

PAGE #1

MEMBERS PRESENT: Steve Ethington, Jim Hutchins, Fred Nussbaumer, David Poole, and Don Wilkerson.

MEMBERS ABSENT WITH PRIOR NOTICE: J.B., and Brent Jensen.

OTHERS PRESENT: Brad Hawkins-Clark- Planning Director, Dena Shaw- Administrative Assistant, Jennifer Kharrl –Development Services Coordinator; David Hargraves- Prosecuting Attorney.

Consent Agenda:

Item One- Minor Subdivision Review:

A. Steven Wells-Bishop Estates

Don Wilkerson- Made a motion to remove this application from the consent agenda and move it to the regular meeting.

Motion received a second.

Vote: Unanimous.

B. James Watts- Sunset Estates

Don Wilkerson- Made a motion to remove this application from the consent agenda and move it to the regular meeting.

Motion received a second.

Vote: Unanimous.

C. Rex Walker

Don Wilkerson- Made a motion to remove this application from the consent agenda and move it to the regular meeting.

Motion received a second.

Vote: Unanimous.

D. Robin Nuffer- Broken Circle Estates

David Poole- Made a motion to remove this application from the consent agenda and move it to the regular meeting.

Motion received a second.

Vote: Unanimous.

Item Two - Approval of the minutes of December 11, 2006.

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

Motion received a second.

Vote: Unanimous.

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

PAGE #2

Item One- A New Gem County Ordinance regulating the management of storm water and drainage plans for certain types of development in unincorporated areas of the County. The Ordinance requires storm water management plans, maintenance of storm water facilities, and enforcement provisions.

Item removed from the agenda.

Item Two- A Preliminary Planned Unit Development application by Dennis Robison for a Residential Development in the A3, Rural Agriculture zone, located on Gatfield Road in Montour, a portion of T 07N; R 01E; Sections 27 & 28. The Residential PUD comprises 49 building lots on 170.00 +/- acres.

No ex parte or conflicts of interest were reported.

Brad Hawkins-Clark – The Planned Unit Development for Stage Coach Canyon Ranch, what I have just given you is a preliminary staff report with a few key items I think it is important for you to look at. Since you just received it I want to walk you through it. The applicant is Angie Comish and she is representing the Robisons. The PUD is on about 160 acres in the Montour area. You saw this as a sketch plat in August. The BOR campground has the property north of this site. They are now trying for a preliminary PUD and if you approve it in principal they will be able to apply for a final PUD along with a preliminary plat application. On the top of page 2, I bolded what you as a commission are responsible to look at, and you have to determine if this application is consistent with the intent of the Ordinance and whether the proposed development advances the general welfare of the community, and the interrelationship with the land uses and surrounding area. You agree in principal or you do not agree and ask for some more feedback. What they are proposing to do is a five-acre minimum lot size in that A-3 zone. They have a lot of hillside to work with and they are proposing to cluster the lots away from the slopes and they have proposed to not build any lots or roads in the hillside. They are proposing 49 building lots. If the 170 acres was fully developed without protecting the foothills it would be at 34 lots. They are proposing 47 lots, which is 28 percent increase, but the ordinance only allows for a 15 percent increase. The owners do have more property that they are willing to add to this property so it will be 220 acres and it will allow the 47 lots. It appears as a bonus density that is not a guarantee, they need to demonstrate that they earn the bonus through amenities. They are working with the property owner to the north to obtain an emergency access so they will have a secondary way out. They are proposing to run a public road right along the eastern boundary, but we want to make sure that if the property to the east does develop that they will have cross access with this development. The applicant has really done a lot of research on the background of this property and they need to protect the areas that are of historical significance. They are proposing to set up an area that describes the history of the stagecoach and freight route. Your role tonight is to agree or not agree to the principal.

PAGE #3

Angie Comish – 1523 W Hayes.

You have all seen this, this is the same project I presented to you a couple of months ago as a sketch plat. There was an issue with acreage and it has been increased to 211 acres so it is sufficient for the 47 lots. We do have accesses to the open space. There are a total of 47 buildable lots with 80.5 acres of open space, and we will have it in four phases. This is not the Robison's entire property but it is a good piece of it. If you look on the second page I gave you it shows landscape sketches and on the next page it shows what the kids camp will look like with the Ramada and barbecues and cabins. We have increased the size of the kids camp, it was 1.7 acres before and now it is 2.5 acres and it includes the existing well. I have met with Kim with the Road Department and discussed with him my clients desire to pave Gatfield Road from the Montour intersection to the intersection of the entrance into the subdivision. He was quite agreeable with it. He asked me to meet with the Bureau of Rec because he believes that they own a good section of Gatfield Road, to get their input on the improvements. I also met with Dennis Robbins from Fire District #2 and showed him this and he liked the layout and the one thing he said that would be wise is to have a secondary access. Since that time my client has met with the Kellers who have an existing easement through the Bureau of Rec property and we have are asking to continue that easement. WE have completed the soil testing for the individual septic systems, I was out there with Southwest District Health Department. There is a variety of different soils, some is like beach sand and some is gravel and some is hard packed. Overall we have good draining material, we are looking at putting in advanced systems because of the hillsides. I have contacted the Department of Water Resources and I have attached a phone conversation record I had with them. Gem County's underwater is very stable, and they are more concerned with the water quality not quantity. Their perspective is they like the individual wells better than a community well because if the community well were to fail it impacts everybody. He suggested that the existing well be used for fire protection. I contacted Paul Raymond with Keller and Associates who is the County Engineer about the fact that this is clearly on a hillside. I don't have anything over 6 percent. I have already had a Geotechnical Firm go out so I can have a geotechnical report so that we can look at that with our roadway designs and our cuts and our fills and our slopes. We will definitely do an erosion sediment control plan because of the amount of excavation we will be having. We will have a public meeting, my client has made a good effort to contact all the property owners within 300 feet so they are aware of what is being proposed. My client did contact the historical society and they did not return any feedback. She did a significant amount of research on this, she has a historic timeline of events for the area, and she has a drawing that shows the routes that went through there. She is clearly dedicated to doing the research. There are no visible signs and no structures on the property.

Chairman Ethington- Who has done the research?

Angie Comish- My client. And she said that one of the local ranchers' daughter has written a book.

PAGE #4

Fred Nussbaumer- Could we have a copy of that?

Angie Comish- I can get you one. I can leave this copy with Brad and he can make copies for you.

Chairman Ethington- When you met with the fire district, did they make any request about hooking up the pumps to hydrants?

Angie Comish- We discussed taking the existing well and putting a dry hydrant into that.

Chairman Ethington- There is a growing need for tying in all residences to several hydrants so fireman can access more. It is not that difficult.

Angie Comish- He said what was nice about this one is it is dedicated at 70 gallons a minute, and he said we might need an additional tank. There is a spring on the property and we talked about doing a suppression pond. He is meeting with his Board this week, so something else may come up.

Chairman Ethington- On the second road access, would it be paved?

Angie Comish- We didn't plan on paving it but making it a solid surface for a truck to access.

Don Wilkerson- I think the emergency exit should be the proper 60 foot wide and paved because if for some reason you can't get out the other access, it will force all the traffic out this one. With the fire protection, if you have a pump at the entrance and a spring up in the corner, the properties at the far west they are quite a ways from fire protection. The fire district would have to use tanker trucks.

Angie Comish- We did talk about tanker trucks, that is a given. Maybe we need to consider the special systems.

Don Wilkerson- Put a pressurized system with fire hydrants around the subdivision.

Chairman Ethington- The Administrator at Fire District 2 may not be familiar with it, our district is very familiar with it. Maybe you can speak with Rick Welch about it.

Don Wilkerson- Block A, which is over 112 acres under the contiguous ownership, how do you plan on accessing that if they ever look to develop it?

Angie Comish- There is a 60-foot future easement right of way through lot 15 to access the other acreage. I have spoke with the developer and they have no intent on developing this property, from an engineer standpoint this property is very steep.

PAGE #5

Don Wilkerson- Brad shouldn't that be a dedicated right-of-way instead of an easement since easement can be vacated?

Brad Hawkins-Clark- Yes, the only other option is to put a permanent protection on the deed that would be irrevocable.

Don Wilkerson- I have a question on the cul de sac, on the original cul de sac you showed a 70-foot radius but on this one you don't show it. Is it a requirement of the fire district?

Roger Bennie- No it is not. The minimum is a 70-foot diameter. The fire district requires a 70-foot diameter or a 96-foot diameter.

Don Wilkerson- I think the ordinance requires a 60-foot radius.

Angie Comish- I saw the letter from Gem County Treasurer and my client did pay the taxes. And we are taking care of John Henderson's comments and I will call the department of water resources to confirm that we are not in a flood plain.

Chairman Ethington opened the public portion of the hearing.

Karl Keller-I live north of this property and they have not discussed with me for an emergency access. There is a driveway there, but I would not think it would need to be paved. Bureau of Reclamation has everything to the west of me. It was my contention that when I started proceedings with Brad that I wouldn't be able to sell any of my property. But we worked it out because I had purchased my property before the Bureau of Reclamation did.

Don Wilkerson- There is a forty-foot road easement on the plat, is that to get to your property?

Karl Keller- Yes. Out of the 20 acres I own 11 acres and the Bureau owns 9 acres.

Don Wilkerson- It looks like the emergency access would go through your homestead.

Karl Keller- Yea, it would depend on where it was placed. I have a reservoir in the stagecoach gulch, it will have to be maintained or it will wash away the property to the north. It has washed away on me twice.

Don Wilkerson- You bought property before the Bureau of Reclamation, is the reason they bought property there to stop development because of the flood plain?

Karl Keller- My property is outside the flood plain.

PAGE #6

Angie Comish- My apologies Mr. Keller but I misunderstood I thought you had been contacted.

Chairman Ethington closed the public portion of the hearing.

Don Wilkerson- I feel comfortable with the concept before us since they still need to come before us with a preliminary plat.

Fred Nussbaumer-I feel comfortable with the concept.

David Poole- I feel comfortable at this time since there is no public opposed to it.

Discussion.

David Hargraves- I think the staff would like comments regarding the ordinance standards regarding the determination you are going to make.

Don Wilkerson- Made a motion to approve the concept of the Preliminary Planned Unit Development in principal with the following conditions:

1. We as a commission feel that the concept plan follows the criteria of the ordinance standards.
2. For fire protection that the applicant looks at a pressurized suppression throughout the subdivision with hydrants throughout the development at the required locations.
3. The emergency access needs be an all weather road as defined by the County Ordinance.
4. The applicant come up with an agreement with the Department of Water Resources about being in a possible flood plain and that they complete a hydrograph study on domestic water because they are proposing individual wells and septic tanks.

Chairman Ethington- I would like to add that the secondary access requirement from the staff report along with the ideas of the historical aspects of the area and they need to address the hillside subdivision and I would like to see some horse trails.

Motion received a second.

Vote: Unanimous.

Regular Meeting:

Item One- Items moved from the consent agenda.

1. Bishop Estates Minor Subdivision

PAGE #7

Don Wilkerson – The reason I asked for these three items to be moved from the consent decree and I am going to ask staff to explain why there is such an inconsistent method of the ordinance referring to mitigation fees. Some we are waiving fees because of future roads and some we are waiving because of future discussion with the Board and the last one the applicant had an option for a no build agreement to pay the fees at a later time. On Bishop Estates I would like to propose instead of waiving the fee is number one to collect the fees and then if the road is built return the fees to the owner, if not only collect the fee on buildable lot one. I don't think we should waive the fees because of the potential of a future road.

Brad Hawkins-Clark – Sounds like we might have some confusion on the staff report on that one. After talking to the Wells about the option of the future road on their north boundary. As you know, Gem County does not have resources for paying fair market value cash to preserve future right of way. Basically we have been in the position of asking for dedication of right of way on existing streets and mitigate whatever impacts they are going to have. The Wells' preference is to pay the mitigation fees in this case, so that will be a change and I am sorry about the confusion on the staff report. We should recommend the payment onto the Board. The courts have said pretty consistently that a County can't require someone to pay more than what their impact is, until Gem County has a fee structure or another form of mitigation they are evaluated on each case. There should be some mitigation to help improve intersections or put up stop signs etc.

Don Wilkerson – The staff report has changed to say there will be an \$1800.00 fee per lot?

Brad Hawkins-Clark- Yes.

Discussion.

Don Wilkerson- Made a motion recommend approval of Bishop Estates to the Board of County Commissioners.

Motion received a second.

Vote: Unanimous

2. Sunset Estates Minor Subdivision

Don Wilkerson – Why are fees possibly being waived due to some possible considerations on a past rezone?

Brad Hawkins-Clark – There have been discussions with the Board in the past related to the moratorium and how the Watts fell in their approval process and how the County

PAGE #8

caused delay of their approval. The Board has asked me on this application to put in there that they will decide on the fees. I don't have all the background on it.

Don Wilkerson – The plat shows a 48-foot radius on the emergency vehicle cul-de-sac that should be 60 feet according a previous discussion we have had.

Brad Hawkins-Clark – The condition #2a on page 6 clarifies that.

Don Wilkerson – My question is in John Henderson's comments were the fire district requested 70 feet, but does the Ordinance prevail?

Brad Hawkins-Clark – The fire district is it's own separate entity with their own board of directors; the Gem County Ordinance does not apply to them. They cannot go below the Ordinance standards.

Don Wilkerson – Another concern I have on this, are there going to be discussions with an engineer on this possibly being a hillside development because of lots 3 and 4 being on a steep bank? If it is determined hillside then it can't be a minor subdivision.

Brad Hawkins-Clark – The initial determination from the survey was that this did not qualify for a hillside subdivision although a topo survey was not completed. The Board discussed the hillside requirements with Jamie Watts and because indications were given because of the prior issues with the rezone that this would be waived. Keller and Associates are on board but with no topo survey they cannot determine if it is a hillside development. I will take any additional information you want and I will pass it on to the Board.

Fred Nussbaumer – Brad, will the Sunset Estates name be changed?

Brad Hawkins-Clark-Yes, that is correct.

David Hargraves- If you as a Commission do have comments you want passed on to the Board you need to let Brad know.

Don Wilkerson – Made a motion that Sunset Estates that will be named Watts Landing to recommend approval to the Board of County Commissioners of the minor subdivision application with the following stipulations:

1. The emergency cul-de-sac radius needs to be increased to 60 feet from the 48 feet shown.
2. An engineering study needs to be done to determine if this development will warrant a hillside subdivision.

Motion received a second.

PAGE #9

Vote: Unanimous.

3.Rex Walker Minor Subdivision.

Don Wilkerson – Brad had an item on page 6 considering special consideration and I believe we all read it and I am in agreement with Brad on that. The possible fee back to the Engineering firm does not exceed the application fee.

Chairman Ethington – Mr. Henderson posed a question on the additional right of way if Dewey becomes the connector to the Interstate? How will the County handle that?

Brad Hawkins-Clark – Gem County received a grant to hire Parametrix Engineering to do feasibility study on Dewey Road. That is about 3 months underway and there will be a public meeting held on February 1 to look at the corridor. Until a study is done the County has no Ordinance or study done we cannot require it.

Don Wilkerson- There was a comment from ALS that minimum building setback will be measured from the Dewey Road right of way line and will be 60 feet.

Brad Hawkins-Clark – That is a clarification, so anyone buying a lot on Dewey Road to help mitigate any future impact that the house setback will not be 30 feet it will be 60 feet.

Don Wilkerson – Made motion to recommend approval of Walker Family Estates minor subdivision to the Board of County Commissioners.

Motion received a second.

Vote: Unanimous.

4.Broken Circle Estates Minor Subdivision.

Don Wilkerson – Because this is in the City of Emmett Impact Area are the mitigation fees not applied?

Brad Hawkins-Clark – That is correct the City of Emmett Ordinance applies and they do not have a similar requirement. The improvements that the City requires are a form of mitigation.

Don Wilkerson – It appears that the City only requires a 35-foot right of way versus the 40-foot that the County requires.

Brad Hawkins-Clark – They have an adopted transportation plan that they go off of. One issue on this application is the Last Chance ditch runs along the western boundary

PAGE #10

and they asked for a 25-foot road on the east side of the ditch back in 2005 when the property was rezoned. They did not make the same comment on this development, so I asked the applicant to work with the ditch company to find out exactly what they will require.

Fred Nussbuamer-Made a motion to recommend approval of Broken Circle Estates Minor Subdivision to the Board of County Commissioners.

Motion received a second.

Vote: Unanimous.

Item Two – Items from the Public.

Roger Bennie – Are all things going to be pulled off the consent agenda?

Chairman Ethington- Not always, it just depends if a one of the Commission has questions.

Don Wilkerson – Tonight is the first time that we have seen staff reports and we had questions.

Rick Welch – Gem County Fire District Administrator.

Right now there is a conflict if you are requiring a 60-foot radius and we currently require a 96-foot diameter. It is not consistent to what we are requiring so we need to get on the same page and require the same thing.

Chairman Ethington- We require a 100-foot diameter paved and 120-foot for snow removal.

Don Wilkerson – It appears that the County Ordinance exceeds your requirements so we should just stick with that.

Rick Welch – That is fine with me, we don't need to be asking for less than what the County requires.

Don Wilkerson – Do you know what Fire District #2 requires?

Rick Welch-District #2 is supposed to be the same as us. On Walker Estates it did not work out feeding water from individual wells for fire protection, DEQ would not sign off on it. Woods Ranch subdivision will feed off of central system for hydrants.

Item Three – Election of Officers.

PAGE #11

Chairman Ethington- Made a motion to nominate David Poole for Chairman.

Motion received a second.

Vote: Unanimous.

Don Wilkerson- Made a motion to nominate Fred Nussbuamer as Vice Chairman.

Motion received a second.

Vote: Unanimous.

Jim Hutchins- Made a motion to nominate J.B. as Secretary.

Motion received a second.

Vote: Unanimous.

Item Four- Items from the Planning Director/Administrator.

A. Recent Board of County Commissioners meeting decisions

Brad Hawkins-Clark –The Board remanded the Equity One Special Use Permit back to you because a detailed traffic study was submitted after your decision. The Board wanted you to see that and you will see it at the February Hearing.

B. Potential Special Use Permit review by Planning and Zoning Commission.

Brad Hawkins-Clark – Terry Jones out off of Silverleaf has two special use permits one for agriculture help and one is for a house. The one for worker housing is not being used for that purpose any longer. We will be hiring a part time Code enforcement officer. Was this Commission's approval for all of Mr. Jones property? I would like to have the Commission review this special use permit and determine if the agricultural house was approved for this parcel only or if the workers can work elsewhere.

Chairman Ethington- I remember this application and we specifically place a lot of conditions because of the publics concerns.

David Hargraves – We will have to look at the procedure on it.

Don Wilkerson- I thought special use permits were site specific.

David Hargraves – We looked over this application and it only states that is to house agricultural workers for the dairy. But the dairy is two miles away. Maybe at the time of approval the dairy was on the site.

PAGE #12

Chairman Ethington – No, the dairy was always two miles away but it no longer exists.

David Hargraves- We need to figure out the review on this application to determine whether or not they are in compliance with the application.

Don Wilkerson – Have you received formal written complaints that the applicant is not complying with the special use permit?

Brad Hawkins-Clark- We have.

Don Wilkerson – Can't you use those complaints, if he is not in compliance, to pull the permit?

David Hargraves – We are looking first to see if he is in violation, but the permit can be revoked if he is not in compliance.

Chairman Ethington – I drive by there all the time and I have not seen any improvements to the parcel.

David Hargraves – Mr. Linville has done a review of this application and he sent it out to another agency to review for the investigation.

Fred Nussbaumer – Does he have an employee of his farm or dairy living there or is he renting it out?

David Poole – If the building police are going to go out there and write him a ticket, they need to know what they are going out there for.

Discussion.

Fred Nussbaumer – Where do we stand on the Comprehensive Plan?

Brad Hawkins-Clark – Until today it was going to be on February 8 so it probably going to be two weeks after that. We are getting the text and maps ready for the public. The last thing I have is more of an apology on how we had this meeting tonight, with the holidays and Jennifer being out for two weeks, and not having a planner it has been really busy.

Item Five– Items from the Deputy Prosecuting Attorney.

David Hargraves – I am going to try to clarify a little on impact fees. The State Statutes allows for developers to pay for improvement fees. The developer can pave roads or pay fees in lieu of doing the work

PAGE #13

Brad Hawkins-Clark – The \$1800.00 fee per new lot on a minor subdivision originated was developed by the County Road Department on how much maintenance and labor costs to maintain one mile of road.

Discussion.

Item Six– Items from the Zoning Commission.

Item Seven– Adjourn.

Fred Nussbuamer- Made a motion to adjourn.

The motion received a second.

Vote: Unanimous.

Chairman Ethington closed the meeting at 9:08 p.m.

Chairman

Secretary