from the office space that only right hand turns would be allowed. No left turns would be allowed to cross traffic. Anyone leaving the office would be forced to go down Substation.

**Chairman Ethington-** How would you do that?

**Kari Crisp-** We would post a sign at the exit saying no left hand turns and people would receive tickets if they did turn left.

**J.B. –** That would not be enforceable. You could not write a ticket for that coming off of a private lane.

**Kari Crisp-** There will be a sign posted that says no left turns.

**David Hargraves-** If the County posted it, it could be enforced.

**Don Wilkerson-** Unless the County posted it, you could not enforce it.

**Kari Crisp-** We would be fine with the County posting it.

**Don Wilkerson-** But you didn't say that to begin with.

**Kari Crisp-** I assumed the County could post it but I didn't know that County would have to post it for it to be enforced. I am fine with however that needs to be accomplished to get that result. My husband was more involved in the creation of the sign. We are working hand in hand with Brad and we are doing the best that we can.

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**J.B.** - If we were to insist that you take out the driveway on Substation completely and curb that so nobody could enter the property off of Substation and were only able to access from Sundown, could you live with that?

**Kari Crisp-** I would probably take it to the Commissioners and the reason is you are blocking commercial access to a commercial corner.

**J.B.** – Actually I believe it would increase the commercial access, you answered my question.

**Don Wilkerson-**You based your elevation of the sign on the Highway and I think it should be based off of Substation.

**Kari Crisp-** That is not what the County ordinance reads, it says the adjacent road.

**Don Wilkerson-** Substation is adjacent, and the application says the sign can be read from Substation.

**Kari Crisp-** No, the sign on the front of the house would be seen from Substation.

**J.B.** – Substation is in fact the adjacent street because they do not own the property that abuts to the Highway. By definition the adjacent road would be Substation.

**Don Wilkerson-** Are you aware that the staff report and the letter from the Idaho Transportation Department says the access can come off of Sundown?

**Kari Crisp-** Referring back to that letter, I am a little concerned because the letter has a lot of fairly vague terminology. It says that the local jurisdiction may want to determine if the distance meets the intersection setbacks standards for the commercial activity proposed. We are not talking a convenience store here; we are talking about an office. The letter says that higher density commercial use could be a problem unless access is used through Sundown. There is a lot of terminology that is a little vague with it may or it could.

**J.B.** –You keep referring to this as a non-traffic office. I know of several real estate offices that have higher traffic. The projected low volume you talk about it totally unrealistic. The amount of cars and the amount of people in the offices is tremendous. Your office might not be like that now but you will be the first office coming down the hill and if you are successful I would expect you to be very busy. When this letter comes out from the County, you are suggesting widening your access off of Substation with two-way traffic but the only way to get people out of the traffic in a safe way is not allow them to use Substation. The only I would look at this at all is to make you take out that driveway and put up a sidewalk and curb where all traffic would come from Sundown. That would be one of my conditions.

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**Don Wilkerson-** You mentioned the screening six-foot wood fence. Our ordinance says that if you abut up to a commercial area it needs to be screened.

**Maureen Hill-** In the landscaping ordinance that is put in the hand of the administrator and there is an alternative to the landscape requirements that can be considered.

**Don Wilkerson-** You mentioned moving the mail box post, there is a telephone box there also that people need to get into from time to time.

**Kari Crisp-** There is a telephone and a power box and that is something that can be accessed out of our parking lot. Most people in the residential section behind us are not going to want pull into our parking lot and cut across to get to their mailboxes.

**Fred Nussbaumer-** Has your parking lot been engineered? I have that black rock on my own property with 12 inches of pit run to keep traffic from going through it.

**Kari Crisp-** I don't think we were required to engineer that at this point but we would do whatever it would take to stabilize the parking area.

**Don Wilkerson-** Do you plan on striping the diagonal parking spaces?

**Kari Crisp-** We were going to put parking stops at the front of the parking spots. That isn't in our plans.

**Chairman Ethington opened the public portion of the hearing.**

**Bryce Walker-** I want to make a point that the same owner owns the lot we want to lease and the lot next to it, that is a very rare event. I think we would be setting a bad precedent or public policy if we start requiring owners to go across their neighbor's property to go in and out. We should be restricting on how to get safely in and out of the parcel that already exists and like Maureen said it has been there since before the ordinances even were. Having the access around the corner will virtually destroy the corner because you would have to come quite a ways down Sundown and go across that existing lot. I think we are getting on to requiring someone to do something off site that most of the time would not be an issue.

**Fred Nussbaumer-**If you left the driveway on Substation, how many feet is it from the south side of the driveway to the stoplight?

**David Poole-** The application says the lot is 134 feet wide.

**Darrin Crisp-** I am an agent for Equity One and I am also the one who engineered the sign and not to cause or dismiss or minimize the input of the County we were trying to meet both requirements. And we certainly can size that sign however that County would like so it can meet the requirements of the zoning ordinance and so it looks good coming down the hill so

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our valley can continue with the view. The first sign was something that came straight out of Meridian and we decided it was too commercial looking. We tried to come up something that would fit. Many other places have real estate agents directly in the residential areas and they fit in and they actually raise the values of the residential areas. As raising the value of the residence area they bring in level of appearance. The office has to be kept up to continue getting business. As far as the roadbed goes I am the one who knows what is going on with it and it will be between 8 and 12 inches and it already has 6 to 8 inches of compacted gravel and clay. I have not dug down below that to see what else is there. I will have a professional road builder take a look at it and make sure we won't have muddy ruts and it will look nice. This is a hearing for a special use and it would have to be reviewed annually and I would request that if you decide whether or not you will allow this that we don't have enough traffic at this time. I did a quick study and we have about 2 cars an hour coming to the office except for Tuesday mornings from 8:45 to about 10:00 we have about 9 cars because of our weekly meeting. Our office hours are generally 9 to 5. Traffic ends about 7:30 and picks up about 5:30 to around 7:30 or 8:00 and our agents will not be in the office at that time except for myself to work on the computers. Gentlemen, subject to your questions this concludes what I had to say.

**J.B.-** Are you willing to have limited hours if we put a condition on the approval of the special use permit?

**Darrin Crisp-** I don't see that being a huge issue but Mrs. Crisp and Mr. Walker would have decide that.

**Warren Hale-** 2184 Sundown.

Which is almost directly across from the proposed area. Like he says we have mailboxes on the corner, we have Carberry school just down the road and we have kids coming and going. You will have people looking at the sign and not looking for kids or people. There will be additional traffic and I think limiting the hours is ridiculous because I have never known a real estate agent that wouldn't work at 8:30 pm if they thought they were going to sell a house. A lot of people don't get off of work until 5:00. If they come off of Sundown they will be wandering around and it will be a nightmare for people coming home and getting their mail and getting in and out.

**Tom Douglas-**1877 Shadow Drive.

The right hand turn out of the existing driveway would want to return back to town via the highway, so they would have to find a place to turn around on Substation to get back to the highway. My concern is that they would turn onto Sundown and turn on Shadow Drive and make the turn onto Sunrise that goes back towards Substation to return to the highway. I live on the corner of Sundown and Shadow Drive and my children play with other children in the neighborhood. The streets are dead ends and there is not a lot of traffic and it is a safe neighborhood. This is a residential area. This is a quiet and safe area for our children. The proposed driveway on Sundown would interfere with the

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mailboxes and we are limited to access to them. My response to real estate offices in residential areas to me it looks tacky in a residential area.

**J.B.-** It sounds like the post office is not happy with the placement of the mailboxes and they will probably be moved. You are aware you live in a Mixed Use Zone?

**Tom Douglas-** It wasn't when we moved there but I am now.

**Linda Swickerd -** 2388 Sundown Street.

Read a request into record for denial for the special use permit application.

**Don Wilkerson-** You saw the letter submitted from the transportation department and you don't think that last sentence recommends Sundown access.

**Linda Swickerd** – She is not recommending access off of Sundown, she is saying that access from Substation is not safe but she is not recommending access from Sundown and she will confirm that if asked.

**Jim Bois-** 2222 Sundown Street.

64 residents from 37 residences in our neighborhood agree that we chose to reside here because of the character of the neighborhood. We want to preserve the residential uses. We have several concerns and we do consider this hazardous this for existing situation and future situation for Sunrise and Sundown. Re routing the access from Substation to Sundown is not a solution because there is no direct access from Sundown to the building and that will cause problems. When you come down into our valley there are no signs and a commercial sign wouldn't look nice in the neighborhood. I feel a large sign will distract the drivers. There are no signs to the north along Substation that are commercial until the dentist offices. There is the school zone that is 20 miles per hour and people need to pay attention. Equity One would not want to put a place there unless it would draw more traffic. All of those factors including the vehicular access is blinding. I encourage you to come view our neighborhood as we see it not as someone who doesn't live there writes about it.

**Tonia Keen -**2467 Sunrise.

My main concern along with the safety issues is because the same owners have the adjoining property that is currently a rental, I am afraid that this will set a precedent that will come further into our subdivision with commercial if the Mednicoff's are wanting the other property to become commercial. The septic use will be more substantial than a single-family residence when there are 16 agents. I don't see the need for commercial to enter into neighborhoods, there are plenty other places for commercial uses and I don't think they would want that in their neighborhood.

**Tom Hoppell-** 2473 Sundown.

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The traffic flow, I spent 15 minutes with Brad Hawkins-Clark explaining to him what I thought about this issue and right now when I go to work at 6:00 am sometimes the traffic is backed up to Sunup along the highway and you will push that further and allow more cars. On that corner there is an individual who purchased it that has several trailers parked on the road, he has a residential business. The way it is you can't hardly get down the street. I know Kevin talked about moving the mailboxes but how it is now when we come around that corner to park to get our mail. Where they are talking about the new access is where we park to get our mail. So if that does get moved that might alleviate that concern. Moving the driveway into our neighborhood is not an answer with the congestion in that area, I know the access on Substation will be an issue also but it makes more sense to have the entrance on a main corridor than in a neighborhood. The sign issue, three blocks away where the schoolhouse is there is a vacant lot across the street and a few years ago there was a 16-foot sign placed and the city ordinance took it away. Now this is county and that sign was the most unsightly thing I ever saw. Now we are talking about pulling up to the stop sign and one of the signs will block it and one is on the face of the street, please put yourself in our position and consider how a sign would look in our neighborhood.

**Kathy Hopell-2473 Sundown.**

We have 64 signatures from 37 houses that do not want this. My main concern is the access coming off of Sundown that is our home that is where we live and want to call home. If you could see what we see and come down that street and imagine a business there, it just sickens all of us. You mailed out notices to properties within 300' of the property, but that wasn't enough because it impacts all of us. Jim put up a sign by the post office boxes and it kept getting torn down from someone who didn't want it there. You say the outward appearance of the structure is keeping with the existing or intended character of the vicinity. This house couldn't even get rented, I know someone who wanted to rent it and they went in said it was atrocious. Now they painted an ugly color of lemon yellow with three stripes of gray that are different colors. They tore down all the bushes that hid this ugly house. We feel like it is an eyesore and they want to put in cheap parking. That will be the image coming into our subdivision. I am concerned with if the realtor leaves because there are not successful who will take over next a pawnshop.

**Chairman Ethington-** Any change would have to come before us again so you can alleviate that concern.

**J.B.-** This isn't a rezone it is a conditional use.

**Chairman Ethington-** Every year it will have a review and if there is ever a change they will have to come before the citizens again. The permit is non transferable.

**Kathy Hopell-** But it will be commercial again.

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**David Poole-** If they bring before us again and ask for it and you will have the opportunity to voice your opinion.

**Jerry McCullough-** 2495 Sundown.

I ask you why did they select this site as you are coming right into town, not for the neighborhood I am sure? I think this is a very dangerous place for a business. With cars coming and the traffic right now is very heavy. Like Tom said there is already a business there with several trailers and it is very hard to drive down Sundown Street. When I heard this was going to be a business I was in disbelief. Nobody came around our neighborhood asking what we thought of a real estate office and to me that was very sneaky. The traffic on Sunrise and Substation would get even worse. As the real estate office becomes more successful there will be even more cars and people. I am very against this. I would like to thank Jim Bois for alerting us about this other wise we probably would not have known about it. The character would change with the intrusion of commercial traffic into a residential neighborhood these people are not our neighbors. The intersection is already dangerous enough as it is. More traffic equals more accidents and if Sundown is extended into the new subdivision there will be even more traffic.

**Maureen Hill-** Notice of public hearing on the application was published in the Messenger Index in accordance to the ordinance and appropriate guidelines and the sign was posted on the front of the property and the notification to property owners is clearly in the ordinance for properties within 300'.

**J.B.-**Made a motion to continue the hearing due to all the several issues that were brought up tonight with the signage and the entrance and I would like to see a complete package. I would like to see landscaping and fencing plans. Now it is going to the staff to work some issues out and I am not comfortable with that on this application. I move to continue this so the staff and applicant can finalize these issues and bring it back to us.

**David Poole-** I think in your motion you should include what it is that you would like to come before us.

**J.B.-** I want the complete package of where the sign the final sign design, final landscape design, the final parking design, then final entry design as it has been recommended on what the staff and applicant are working out.

**Chairman Ethington-** I would like to see a diagram of the recommended traffic of what they want the traffic to be and some sort of opinion from the state and county official on who is responsible for that information.

**J.B.-** If we close it now, I am definitely opposed because of the lack of information. I think they have a right to put the business there it is mixed use and for people to say they can't have a business in their neighborhood that is not true. It is mixed use there could be

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several businesses allowed. I move we postpone this so these questions can be answered and continue it until the next hearing so it will still be open.

**Motion received a second.**

**Don Wilkerson-** I would like to amend J.B.'s motion. I would like to deny the application in its entirety for these reasons that the comprehensive plan on land use says to encourage commercial uses that do not cause conflict with residential uses and site improvements should be harmonious with the existing uses and should be made to reduce noise traffic and any other negative effects. To me traffic is an issue and moving of the access is an issue. Basically you are opening up commercial uses in a residential area. I think it is a travesty for people in that area.

**J.B.-** My motion would have to be voted down before we could vote on his motion.

**David Hargraves-** The applicant did not receive a chance for rebuttal.

**Kari Crisp-** I do appreciate that these folks are concerned about their neighborhood changing. The comprehensive plan and the designs for this county have historically noted that this area of the county is mixed use. If you look at other entrances to residential areas in other areas you will see businesses and I understand that any business is unsatisfactory. I encourage you to consider that we will be the less impacted business that your community would see. Our job is marketing property and creating communities within our community. I am a member of this community, I am a 4H leader I am a mom of four kids at home and one in the army. I live and breathe Emmett. We want to be good neighbors and I am sorry that when you bought your property you didn't realize this was in the mixed-use zone. I am sorry that you did not realize that the two houses at the entrance of your subdivision are not part of your subdivision and were mixed use. I feel bad that you did not realize this. We are not out to commercialize or rape your neighborhood. Yes it is a great corner for a residential real estate office and we will continue to make efforts to make this an appealing entrance into our community because I am a member of this community. I would be interested if the commission felt that a traffic study needed to be done. I think that all of the letters from all officials regarding the viability of the entryway off of Substation or Sundown were vague and I appreciate the fact they were vague because they make a decision they will be called to account on it. If we get to the point where we need a traffic study to determine the viability, I do encourage that you guys would allow us the opportunity to do that. We are a low impact and we do not have high sales of retail products, we do not invite in people to notoriously run red lights, we are not a bar or a dance hall. We are somebody who encouraged community involvement and think this is office is suited for the zone that it is in and I would hope you would give us the opportunity to address the issues that you have stated and to provide you with more documentation from licensed landscapers and people creating the parking lot and additional information on the site.

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**Chairman Ethington-** On the mixed-use process, any time there is a change that is applying toward a commercial aspect will always come before a special use and it doesn't mean that the change will be issued it all depends on the stipulations that go with a special use and a lot of it depends on the neighborhood and the people that live in the neighborhood.

**J.B.-** I would like to withdraw my motion.

**Fred Nussbaumer-** I withdraw my second.

**David Hargraves-** I want to make sure you understand that you can require studies. There is an issue with the impact of traffic at this site. Your road department has recommended that you have a traffic study done. I just wanted you know that it is an option. Special use in our ordinance allows you to attach several conditions related to a number of the things, the reference is Chapter 7-7-b. You can attach several conditions and I want you to be aware of that.

**Chairman Ethington-** I am aware of that.

**J.B.-** We have enough information tonight to deny this request we don't have to continue it.

**Don Wilkerson-** I agree with Mrs. Crisp that a real estate office doesn't create a lot of traffic or noise. But, I think the bad thing about it is the location. I walk across that street every morning and if you see a semi coming down the hill they won't be able to get stopped if traffic is backed up. All we would do is move the problem if you moved the access from Substation to Sundown.

**Chairman Ethington-** As a commission we have gone through hundreds of special use permits and sometimes there are smoke screens that are brought up from neighbors that don't want this in their backyard. This issue is real to me and there is no smoke. The neighborhood carries a tremendous amount of weight and we view it very heavily.

**Chairman Ethington closed the public portion of the hearing.**

**Don Wilkerson-**Made a motion to deny the application because it does not comply with the comprehensive plan and because of the negative public comments on the location.

Motion received a second.

**David Poole-** I really feel we should have given them the opportunity to do some more research.

**In favor:** Don Wilkerson, Fred Nussbaumer, and J.B.

**Opposed:** David Poole.

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**Vote: 3 to 1**

**Regular Meeting:**

**Item One- Approval of the minutes of July 27, 2006, August 14, 2006 and September 11, 2006.**

**David Poole** - Made a motion to approve the minutes as corrected.

**Motion received a second.**

**Vote:** Unanimous.

**Item Two – Items from the public.**

**Teena Turner.**

Can I strongly suggest that the planning and zoning commission suggest to the Board of County Commissioners that we get a microphone that works and a computer that works? It is so stressful for these people to stand up and speak at a public hearing. I will write a letter to the editor. This is absolutely horrible. The microphone cutting in and out ruins your flow. Whatever else needs to be suggested to the County Commissioners that our planning and zoning development gets a computer that works and so we can see what we have. I am so afraid you are going to get appeals because of the lack of presentation. That is tough and you have a really tough job and it makes us look incompetent on the screen and microphone.

**Item Three – Items from the Planning Director/Administrator.**

None.

**Item Four– Items from the Deputy Prosecuting Attorney.**

**David Hargraves-** On conducting the procedures, be really careful on hearing the public you don't want to leave them hanging. Let the public know ahead of time that you are going to give them a certain amount of time for their comments. When the staff gives their recommendation and you want to go opposite of what the staff recommends we need some time to line it out because we need to prepare the written decision.

**Item Five –Items from the Zoning Commission.**

**Chairman Ethington-** Like J.B. said earlier we would like to see a more complete packet so we can make an intelligent and broader decision. Like the landscape plan and the traffic is probably the biggest thing. I would like to see the whole thing in a landscape plan.

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**J.B.-** We need to get you something for your papers, Maureen they fell on you twice. Seriously, it was a point well taken from Teena because we do look unprofessional when we have things falling up here.

**Item Six –Adjourn.**

**J.B.-** Made a motion to adjourn.

**The motion received a second.**

**Vote:** Unanimous.

Chairman Ethington closed the meeting at 9:55 p.m.

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Chairman

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Secretary