

April 30, 2007

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*2 **GEM COUNTY PLANNING AND ZONING PUBLIC HEARING***

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*6 **Date: April 30, 2007***

*7 **Time: 7:02pm - 9:13pm***

*8 **Place: Gem County Courthouse***

9

*10 **MEMBERS PRESENT:***

*11 **J.B., Don Wilkerson, David Poole, and Lawrence Whitsell***

12

*13 **MEMBERS ABSENT WITH PRIOR NOTICE:***

*14 **Brent Jensen and Fred Nussbaumer***

15

*16 **MEMBERS ABSENT WITHOUT PRIOR NOTICE:***

*17 **Sissy Stewart***

18

*19 **OTHERS PRESENT:***

*20 **Brad Hawkins-Clark - Planning Director, Wendy Akins -***

*21 **Planner 1, and David Hargraves - Prosecuting Attorney***

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*24 **This is a summary of the meetig, not verbatim.***

*25 **Transcription of summary done by Amanda Shaw***

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PROCEEDINGS

3

City of Emmett, Gem County, April 30, 2007

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5 *(Mr. David Poole opened the meeting at 7:02pm. He then*

6 *explained the public hearing process.)*

7

8 **MR. DAVID POOLE:** *I call this meeting to order. We're*

9 *moving the Picone Subdivision down from the consent agenda*

10 *because there is an access problem.*

11

12 *Item No. 1 B. Pleasant View Subdivision*

13 **MR. DAVID POOLE:** *The only thing is the minor sub on the*

14 *consent agenda. It's the Kyle Rex subdivision. I guess they*

15 *listed it as a Pleasant View, but that name won't fly. Does*

16 *anyone have any comment on that particular minor sub?*

17 **MR. DON WILKERSON:** *I do have one comment. There was a*

18 *letter by Keller Associates saying that it couldn't be*

19 *classified as a minor sub because it was located in a flood*

20 *plain. I did ask the question of staff, and they said there was*

21 *some documents presented to them that showed it wasn't in the*

22 *flood plain. By looking at the map, it looks like it's in a*

23 *flood plain. Maybe staff can clarify that.*

24 **MS. WENDY AKINS:** *I do have a map submitted by the applicant*

25 *that shows it is on the out skirts, right where it says creek.*

□

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1 *His property lies just south east of the border.*

2 *MR. DON WILKERSON: If you look at the property description,*
3 *it looks like the west property line is Squaw Creek. Is that an*
4 *error?*

5 *MS. WENDY AKINS: When I was out there, it did not appear*
6 *that any of the property was in Squaw Creek. It is at a much*
7 *lower elevation.*

8 *MR. DON WILKERSON: So the staff, in your opinion, you say*
9 *it is not in flood plain?*

10 *MS. WENDY AKINS: Correct. According to our documentation*
11 *and the site visit, much lower level.*

12 *MR. DAVID POOLE: Any further comment?*

13 *MR. J. B.: Wouldn't lower level be more in flood?*

14 *MS. WENDY AKINS: The Squaw Creek is at a lower elevation*
15 *than the property.*

16 *MR. DAVID POOLE: Any more comments? If not, does somebody*
17 *want to make a motion?*

18 *MR. DON WILKERSON: I make a motion that we approve, I'm*
19 *going to say Pleasant View Sub even though it may be under*
20 *another name, approve it as presented to us on the consent*
21 *agenda.*

22 *MR. DAVID POOLE: Second to the motion?*

23 *MR. J. B.: I'll second it.*

24 *MR. DAVID POOLE: J.B. seconds the motion. Further*
25 *discussion? If not, those in favor signify by saying I. Opposed*

□

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1 same sign. Motion carries.

2 (Vote unanimous.)

3

4 Item No. 1 A. Picone Subdivision

5 MR. DAVID POOLE: Next on the agenda is the Picone

6 subdivision.

7 MS. WENDY AKINS: Do you want my presentation now, or why we

8 would like to pull it off the consent agenda?

9 MR. DAVID POOLE: Well we've read it. I think we can start

10 by why we'd pull it off the consent agenda so we can know what

11 the reasoning was.

12 MS. WENDY AKINS: The issue behind this is staff is

13 requesting a 40 foot road dedication for Bill Burns. I have

14 handed out a map of the property that we're looking at. We're

15 basing this dedication on a conversation I had with Kim Reed at

16 the County Road and Bridge Department. As development is

17 occurring in this area, they're wanting to start protecting that

18 road right-of-way. The issue that we have right now is the road

19 is within the irrigation districts right-of-way. It belongs to

20 the irrigation district. According to Kim at Gem County, we

21 have prescriptive ownership of the road due to years of

22 maintenance and upkeep. Therefore we're requesting this road

23 dedication. The issue is, it is completely within the

24 irrigation districts right-of-way.

25 MR. DAVID POOLE: So your requesting the applicant have an

□

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1 additional 40 feet?

2 MS. WENDY AKINS: The dedication is within that

3 right-of-way.

4 MR. DAVID POOLE: You're wanting it dedicated out of that

5 right-of-way.

6 MS. WENDY AKINS: We're having it dedicated to Gem County.

7 MR. DAVID POOLE: From out of the right-of-way?

8 MS. WENDY AKINS: Correct.

9 MR. DAVID POOLE: Do you want to give it a balance of that

10 or do we want to move forward to the applicant? Is that the

11 only problem we've got?

12 MS. WENDY AKINS: That is the only issue.

13 MR. DON WILKERSON: So really, on your map here, your

14 looking at north. So for the property owner to dedicate an

15 additional footage, to be determined I guess, because I don't

16 know if it's less than a 50 foot easement or what. So if your

17 wanting him to dedicate an 'x' number of feet for future road

18 right-of-way, what does that do to the size of lot number 1,

19 which is 5 acres? Is that going to cause that to be less than 5

20 acres?

21 MS. WENDY AKINS: They may have to go back and adjust this

22 accordingly so that they will meet that 5 acre minimum. I spoke

23 with both applicants. They're well aware of that issue and they

24 were fine with the dedication.

25 MR. DON WILKERSON: I have a couple items on it. Number one,

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7

1 in previous minor subs, anything that was in a dedicated

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2 easement, for future road, had to be removed at the time we
3 approved the minor sub. Unless that's changed, that was a
4 requirement from the Board of County Commissioner's.

5 It looks like on they're plat map, on Duey Road there's a
6 fence line that's going to be in the new dedication. I think
7 there should be a requirement that be removed prior to being
8 approved through the new dedication right-of-way line.

9 MR. BRAD HAWKINS-CLARK: I believe the County Commissioner's
10 have, either next week or the following week, a reconsideration
11 of two subdivisions on that very issue. Should private
12 amenities be taken out of publicly dedicated land or not?

13 You're correct that the two subdivisions where this has come up,
14 or I think there's been three, have all had a condition that
15 said you must remove your fence, your irrigation, your mail box,
16 whatever it is that is in the right-of-way. Those have been
17 requested to be reconsidered and they have agreed to reconsider
18 it, but they have not made a decision. So they haven't had the
19 hearings yet. So I guess we're a little bit in limbo in that if
20 they decide that an agreement can be entered into to allow
21 private amenities to stay where they are until the road is
22 actually widened, which is is a possibility, then that agreement
23 would need to be entered into with these two property owners.
24 If the County Commissioner's decide no, we're not going to
25 change our minds, you've got to remove it, then we would need to

□

8

1 make that same condition on this one.

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2 **MR. DAVID POOLE:** *And both of these are going to the County*

3 *Commissioner's, right?*

4 **MR. BRAD HAWKINS-CLARK:** *Right.*

5 **MR. DON WILKERSON:** *In other words, the County*

6 *Commissioner's may change their stand on that. My next*

7 *question, lot number 2, with the Enterprise canal right-of-way,*

8 *looks like these are drawn to scale, are we sure lot 2 is*

9 *actually 5 acres? Has anybody verified that by taking out that*

10 *Enterprise right-of-way there, and that be the north east*

11 *corner?*

12 **MS. WENDY AKINS:** *We can have that verified at the same time*

13 *we verify the road.*

14 **MR. DAVID POOLE:** *It's not a deeded right-of-way is it?*

15 **MR. DON WILKERSON:** *I would say it was. If it's an*

16 *Enterprise canal right-of-way, then it has to be excluded out of*

17 *the figure.*

18 **MR. DAVID POOLE:** *So it's totally under their control.*

19 **MR. DON WILKERSON:** *It has to be included to determine the*

20 *net increase of the lot.*

21 **MR. DAVID POOLE:** *Okay. Any further discussion? Do you*

22 *want to make a determination on this?*

23 **MR. J. B.:** *One more piece of discussion. I'm of the*

24 *opinion that we should treat this the same as we have the*

25 *others. Private property needs to be moved from public*

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9

1 *right-of-way. To do something different than we do with the*

2 *other subdivisions, it would make it inconsistent. They could*

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3 then ask this to be lumped in with the others that are on with
4 appeal or on reconsideration with the county. I would be
5 uncomfortable supporting something different then what we've
6 been maintaining as being the standard.

7 MR. DAVID POOLE: I think we're in a position where we could
8 make a motion to recommend to the County Commissioner's that as
9 well as the 40 foot, we do have that canal situation where we've
10 got to make these a net 5 acres. So I think, if we make any
11 determinations, that we need to do that with those adjustments
12 or that those adjustments be made when we make those to the
13 County Commissioner's. Any further discussions? Anybody want
14 to make a motion?

15 MR. DON WILKERSON: I have one question. Because of the
16 concerns of Wendy on Bill Burns, should we continue this until
17 those are answered or do you figure it's ready to pass on to the
18 County Commission?

19 MR. DAVID POOLE: Well the way I understood from her is that
20 the applicant was willing to designate the ground. So under
21 those conditions, I think we can keep the ball rolling.

22 MR. DON WILKERSON: Okay. I missed that.

23 MR. LAWRENCE WHITSELL: I make a motion that we accept the
24 subdivision on Bill Burns Road, or the proposed 40 foot
25 right-of-way be transferred over to the county. Also, that

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10

1 there's an understanding that they will agree to that totally.
2 Property owner also totally agrees that there will be a 5 five

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3 acre total minimum lot size required and they will meet that
4 standard as well.

5 MR. J. B.: And the last is the easement.

6 MR. LAWRENCE WHITSELL: Oh, for the canal.

7 MR. J. B.: For the private property.

8 MR. LAWRENCE WHITSELL: And also for the private property on
9 the public driveway.

10 MR. DAVID POOLE: Is there a second to that motion?

11 MR. DON WILKERSON: I second.

12 MR. DAVID POOLE: Discussion? If not, all those in favor
13 signify by saying I. Opposed same sign. Motion carries.

14 (Vote unanimous.)

15

16 Item No. 1 Variance #VAR-07-002 - William Carlson

17 MR. DAVID POOLE: Mr. William Carlson, obviously you have
18 someone doing it for you. State your name and address in the
19 microphone if you would.

20 MS. LYNNETTE DAVIS: I represent William Carlson, who has
21 applied for the variance relating to his property in Gem County.

22 It's the variance to Gem County code section 11-6-3, which
23 requires parcels of land without contiguous road frontage to
24 have a minimum of 40 feet recorded easement in order to get a
25 building permit. Prior to purchasing the property, Mr. Carlson

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11

1 contacted Gem County and received a letter confirming that he
2 would be able to obtain a building permit on the property. In
3 fact, a building permit had been previously issued to a prior

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4 owner for a residence on that property.

*5 The Carlson property has a recorded 20 foot easement across
6 a dirt road or gravel road, which is known as Honey Lane. Honey
7 Lane has been in existence since the early 1900's and was
8 previously part of what is now Highway 52. In approximately the
9 1930's, Highway 52 was rerouted to avoid a right turn off in the
10 highway and to make a straight line. Since that time it has
11 been used to service a handful of properties in that area. In
12 fact it has serviced Mr. Carlson's property for decades and
13 currently serves, I believe, four homes in that area.*

*14 The property owners who used Honey Lane to access their
15 properties have entered into a road maintenance agreement that
16 equally shares that cost of maintaining the road between them.
17 Therefore, no county dollars have been used or will be used to
18 maintain the road. There are, however, certain topographical
19 constraints on both sides of Honey Lane that prevent it from
20 being widened. Namely a home and a ditch on the north side of
21 the road, and power poles and a ditch on the south side.
22 Because of these constraints, Honey Lane will remain the same
23 width and the same location it has been for near ly a century.*

*24 In order to obtain a building permit, Mr. Carlson has been
25 told he needs to satisfy the requirements of 11-6-3. In order*

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12

*1 to do that, he will need to aquire a 20 foot wide easement from
2 the property owner to the south of Honey Lane. In other words,
3 Carlson is being required to purchase, from a neighboring*

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4 property owner, an easement that cannot be used for the purpose
5 of accessing the property. Because of the physical constraints
6 in the road, the road will most likely not be widened and those
7 accessing the Carlson property will continue to use Honey Lane
8 in its current configuration.

9 Accordingly, the enforcement of this section 11-6-3, in
10 this instance, would essentially be promoting formal substance
11 by requiring an easement that is not necessary to access the
12 property. We have been in touch with the Gem County Fire
13 Department. Rich Welch went out and looked at the road and
14 reported back that his only concern with the road would be a
15 turn around at the end of the road, and to insure that an entire
16 distance of the road is 20 feet wide. That's something that
17 we're certainly willing to put the turn around on, Mr. Carlson's
18 property, at the end of the road to provide that access for the
19 emergency vehicles.

20 Finally, we have discussed the purchase of an easement from
21 neighboring property owners. Recently they have offered to
22 grant a 20 foot easement on their property, which runs alongside
23 of Honey Lane. The amount of that easement is approximately
24 1/3rd of an acre. The amount that they have offered to grant
25 that easement for, in our opinion, is unreasonable. It's

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1 several times more than the going rate to purchase land in that
2 area. So we go back to, does it in any way further the intent
3 of the ordinance, which is to make it to insure the access.
4 It's been made pretty clear by neighboring property owners they

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5 *have no wish for the road to be widened. So as I've said*
6 *previously, Mr. Carlson, or any subsequent owner of that*
7 *property, will most likely be left with accessing that property*
8 *across the 20 foot wide Honey Lane. We respectfully request*
9 *that you consider the special circumstances surrounding Mr.*
10 *Carlson's property and grant his request for a variance to this*
11 *ordinance.*

12 *MR. DAVID POOLE: Questions from the board?*

13 *MR. J. B.: You mentioned a letter he received assuring him*
14 *the rights to build. Do you have a copy of that letter?*

15 *MS. LYNNETTE DAVIS: I believe I do. It was in the*
16 *application packet.*

17 *MR. J. B.: That was 1988?*

18 *MS. LYNNETTE DAVIS: I believe so. Yes.*

19 *MR. J. B.: This may be part of the record, but I would like*
20 *to read this sentence. "This parcel's a legal lot and building*
21 *permits can be issued provided all other provisions of the*
22 *existing Gem County ordinances and the provisions of the Health*
23 *Department are met." So there were conditions on that to meet*
24 *all of this. I believe they're still saying the same thing, as*
25 *long as all the conditions are met you can get a building*

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14

1 *permit.*

2 *MS. LYNNETTE DAVIS: It should be noted that the access*
3 *issue was never raised at that point. I believe that ordinance*
4 *may have come into play following his purchase of the property.*

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5 **MR. DON WILKERSON:** *Going back to that letter of December*
6 *21st, 1988, I'd look at the letter as yes, there was a legal lot*
7 *there under the ordinances that were enforced at that time. The*
8 *ordinances have changed, so possibly the rules have changed. Do*
9 *you understand that?*

10 **MS. LYNNETTE DAVIS:** *That's correct.*

11 **MR. DON WILKERSON:** *In the letter you gave us tonight, you*
12 *mentioned the road in question is a public road, but it only*
13 *serves private residences. Our definition of a public road is*
14 *anybody can use it at any time. If it's a road that just serves*
15 *houses, it's not a public road, it's a private road. You say*
16 *it's a county road maintained by the county and everything.*

17 **MS. LYNNETTE DAVIS:** *No. It is not maintained by the*
18 *county.*

19 **MR. DON WILKERSON:** *But you're saying it's a county road,*
20 *but you get into a maintenance agreement and says no county*
21 *dollars have been or will be used to maintain the road. So if*
22 *you're going to enter into a road maintenance agreement, in my*
23 *mind, how does it become a county road?*

24 *You talk about physical restraints, power poles, ditches,*
25 *they can be moved. Other people have gone to the expense of*

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15

1 *moving ditches, putting in culverts, and moving power poles to*
2 *meet our ordinances. So I don't see that as a physical*
3 *constraint to the party negotiating with the property owners to*
4 *try and resolve this in another way. Rick Welch is here. Can I*
5 *address the question to him?*

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6 MR. DAVID POOLE: I imagine he'll have a chance to speak.

7 MR. DON WILKERSON: It says in here that you're fine with it
8 as long as the road measures 20 foot wide. How wide is it now?

9 MR. RICK WELCH: It's only 16 foot going in on the Lane.

10 MR. DON WILKERSON: So there'd be no room for ditches, or
11 borrow pit, or anything to meet your requirements?

12 MR. DAVID POOLE: So you're talking about a 20 foot surface,
13 or just a 20 foot easement?

14 MR. RICK WELCH: 20 foot surface.

15 MR. DON WILKERSON: It looks like some of it's 21 and a
16 half, but most of it's 20. So in order to meet your
17 requirements, in addition to the turn around at the end, the
18 road would have to be up to what type of standards?

19 MR. RICK WELCH: Whatever you call for. I didn't know.

20 MR. DAVID POOLE: Private road.

21 MR. BRAD HAWKINS-CLARK: I'll just add a little bit more in
22 terms of the area for you with a couple of slides. Lynnette
23 talked about them, but I will show some of these areas on the
24 slides for you. This slide is showing Honey Lane looking west.

25 So your further down Honey Lane and looking up toward Black

□

16

1 Canyon Highway. These existing trees and structures are on the
2 north side of the Lane. Those are some of the surrounding
3 areas. This sight map shows you Highway 52 and the Honey Lane
4 easement, which is shown by this lighter line here on the north.
5 As Lynnette mentioned, there are four parcels with Honey

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6 Lane addresses, and three different owners. The easement that
7 has been obtained is on this tax 2 and tax 8. You can see the
8 T8 and the T2. That's the longest portion from Honey Lane,
9 approximately 800 and some feet to the east. Then there is this
10 triangular shaped parcel, which has a small piece, I think it's
11 about 28 feet. That has also granted an easement to Mr. Carlson
12 across that corner. Then there is this small tax 22, which is
13 approximately 1 acre, owned by Mr. Carlson. So he owns both
14 these lot parcels that are shown here. Only the 25 acre is
15 outlined because that was the main parcel identified in the
16 application. That is the parcel on which they are wanting the
17 building permit.

18 MR. DAVID POOLE: Is there a building on that 1 acre parcel
19 or not?

20 MR. BRAD HAWKINS-CLARK: I believe there is.

21 MS. LYNNETTE DAVIS: There's a shop. The application, if it
22 did carve out that smaller tax parcel, it was an error. The
23 variances relate to that entire parcel, including that smaller
24 tax parcel.

25 MR. BRAD HAWKINS-CLARK: I just wanted to make sure the

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17

1 Commission is aware that if they can get access to this small
2 piece, since he is also the owner, it's conceivable he can
3 extend across his own property to get to the 25 acre parcel and
4 would not need to obtain access from another property owner to
5 the north.

6 MR. J.B.: Is this 5 acre zoned area?

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7 **MR. BRAD HAWKINS-CLARK:** *This is actually A-1.*

8 **MR. J.B.:** *So it's 40 acres.*

9 **MR. DON WILKERSON:** *That parcel right there. Wouldn't he*
10 *have to get access from those people also?*

11 **MR. BRAD HAWKINS-CLARK:** *I believe that's the Simm's or*
12 *Seem's is the last name, and the staff report does make*
13 *reference to that parcel. On the second paragraph, on the 1st*
14 *page it does refer to which easements are in place. The 20 foot*
15 *easement is across the Fisher, which is the longer one that is*
16 *closest to Highway 52.*

17 *So I guess a couple of other questions to ask in your*
18 *deliberation, one is really what would be the relationship of*
19 *granting this variance to any future subdivision? Under the*
20 *existing zoning today, that wouldn't come into play, because*
21 *each of these parcels is already below the 40 acre. Are you*
22 *allowing for other subdivisions in the future to use this*
23 *easement at a reduced width unless the zoning changed?*

24 **MR. DON WILKERSON:** *Unless they asked for a rezone.*

25 **MR. BRAD HAWKINS-CLARK:** *Right. If a rezone is requested,*

□

18

1 *then that would not be possible under the existing zoning.*

2 **MR. J.B.:** *Brad, don't we get into trouble when we don't*
3 *apply the ordinances as they're written, and we allow somebody*
4 *to get a 20 here? Doesn't it make it harder for us on the next*
5 *one to say the ordinance doesn't support it, and yes it's going*
6 *to cost a couple bucks to move the boulders, but the ordinance*

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7 is the ordinance? So I have a hard time allowing variances that
8 set us up to now. Who do we give our variances to and who do we
9 not?

10 MR. DAVID POOLE: One of my suggestions against that, J.B.,
11 because we're talking a larger parcel of land, A-1 prime Ag
12 land, if the land is going to have one building permit on it,
13 and that includes that T-22 as well, so it's all under one
14 ownership, under those circumstance, you've got one building
15 permit on 25 or 26 acres. If it has to be rezoned, at that
16 point in time, if you want to subdivide that then you're going
17 to have to put in the 40 foot, move it, then your talking about
18 the 60, 80, 90 thousand bucks to make that move. That could be
19 economicly involved in making a subdivision. Right now, to
20 state that a guy has 25 or 26 acres, can't build a home on it
21 because he doesn't have access is kind of --

22 MR. J.B.: But he can build a home. He can get access. He
23 can buy the easement.

24 MR. DAVID POOLE: What they're saying is it's a little
25 unrealistic, the price they're asking.

□

19

1 MR. J.B.: When people come in with farm land that's not
2 economical to farm, our answer's been tough because it's Ag
3 land. Even though you can't make a buck on it, you can't make
4 the payments on it, we're not going to take it out of Ag. My
5 point is that economics is not an issue we've been allowed
6 before.

7 MR. DAVID POOLE: Our rules and laws, under the

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8 *circumstances, it depends. I see your point. What I'm trying*
9 *to say is that law is shades of gray. We can make it black and*
10 *white but it never sticks. As a result, it's a situation for*
11 *how we feel.*

12 *MR. DAVID HARGRAVES: I would recommend that you look at the*
13 *findings you have to make and start there. There are six of*
14 *them. There's actually four conditions you have to look at and*
15 *make each of those findings. So I think your analysis has to do*
16 *with those. If you disagree with what staff wrote in there, if*
17 *you would just specify that, when it comes time for staff to*
18 *write the decision, they can do that.*

19 *The one issue that I'm not sure would play out is this*
20 *letter that was given years ago stating that a building permit*
21 *was available. I know zoning has changed since then. That's my*
22 *opinion.*

23 *MR. DAVID POOLE: We need to get some public input here.*
24 *Anybody that is in favor of this variance?*

25 *MS. PATTI BOWMAN: My name is Pattie Bowman. I live at 225*

□

20

1 *East South Slope, Emmett, Idaho. I sold this property to*
2 *Mr. Carlson back in 1988. Duane Hodgens had owned the property*
3 *at the time. He had got a building permit and was ready to*
4 *build a manufactured home. The permit was paid for. You guys*
5 *should have copies of that. I went further. I went down and*
6 *met with Bill Nickels and wrote a letter.*
7 *Mr. Carlson's intent was not to build a home until he*

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8 *retired. He lived in Alaska at the time. He moved back here 6*
9 *years ago. His mother was dying. He lived with her for a year*
10 *and then she passed away. Then he decided to go out and build a*
11 *home on this property. That's when we were told we don't have*
12 *access.*

13 *We were furnished title insurance back in 1988 by First*
14 *American Title. We had to file a claim against First American*
15 *Title. That road, as I understand it, used to be an old state*
16 *highway. I don't go back that far, so I don't know. I think*
17 *the title company viewed it that way, not only for Mr. Carlson,*
18 *but also for another owner Mr. Wallace, that that road is public*
19 *access.*

20 *It's taken 5 years for us to get an easement. The 20 foot*
21 *easement. We were told that what we need to do now is come in*
22 *front of you, gentlemen, and ask for a variance. I've been*
23 *selling real estate for 31 years and this really concerns me.*
24 *Not everybody is ready to build the instant they buy the*
25 *property. I think there should be some grandfather rights here,*

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21

1 *not only for Mr. Carlson, but for the other letters that have*
2 *been issued.*

3 *The road's been used like this forever. Even if he went*
4 *and bought another 20 foot easement, nothing's going to change*
5 *there. There's poles. There's ditches. There's fences.*

6 *MR. DON WILKERSON: Somebody could come in, buy Mr.*
7 *Carlson's property, possibly get a rezone, and subdivide it.*
8 *Then instead of 4 or 5 homes down there, you could have 20*

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9 homes.

10 MS. PATTI BOWMAN: But to do that, you're going to have to
11 have a 40, 60, 80 foot easement. All we're asking for was just
12 1 home. I'd like to point out that there's a well and septic
13 placed on the property when the building permit was paid for.

14 MR. DAVID POOLE: So Mr. Carlson has owned this land since
15 he got the letter? It has not changed hands? He's owned it
16 since 1988?

17 MS. PATTI BOWMAN: Yes he has.

18 MR. DON WILKERSON: My understanding is that the parcel
19 that he got to place the septic tank and that was a different
20 partial.

21 MS. PATTI BOWMAN: No. He bought the whole thing.

22 MR. DON WILKERSON: But it's 2 parcels right?

23 MS. PATTI BOWMAN: Well I don't know why it's that way.
24 There's an easement there, a 30 foot easement going over to
25 Mr. Wallace's home.

□

22

1 MR. DON WILKERSON: On the legal recorded documents are
2 those two seperate parcels?

3 MS. PATTI BOWMAN: He was deeded all in 1 deed.

4 MR. BRAD HAWKINS-CLARK: I'd have to verify the legal
5 descriptions.

6 MR. J. B.: Brad, if I came in for a permit today to build a
7 house, how long is that permit good for? When does that permit
8 expire?

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9 MR. BRAD HAWKINS-CLARK: 120 days.

10 MR. DAVID HARGRAVES: Included in the standards for granting
11 a variance, the kind of introductory paragraph says that "the
12 Commission may authorize, in specific cases, such variance from
13 the term of this ordinance as will not be contrary to the public
14 interest, where owing to special conditions, a literal
15 enforcement of the provisions of this ordinance would result in
16 unnecessary hardship." Then if you go to the last sentence,
17 "variances shall not be granted on the grounds of convenience or
18 profit." One thing we don't know from the record is how much it
19 would cost to expand that easement.

20 MR. DAVID POOLE: \$60,000 to purchase it, we're told.
21 \$60,000 for a 3rd of an acre. That's 180,000 an acre.

22 Is there further comments from the public in favor? Those
23 neutral? Opposed?

24 MR. RICHARD MARSTON: My name's Richard Marston. I
25 presently reside at 2569 East Black Canyon Highway. I'm the

□

23

1 property owner with my wife on the south side of Honey Lane. To
2 clarify some smoke and mirrors, the only reason Ms. Bowman is
3 here, is they are trying to sell that 25 acres and Mr. Carlson
4 would retain the smaller piece. It is on the record. There is
5 an offer made. There's money down. The partner from Buckner
6 Dodge is wanting to buy that piece and Mr. Carlson is going to
7 maintain one. That is why, and from the best I can tell from
8 the records, lot 7 has already got five splits on it now. If
9 this piece of property is sold, and then the seller sells out as

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10 is brought up, it could be subdivided. Honey Lane, and maybe
11 Mr. Welch can attest to it, would totally have to be rebuilt for
12 fire apparatus. You can't do it on 20 feet.

13 He came to us last Monday and asked to purchase a piece of
14 ground. I asked what he was willing to offer, he said submit
15 something. So I did submit \$60,000 because I know there's
16 between 5 and \$650,000 at stake to Mr. Carlson on that easement.
17 That's all that easements for, is so he can sell that piece of
18 property.

19 MR. DAVID POOLE: Questions from the board? Further
20 opposition from the public?

21 MS. MELISSA MCBEE MARSTON: My name is Melissa McBee
22 Marston. I live at 2569 East Black Canyon Highway. My husband
23 and I do own the property adjacent to Honey Lane. We are
24 opposed to this because it was to my understanding, laws or
25 ordinances are written for a reason. We are building ourself

□

24

1 and we are required from planning and zoning to follow those. I
2 expect Mr. Carlson to do the same. It is not out of reason.
3 Specifically, we've been down to Planning and Zoning to find
4 information about this, what he was asking for.

5 We have never been approached until 5 hours before the
6 scheduled meeting last Monday. To me, that's completely
7 inappropriate. If he wanted this easement, he should have
8 contacted us prior to this. We've been told a lot of different
9 things.

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10 *There was a misunderstanding or something that's not*
11 *correct because we have been told directly from planning and*
12 *zoning this is 2 parcels. Where it's not marked off, is not*
13 *included in it. Three times we've been told that. He is*
14 *selling this. We've been told that from them directly. It's*
15 *not here say. It is what is outlined on the map. We asked for*
16 *clarification from planning and zoning on that also. They*
17 *stated the same thing. They weren't sure what Mr. Carlson was*
18 *actually wanting.*

19 *The amount was set in regards -- I can not say that 60*
20 *thousand was -- we're not moving. We told him when he*
21 *approached us, when his lawyer called, that we'd be more than*
22 *willing to work with him.*

23 *MR. DAVID POOLE: Questions from the board? Further*
24 *opposition?*

25 *MR. FRANK McBEE: My name is Frank McBee. I own 2569 East*

□

25

1 *Black Canyon Highway, the address. I think if we had to go by*
2 *your rules and regulations on 40 acres and a driveway, that he*
3 *should too. He hadn't made much of an effort, even with me*
4 *before I deeded it over to the kids.*

5 *MR. DAVID POOLE: Thank you.*

6 *MS. PAULA FISCHER: My name is Paula Fischer. My husband*
7 *and myself own the west part of Honey Lane; the first 830 feet.*
8 *We had settled out of court with the title company giving them*
9 *the 20 foot easement. It is private property. It comes off our*
10 *deed. It is not public road access.*

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11 *The building permit issued, that Mr. Carlson talks about,*
12 *was issued for the tax parcel 22, not the 25 acres. My*
13 *understanding is 40 foot access has to be unincumbered. Right*
14 *now there are irrigation ditches and the power poles in the way.*
15 *We are against it, in that 20 foot goes right through our*
16 *front yard. We have grand children. My understanding when I*
17 *checked it out years ago, since these are two individual parcels*
18 *broken up at a specified time, if a variance is given, there can*
19 *be two additional homes built there. I do not think Honey Lane*
20 *can accommodate that many residences. Right now there are five*
21 *residences on that Lane. There's 2850 Honey Lane, 2900, Jusky's*
22 *at the end, Wallace's, and Mr. Carlson's property. I have a*
23 *copy of Mr. Carlson's warranty deed from Mr. Hodgens. It does*
24 *say "said property is conveyed as is under existing boundry*
25 *fences, if any, after reasonable inspection by the grantee.*

□

26

1 *There are no warranties expressed or implied as to merchant*
2 *ability, in a general sense, or for a particular purpose except*
3 *as here in contained in writing, if any." So he had no*
4 *easement. Yes they had to obtain an easement from us, but all*
5 *we could give was the 20 foot, and that is inadequate by your*
6 *ordinance.*

7 *MR. DON WILKERSON: You mentioned there was five residences*
8 *down there and one of them was Mr. Carlson's. Is there a*
9 *residence on T-22?*

10 *MS. PAULA FISCHER: T-22 is a cinder block building. It has*

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11 2 garage doors. There is a well and septic on the property and
12 electricity to it. People have lived there.

13 MR. DON WILKERSON: But there's no manufactured home there
14 today?

15 MS. PAULA FISCHER: No.

16 MR. DAVID POOLE: Further opposition?

17 MR. STEVE WALLACE: My name is Steve Wallace. I live at
18 3055 Honey Lane. I've lived there for about 28 years. I'm just
19 here to say that Honey Lane can't handle too much more, but I
20 have no opposition for one home. Somebody buys that land, I
21 think they ought to be able to put one home on it. I love the
22 country and I don't want it to be a subdivision.

23 MR. DAVID POOLE: Questions for Mr. Wallace? Any further
24 opposition? I think that would probably be a neutral wouldn't
25 it, Mr. Wallace?

□

27

1 MR. STEVE WALLACE: Whatever you want to call it.

2 MR. DAVID POOLE: Okay. You have an opportunity to rebut.

3 MS. LYNNETTE DAVIS: I'll perhaps just go in order of the
4 discussion that's transpired here tonight. With respect to
5 whether the road is a county road, or public road, or driveway
6 as raised by Mr. Wilkerson, it is our position and our position
7 is supported by Idaho law, that once a state abandons or vacates
8 a portion of a road, it automatically becomes a county road.
9 The county has the opportunity to either formally abandon that
10 road or if they do not, it is abandoned if it is not maintained
11 or used by the public for a period greater than 5 years.

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12 *We have gone back and forth with Gem County on this issue.*
13 *We tried to approach the building permit initially from this*
14 *perspective. Unfortunately, we were not able to convince the*
15 *county to see our position. At that time, we were and still do*
16 *rely on case law. If you have public use of that road during a*
17 *5 year period, even if the county does not maintain it, that is*
18 *a county road. If you go back in the public records, you will*
19 *see that's exactly what it was. It was a state road. It was*
20 *never formally abandoned. Eventhough it has not been*
21 *maintianed, it has been used by the these neighboring property*
22 *owners.*

23 *MR. DAVID HARGRAVES: I'm just curious as to why there's an*
24 *easement if it's a public road?*

25 *MS. LYNNETTE DAVIS: And I'm getting to that. When*

□

28

1 *Mr. Carlson initially attempted to get a building permit and was*
2 *told there was this access issue, we tried to address it through*
3 *the case law. We wrote all the letters to the county and said*
4 *here's the case law, this is what it says, these are why these*
5 *facts apply to the situation, and the case law says this is a*
6 *public road. Therefore, we have continuous road frontage on a*
7 *public road. This should not be an issue.*

8 *When they did not agree to that, the attorney at that time,*
9 *looks like it was Richard Linville at the Gem County Prosecuting*
10 *Attorney's Office, they recommended that we attempt to negotiate*
11 *an easement, essentially trying to figure out the least costly*

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12 way of addressing the issue.

13 We did contact the neighboring property owners. In fact we
14 contacted Frank McBee. I have a copy of a letter that was sent
15 to him on January 12th, 2004 requesting a 40 foot easement from
16 the north edge of the currently existing Honey Lane. At that
17 time we believed, and we still believe, that it is a public
18 road. There was some uncertainty as to who, if they were taking
19 the position that the county took, that it was not a public
20 road, whose property that road crossed. We sent out blanket
21 letters to all the neighboring property owners. We did not get
22 a response despite our efforts. So we were left with the option
23 of filing a declaratory action with the court, asking the court
24 to essentially declare for everybody in a judgment if it was a
25 public road or not. If it was, then we had the ability to get a

□

29

1 building permit. If it was not a public road, then determine
2 who had the rights to that road. As I'm sure your all aware,
3 the cost of litigation is enormous. We got to the point where
4 we looked at the cost of defense, and although we are very
5 confident in our position that it is a public road, we made the
6 decision we had the opportunity to resolve it by purchasing a 20
7 foot easement accross Honey Lane from three property owners and
8 then some additional space, which was the additional easement
9 that we talked about.

10 MR. DAVID POOLE: You're kind of expounding what you came up
11 with. Let's try to answer the rebutal from the public so we can
12 move on.

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13 MR. DON WILKERSON: Is there any documents that tell you
14 what the original width of Highway 52 was?

15 MS. LYNNETTE DAVIS: I don't know the answer to that
16 question.

17 MR. DAVID HARGRAVES: Sounds like the lawsuit was settled.
18 So I think that issue couldn't be brought up again, right?

19 Isn't that issue resolved now?

20 MS. LYNNETTE DAVIS: I don't think that's necessarily the
21 case. I think it was dismissed. I don't have the pleading book
22 and I was not the attorney who handled it. I believe it was
23 dismissed without prejudice. It was a compromise where we paid
24 a certain amount to those three property owners for that
25 easement. I don't believe we're precluded from bringing that at

□

30

1 this point. As far as the 20 foot versus 16 foot width of the
2 road, Mr. Carlson's willing to do that.

3 The issue of the subdivision keeps coming up. I'm not sure
4 where that came from. The variance and that parcel, in our
5 mind, is treated as one, eventhough it's two for tax purposes.
6 We've never hidden the fact that this property is for sale and
7 there is a pending contract on it. The pending contract does
8 include both of those parcels.

9 On the permit issue that was raised, that there was a
10 permit issued, I did speak with Jennifer in your office about
11 that. I was trying to figure out where the references to these
12 five splits or something on the 25 acre parcel, where that was

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13 coming from. I had not heard that before. The Marston's
14 brought that up to me after last Monday's meeting here. What
15 Jennifer said to me was, in 1977 Mr. Hodges built a concrete
16 building on that smaller parcel. I believe it's T-22. There's
17 a note from the assessors office, planning and zoning, on August
18 3rd, 1977, permit 156, that it was an Ag building on 50 acres
19 and therefore no permit was required. So there was not a permit
20 issued, as far as what Jennifer told me, with respect to the
21 small parcel. With respect to the 25 acre parcel, there was a
22 permit issued on April 8th, 1988 for a manufactured home. That
23 was never placed on that lot. There is a well and septic that
24 was placed on the 25 acre parcel, not on the smaller parcel, to
25 my knowledge.

□

31

1 MR. DAVID POOLE: So when this was written up as 25.14
2 acres, it does not include the other parcel. You say it does
3 but it doesn't. You keep saying 25 acres plus the other.

4 MS. LYNNETTE DAVIS: It does include both parcels. I'm not
5 sure what happened. I wasn't involved in the application
6 process with this. What I'm told from Brad, is the actual legal
7 description that was attached to the application somehow carved
8 that little parcel out. They treat it as one and that is what
9 is attempting to be conveyed.

10 Going back to that five splits. I've also heard there is a
11 plat out there or something showing five splits on the 25 acre
12 parcel. I again contacted Jennifer in your office. She said
13 the only thing we can figure is it may have been an application

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14 for a subdivision or something along those lines. So I'm not
15 sure. I wish that the perspective buyer of this property had an
16 opportunity to speak. He plans on building only one home on
17 this property. I can't make that representation on his behalf,
18 but that is what I've been assured by many people.

19 MR. J.B.: Things change. You had a permit back in '88 or
20 whatever to put a single wide mobile home on it. We wouldn't
21 allow a single wide on it today. To be arguing, well we had
22 this back then, yes you did but you didn't act on it and it
23 expired. Give an opinion of what a fair price of the easement
24 would be.

25 MS. LYNNETTE DAVIS: Well I think considerably less than

□

32

1 \$60,000.

2 MR. J.B.: That's not what I asked. Do you have a opinion
3 as to what the easement is worth today?

4 MS. LYNNETTE DAVIS: I'm not a real estate agent in this
5 area. I can only give you an estiment based on what I've been
6 informed by real estate agents. I would think somewhere in the
7 10 to 20 thousand dollar range would be more than fair market
8 value.

9 MR. J.B.: My point is that, what an acre goes for today
10 certainly might be different tomorrow when the large portion is
11 purchased. Things are changing fast in this community.

12 MS. LYNNETTE DAVIS: On the easements that were granted and
13 the amount that was paid, we paid somewhere between 20 and 30.

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14 *That was just in 2006 and 2007.*

15 *MR. J.B.: Things change everyday in this community.*

16 *MR. DON WILKERSON: Going back to the 1930's when this was a*

17 *state highway, you said when the state abandons it, it becomes*

18 *county right-of-way. Has anybody ever approached the county*

19 *about dedicating it? If case law, Idaho law is right, it's*

20 *still county right-of-way. Is that correct?*

21 *MR. DAVID HARGRAVES: Yeah. Mr. Linville already addressed*

22 *the question whether it's a county road, and his opinion was it*

23 *was not. They think it is. I think issues have probably been*

24 *resolved by the court. I don't know for sure. I'm interested*

25 *to know what the court says about this issue. I'd like to see*

□

33

1 *it.*

2 *MR. DAVID POOLE: Any further questions, gentlemen?*

3 *MS. LYNNETTE DAVIS: I can confirm that and get back to you.*

4 *MR. LAWRENCE WHITSELL: So if it's a county road, then this*

5 *is a nonissue. It's all been resolved.*

6 *MS. LYNNETTE DAVIS: That's correct.*

7 *MR. DAVID POOLE: That would be a reason to continue.*

8 *MR. DAVID POOLE: We'll close the public hearing portion of*

9 *this and try to make a determination for the board. All right,*

10 *gentlemen, discussion.*

11 *MR. J.B.: I'm opposed to allowing the variance very*

12 *strongly. I would be in favor of continuing this until the*

13 *attorney can give us an opinion as to the decision is that*

14 *county or not. It's futile. If it's county, then it's not an*

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15 issue. If it's not county, then I want easments.

16 MR. DAVID HARGRAVES: I don't know if the court dismissed
17 this with prejudice. I don't know, but this has been on going
18 for the past 5 years. The county has a position. They have a
19 position. It went to court. I don't know what the result of
20 the court was. There was a settlement, but I don't know what it
21 did to that issue.

22 MR. DAVID POOLE: Well I think as the planning and zoning
23 Commission, we probably need to be in accordance with the
24 County's decision. It doesn't appear that we know what that is.

25 MR. DON WILKERSON: As it's presented, without knowing the

□

34

1 issue, whether it should have been dedicated or actually
2 converted to county ownership and whether that's still an issue
3 or not, in that case, I would go to deny this application. It
4 needs to follow the current ordinances. I think the property
5 owner needs to make a more diligent effort to try to obtain the
6 additional footage required to meet the current county
7 ordinance. I would still like to know for sure if it is truly a
8 county road. I'd like to see us continue this until they have
9 an answer to that.

10 MR. LAWRENCE WHITSELL: I agree. I think this whole thing
11 needs to be resolved before we can proceed. I think if there is
12 a negotiation going on, there needs to be fair market value
13 considered on these properties. You can't speculate that. It's
14 prime Ag right now. A hundred and eighty thousand an acre does

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15 *seem a little high. So if that has to be resolved, I think*
16 *there might be some negotiating room there, possibly to make it*
17 *more reasonable. I understand if you're trying to negotiate*
18 *thinking it's going to be subdivided, that's one thing. Right*
19 *now it's improbable for that to take place. It has to stay*
20 *prime Ag.*

21 *MR. J.B.: Our next meeting is what?*

22 *MR. DAVID POOLE: The 14th.*

23 *MR. J.B.: Do you think we could have an opinion from you by*
24 *the 14th? Not an opinion, just information.*

25 *MR. DAVID HARGRAVES: What the court decided.*

□

35

1 *MR. DAVID POOLE: Findings and fact.*

2 *MR. DAVID HARGRAVES: I think what you're going to find is*
3 *that the county's position is that it's not a public road. I*
4 *mean, that's been established by Mr. Linville.*

5 *MR. LAWRENCE WHITSELL: Has there been a court decision? I*
6 *mean there's a county decision, we know what there stand is. We*
7 *need to find out if there has actually been a court that has*
8 *decided, a judge.*

9 *MR. DAVID HARGRAVES: No. The judge has not issued a ruling*
10 *on this. I was thinking that maybe a settlement order dismissed*
11 *it so there would never be an issue again.*

12 *MR. DAVID POOLE: We need to know that.*

13 *MR. J. B.: I'd like to make a motion that we continue this*
14 *to May 14th.*

15 *MR. DAVID POOLE: Do I here a second on that motion.*

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16 MR. LAWRENCE WHITSELL: I'll second it.

17 MR. DAVID POOLE: It's been moved and seconded that we
18 continue this hearing until May 14th. Discussion? If not, all
19 those in favor signify by saying I. Opposed same sign. Motion
20 carries.

21 (Vote unanimous.)

22

23 Item No. 2 Final Planned Unit Development (Stage Coach Canyon)

24 Angie Comish

25 MR. DAVID POOLE: I guess we can move on to the PUD. I

□

36

1 guess the next step is the final planned unit development for
2 Stage Coach Canyon. Brad, you have something that you want to
3 bring us up to speed on?

4 MR. BRAD HAWKINS-CLARK: This is the third application that
5 you've had on this property. That's the way our ordinance is
6 set up. It's the first for Mr. Lawrence. So we'll give a
7 little bit of background.

8 The property originally came through for a sketch plat.
9 That sketch plat was simply, do you or do you not think this is
10 good idea. Then it came through with a preliminary planned unit
11 development. They are now coming through with a final planned
12 unit development and a preliminary plat. So the property all
13 along has been here on the south side of Gatfield Road. This is
14 the B.O.R. Campground. Directly to the north, Montour Road, is
15 the primary access to the site. You can also access it from

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16 *Shale Rock Road coming from the west.*

17 *So the property in question here, the configuration has*
18 *changed a little bit from the original sketch plat. This*
19 *drawing, which you have a more detailed one in your packets, is*
20 *the proposed main entrance here on the north side. So what they*
21 *are proposing is a common lot here at the beginning, which would*
22 *be kind of an entry way, a flag lot, plus a standard building*
23 *lot. The minimum lot size that they're proposing is 2 acres.*
24 *They are proposing individual wells and individual septic. The*
25 *roads are proposed to be public.*

□

37

1 *The planned unit development is necessary in their opinion.*
2 *Well they're proposing the planned unit development to increase*
3 *the density. They are proposing to increase it to the maximum*
4 *15%, which is as much as you can do in terms of a density*
5 *increase.*
6 *The current property owners do own all of this ground*
7 *including this Block A. You can see that these contour lines,*
8 *property gains quite a bit of elevation right here on the back*
9 *side of their southerly lots here. So these contour lines show*
10 *that the development back up in this area would be a challenge,*
11 *to say the least, in terms of public access. So they are*
12 *proposing somewhat of an equestrian type project.*
13 *The access to the open space is being proposed through a*
14 *couple of common lots that you would be able to take a trail*
15 *access to. They are also showing potential access to the Bureau*
16 *of Reclamation land which is here on the north and west portion*

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17 of their property. The property to the south is not publicly
18 owned. That's all private. To the east is private. To the
19 north and to the west is public land.

20 All the zoning out here is the same. It's 5 acre zoning,
21 A-3 zoning. It is nonirrigated. There is a letter in the
22 record from a property owner to the east, which states that
23 there's a natural spring on the property. Angie Comish, she's
24 representing to talk about that further.

25 You have some proposed conditions of approval. You also

□

38

1 have what I just handed out, a letter from Angie Comish
2 requesting one exception to the Gem County ordinance. That's
3 for residential block length. The block length, our ordinance
4 currently says for residential areas is 800 to 1200 feet.
5 They're requesting an exception based on topography and limited
6 site access. So I'll let you look through that letter.

7 MR. DON WILKERSON: Brad, would you show us with your
8 highlighter which that succeeds the ordinance? Is it before the
9 trail or which one?

10 MR. BRAD HAWKINS-CLARK: Well in fact the very entrance,
11 this block beginning at Gatfield Road, going south, Stage Coach
12 Avenue.

13 MR. DON WILKERSON: Do you know what the length of that is?

14 MR. BRAD HAWKINS-CLARK: I could get that. When you look at
15 the whole project, it's all a cul-de-sac, in terms of public
16 access. Now we did, during the pre-application conference, I'd

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17 *asked for emergency access. They have been working with*
18 *Mr. Keller and his wife who own the property. You can see the*
19 *house and some out buildings shown here to come through this*
20 *lot, right inbetween lot 6 and lot 7. There is what would be a*
21 *home owner association owned common lot that would be a minimum*
22 *20 foot wide, built to fire district standards. That would have*
23 *to be maintained free and clear, no encroachments, and then it*
24 *would go into the Keller property and continue through their*
25 *property onto an existing driveway, which then goes north and*

□

39

1 *intersects at Gatfield, or I guess at that point would be Shale*
2 *Rock. So that would be a secondary access only, not for the*
3 *public as proposed, and would have whatever the fire district's*
4 *asking for.*

5 *There's pro's and con's about this secondary access.*

6 *There's not a great deal of seperation between their main*
7 *enterance and the proposed secondary. So if for some odd reason*
8 *Montour Road was shut down, that intersection, you might be able*
9 *to get around through Shale Rock and get into this back area.*

10 *MR. DAVID POOLE: Let's say you've got grass fire or*
11 *whatever the case is, they need to come in the back side to get*
12 *through it.*

13 *MR. BRAD HAWKINS-CLARK: So I think, as proposed, that would*
14 *certainly help to address their access. I think what the*
15 *Commission should consider as part of the planned unit*
16 *development is, do you feel that the topography and the limited*
17 *access justifies the block length? In my opinion, the*

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18 *advantages of focusing the development down in the less steep*
19 *areas outweigh what it would require to come out to the west*
20 *with another full blown access. A lot of potential scaring of*
21 *that hillside across there. They're trying to minimize that in*
22 *this lower part of the project.*

23 *I did meet with Roger Bennie the surveyor, and Angie Comish*
24 *the engineer, to review these proposed conditions. Actually*
25 *before I do that, I'll just give you a couple of site photos.*

□

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1 *This is some of the proposed types of housing that were in*
2 *they're planned unit development application. They are showing*
3 *their CC&R's stick built, fairly upper end construction. They*
4 *are proposing a kids camp, is what they're referring to it as,*
5 *as a common lot. That is here at the entry road. It's lot 46.*
6 *On that common lot would be proposed to have a kind of a small*
7 *gazebo area, a couple of walking trails. There's a display that*
8 *would have historical information on the area. There's quite a*
9 *bit of history to this in terms of the old stage coach line. So*
10 *they're proposing to sort of highlight that information in a*
11 *kiosk type thing.*

12 *Let me just touch on the conditions of approval real quick*
13 *and then I'll be done.*

14 *MR. DON WILKERSON: You're referring to the staff report?*

15 *MR. BRAD HAWKINS-CLARK: Yeah. Staff report starting on*
16 *page 7 of 9. So on number 4, it's currently drafted as dig a*
17 *test well. There is an existing well on the property. So if*

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18 *the Commissioner's were okay with that, they would just use the*
19 *existing one to provide the water quality testing to us instead*
20 *of digging a new one.*

21 *Number 5 references the landscape ordinance. They are not*
22 *proposing a rezone. It's A-zone. The Commission has supported*
23 *our interpretation that A-zones do not apply, that the landscape*
24 *ordinance does not apply.*

25 *Now the PUD does require open space, but it does not*

□

41

1 *require a street buffer, per se. They can intergrate their open*
2 *space in other ways. That reference to a street buffer, common*
3 *lot, being in the landscape ordinance is actually not accurate.*
4 *So they can scratch that. In it's place, I do have concerns*
5 *about if there is no common lot on Gatfield, that these two lots*
6 *have their access restricted to Gatfield. It's probably very*
7 *unlikely that they would try it because it's pretty steep right*
8 *next to the road, but we would still want to see some kind of*
9 *direct access for lot 48 and 49 restricted.*

10 *On page 8 of 9, there is the reference there under the PUD,*
11 *the applicant shall insure the construction materials for the*
12 *ramada and two cabins on lot 46, or are of similar materials.*
13 *There was a little bit of confusion in their drawings about*
14 *whether they were proposing cinder block. One of the drawings*
15 *seemed to indicate that. In my opinion we should add a*
16 *clarification that no block, that it be they're actually showing*
17 *some more native type materials.*

18 *The last thing that I had, which was not in the staff*

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19 report, has to do with the open space. This had a sketch plat
20 and a preliminary PUD. We have, from this Commission, a letter
21 of approval that you agree with the concept. Well this concept
22 doesn't show every lot touching open space. The PUD ordinance
23 does say that each building lot should be adjacent to some type
24 of open space. So my apologies that staff didn't catch that
25 until very late in the game, but I think it needs to be on the

□

42

1 record that as this is shown, several lots do not touch common
2 open space. I brought it up with Angie right before the meeting
3 and kind of put it in her thinking, are there some ways that you
4 can address that. In Woods Ranch, as well as Meadows Sand
5 Hollow project, they used a trail system to basically accomplish
6 that. There's no problem with any of these lots on the south
7 boundary since this entire lot 27, which runs clear from this
8 area all the way down, is common and would be protected. The
9 issue comes up with some of the internal lots and providing some
10 kind of trail.

11 I guess the question for you to talk about tonight does the
12 fact that they have an approved letter that says their concept
13 is there, but the concept doesn't show this, does this outweigh,
14 or should we have them modify their plan?

15 MR. J.B.: I understand the length of the roads and the
16 importance of it, and don't really have a big problem with it.
17 Has any consideration been given on this cul-de-sac here, which
18 is the end, to do something similar to what you're doing up here

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19 for fire equipment access? Has any consideration been given to
20 another access at the far end? Would some sort of a fire access
21 only along that line there be appropriate? I don't know how
22 important it would be at that end point to have other access to
23 get things in and out of that end point.

24 MR. BRAD HAWKINS-CLARK: We do have someone from Gem County
25 Fire District II here tonight that maybe could address that. I

□

43

1 think it's a good point.

2 We are asking for this area right here, this is the only
3 section that touches this property to the east. This property
4 to the east is all privately owned. Our ordinance does say that
5 you need to insure connectivity between parcels. This is a half
6 mile or more that we're talking about. What's currently on the
7 books is that this street would basically continue straight at
8 that point. So this little triangle would all become public
9 right-of-way. So if this property to the east did ever develop,
10 they would have public right-of-way touching their property
11 boundary. I think that the staff report may mention that they
12 could do it further south. So that's what they're currently
13 proposing.

14 MR. DAVID HARGRAVES: Let me just show you something that's
15 kind of interesting to interpret what our ordinance reads and
16 what it requires. The common open space that Brad was talking
17 about, I just wanted to read what the requirement was. It says,
18 "every property developed under the PUD approach should be
19 designated to abut upon common open space or similar areas." I

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20 just wanted to point out that that sentence says "should". Let
21 me just tweak that a little bit for you. The caption says
22 "abutment required".

23 MR. DAVID POOLE: So "should" and "required".

24 MR. DAVID HARGRAVES: "Should" and "required". So I'll
25 leave it at that.

□

44

1 MS. ANGIE COMISH: All of you have mostly seen this except
2 for Mr. Lawrence. We did meet with Brad, Roger Bennie and I
3 both did, and we are in agreement with things we discussed as
4 far as going through the staff report. The one reason that I
5 actually put that access to this east side where I did, Brad had
6 talked about putting it further to the north, I put it here
7 because there's two pieces of property on this east side. The
8 north one belongs to the Budel's, Dion and Warren. Further
9 south here, it's actually a piece of state property. So I
10 thought who knows what might happen to that state property.
11 What if that ends up actually selling to someone? So Roger and
12 I actually put that access right there because it splits that
13 piece of property. So depending on what the Budel's do, or the
14 state people, if they ever sold it, you would then have access
15 to both of those. We thought that made the most sense.

16 As far as your concerned on this south end, J.B., I think
17 that's actually an incredibly valid point. The one reason I
18 thought that access should be there is simply for that. If
19 there ever was some reason for these people to need emergency

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20 access, they would have close access right there. We also still
21 do have an access to this piece of property that's to the south
22 of this. So that does have a route there. They would have an
23 opportunity to go further south.

24 MR. DAVID POOLE: Is that state or --

25 MS. ANGIE COMISH: That is actually privately owned. That

□

45

1 is the fifth phase. It is the last phase of the project.

2 MR. J.B.: If nothing happens around it, that's why I was
3 thinking having an emergency trail that the fire vehicles could
4 use, or other people could use, to get out of that end.

5 Providing that nothing else has happened there, then they have
6 access out. So it was just an idea.

7 MS. ANGIE COMISH: I did actually meet with Dion and Warren
8 about the spring that is located on the very south lot. Roger
9 and I met with them and we have proposed a permanent easement
10 for their spring, plus a pipe easement for them to get that off
11 of the property and onto theirs and they're in agreement with
12 that.

13 MR. DAVID POOLE: So is it a domestic spring? Livestock
14 water?

15 MS. ANGIE COMISH: I don't know exactly. It's something
16 that they had from the Department of Water Resources. It
17 doesn't say that it's domestic. It goes to a pond that's on
18 their property.

19 MR. DON WHITE: That's used for domestic spring. It hasn't
20 been used in a hundred years.

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21 *MS. ANGIE COMISH: We are completely fine with protecting it*
22 *and maintaining that for them. We've agreed with them that*
23 *we'll go ahead and put that easement, and get it over, and get*
24 *it down to their property. So we're good to go on that.*
25 *We have met with Mr. Keller regarding that emergency egress*

□

46

1 *through his property. I have a signed agreement with him and*
2 *with the client to do that. He seems reasonable. He seems to*
3 *think that's a fine thing to do. We definitely will be putting*
4 *nothing but a gate there. There will not be a through way for*
5 *people to ride horses, or walk, or whatever. It will be a*
6 *gated, locked access, that only the fire department and*
7 *emergency people will have access to in case they need to get in*
8 *or get out through there.*

9 *MR. DAVID POOLE: This emergency access, is it going to be*
10 *an all weather road that will be all the way back through their*
11 *property?*

12 *MS. ANGIE COMISH: They have requested that their road will*
13 *not change. I believe that their road right now is a very nice*
14 *graveled road. In talking with Dennis Robins from the fire*
15 *district, his interpretation was that that was considered an all*
16 *weather road to them and sufficient.*

17 *MR. DAVID POOLE: From your point of the property to*
18 *whatever's on their property, there will be a connection.*

19 *MS. ANGIE COMISH: Exactly. In talking with him, I didn't*
20 *get a formal response back from the fire district, but we agreed*

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21 *that we are more than willing to either do tanks, or sprinkler*
22 *systems inside those houses. As far as the siding material on*
23 *the cabins that are going to be there, I think they're actually*
24 *going to construct the cabins out of cinder block. They're*
25 *going to put siding on it that kind of looks like half logs. So*

□

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1 *it's going to have a rustic kind of siding look to it.*

2 *MR. LAWRENCE WHITSELL: With regard to the well, what's*
3 *representative depth in that area for typical domestic wells?*

4 *MS. ANGIE COMISH: I can't recall what that existing well*
5 *was at. I think I probably put that in the packet at one point.*
6 *I do know that it pumps at 70 gallons per minute.*

7 *MR. LAWRENCE WHITSELL: Have you done an engineer study on*
8 *that aquifer?*

9 *MS. ANGIE COMISH: No. Actually what I have done in*
10 *response to the commissions concerns and questions about that,*
11 *I've talked with the Idaho Department of Water Resources*
12 *specifically about this area and they came back and said they*
13 *have done a study for the aquifer in Gem County and it said it's*
14 *the most stable aquifer in the state. It is actually a very*
15 *good aquifer. Given the layout and the fact that we have*
16 *varying terrain and topography in this area, the gentleman that*
17 *I talked to said that it was his personal opinion that this*
18 *would be better suited for individual wells.*

19 *MR. LAWRENCE WHITSELL: Well in regard to the sewer as well,*
20 *you chose to go individual septic rather than a simple sewer*
21 *system. What was the logic? Was it the expense?*

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22 *MS. ANGIE COMISH: Expense would be a part of it. The other*
23 *thing is to do a central sewer on this varying terrain would be*
24 *really difficult to do.*

25 *MR. LAWRENCE WHITSELL: If you did put a central sewer*

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1 *system in, you'd have to increase your number of houses to make*
2 *it pay then. So you'd start stacking them up deeper to make it*
3 *justifiable.*

4 *MS. ANGIE COMISH: Our intent was to try and just do this*
5 *and leave the rest of that space open. The open space I believe*
6 *is like 78 acres. It's a good size open space.*

7 *MR. LAWRENCE WHITSELL: Have you gotten any ideas of how you*
8 *are going to access the common areas yet?*

9 *MS. ANGIE COMISH: Brad and I had talked about that. The one*
10 *thing that we were going to do is, you can see that there's*
11 *access through a number of these lots. I talked to the Bureau*
12 *of Recs so that we can make sure we can always maintain access*
13 *to the Bureau of Recs property. We have a number of access's*
14 *through the project to get to that open space.*

15 *The one thing that we had discussed was this road along*
16 *here. We would have a designated additional width on the*
17 *roadway in order to accommodate people with horses. So the*
18 *people over on this side and down through here could have a way*
19 *to get off the road in order to get to that open space. I don't*
20 *know whether there's some way we can dedicate a part of that as*
21 *a trail officially, or open space, or whether we can somehow do*

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22 *it as a permanent dedication within the right-of-way. I don't*
23 *know how we can do that, but I can check with Roger, the*
24 *surveyor, and find out what the requirement would be if we do*
25 *need to make that actual public space.*

□

49

1 *MR. J. B.: I know you, at least from your interaction with*
2 *this committee, and I've been pleased over time, but when you*
3 *make a comment that this gentleman's personal opinion was*
4 *individual wells would be -- I personally would love to see that*
5 *in writing. It's the kind of thing that makes it that much*
6 *easier. I'm not going to hold it up for that. It's just a*
7 *minor detail, but it's one of those things. I'm getting more*
8 *particular of making people show it to me.*

9 *MR. DAVID POOLE: Were you through Angie?*

10 *MS. ANGIE COMISH: Yeah.*

11 *MR. DAVID POOLE: Okay. Questions?*

12 *MR. DON WILKERSON: Where you added a common lot there for*
13 *access from the Keller property, you've adjusted that lot 6 to*
14 *make sure it stays --*

15 *MS. ANGIE COMISH: Yep, and Roger has already talked with*
16 *Brad about that. He's adjusted those lots to make sure they all*
17 *still maintain the minimum lot size.*

18 *MR. DON WILKERSON: Lot 49 or 48, that's a nonissue because*
19 *you don't have to provide the buffer?*

20 *MS. ANGIE COMISH: We are definitely going to put something*
21 *in there that says they can't access the road there.*

22 *MR. DON WILKERSON: In lot 15, that would be decreased in*

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23 *size because of the future road easement, or has that already*
24 *been done?*

25 *MS. ANGIE COMISH: Yes.*

□

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1 *MR. DON WILKERSON: Just a question on page 7 of the staff*
2 *report, item 9, it says future road easement on lot 51, probably*
3 *should be 15.*

4 *MS. ANGIE COMISH: Your right, it probably is. Is it 15?*

5 *MR. BRAD HAWKINS-CLARK: Oh, it is 15.*

6 *MS. ANGIE COMISH: Okay.*

7 *MR. DON WILKERSON: On the PUD application conditions, item*
8 *3, it mentions set for some type of walking trails, at least 5*
9 *foot in width, shall be added to the parking area to the ramada,*
10 *and the ramada to the two cabins.*

11 *MS. ANGIE COMISH: Like I said, we're in agreement with*
12 *that, definitely are going to do that.*

13 *MR. DON WILKERSON: Okay. What type of a trail are those*
14 *walking paths going to be?*

15 *MS. ANGIE COMISH: I would expect your going to have a*
16 *variety of visitors, elderly, children. You're probably going*
17 *to need to have a paved surface of some sort.*

18 *MR. DON WILKERSON: Has the attorney reviewed the CC&R's for*
19 *acceptance?*

20 *MR. DAVID POOLE: Not yet. He's not back, so let's approach*
21 *that question later.*

22 *MR. DON WILKERSON: My next question is for the fire*

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23 district.

24 MR. MARK JOHN: Mark John, fire commissioner, 8002 Patrick

25 Road, Sweet. The reason we put down neutral is because we'd

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1 rather work with these folks rather than work against them.

2 We're here to kind of beg, since there's no real concrete teeth

3 to what we ask or want, unless you folks put it there. We would

4 like to see one lot, a couple acres, dedicated to a public

5 safety building because of the distance from the Sweet fire

6 house, which is about 10 miles, to this location.

7 They mentioned that they're going to have the sprinkler

8 systems and individual wells. We all know that the first thing

9 you shut off when you have a house fire is electricity. So

10 there goes your well. So that's kind of a dead issue.

11 About 12 years ago we had a real serious fire, right in

12 that back country, and it burnt the whole thing. We were able

13 to get one fire truck up to the top to fight that, and we could

14 not fight the lower area because of the gullies and this and

15 that and the other.

16 We're an all volunteer fire department up there. So I

17 personally feel if they had a public safety building there --

18 we're working diligently in district II to get an E.M.S. program

19 up there. So if they had this station, 2 or 3 units in that

20 area, and also work with this developer to provide a pumping

21 station right there, there is adequate water real close for that

22 purpose. I think it would be beneficial to the development,

23 beneficial to the district. Then we'd have part of their

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24 occupants there as volunteers on the fire department, and the
25 E.M. services as well. We all know if you've got a facility

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1 that's decent, then you're going to have people wanting to be
2 part of that organization.

3 MR. DAVID POOLE: What kind of building would you be talking
4 about, Mark?

5 MR. MARK JOHN: I don't know what their code is going to be
6 on the buildings.

7 MR. DAVID POOLE: Since you're closer, what I'm wondering is
8 if it's a 2 or 3 bay building over there? That's what I'm
9 asking, if you're looking at a 30x30 or 36x30, something like
10 that. You probably need at least 12 foot openings to come
11 through. So that 40'x30' deep would house probably three
12 vehicles right?

13 MR. MARK JOHN: Yes.

14 MR. DAVID POOLE: Or maybe two vehicles. The other side of
15 that, I can see what you're talking about because I'm part of
16 the same fire district. If they could put it where you could
17 have quick access to the other two roads, it would help with the
18 rest of that side of the area as well.

19 MR. MARK JOHN: Certainly. I'd just really like to see the
20 development work with us or come in and talk to us. We'd like
21 to work together and get this thing accomplished so it's
22 beneficial to everybody.

23 MR. DAVID POOLE: Part of this project is if we're going to

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24 *make a recommendation, we needed to have part of this talking*

25 *done before hand. It's just a matter of getting together on it.*

□

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1 *MR. J.B.: When you started out, sir, you said dedicated*
2 *land for a building. That's not clear to me. Are you wanting*
3 *them to dedicate land and then at some time the community is*
4 *going to put funds together to build a building?*

5 *MR. MARK JOHN: No. We'd like to see a building put on it.*
6 *If they had 2 acres with a building on it, that would be*
7 *fantastic. We'll take whatever we can get.*

8 *MR. J.B.: There's a cul-de-sac right here, and then this is*
9 *all common. Could that building go on the common ground?*

10 *MR. DAVID POOLE: Well that probably wouldn't be a problem.*
11 *The other thing, it probably needs to be done because of the*
12 *topography. I assume you're going to try and do something of a*
13 *trail system out there. If the trail was wide enough for these*
14 *guy's to do a little bit of fire work it wouldn't hurt. So I*
15 *think that's the reason the cooperation needs to be there.*

16 *MR. MARK JOHN: We'd like to get something on the board that*
17 *says they're willing to work with us.*

18 *MR. LAWRENCE WHITSELL: What is your response time where*
19 *you're located now to get to that subdivision?*

20 *MR. MARK JOHN: An all volunteer fire department is just*
21 *that. You're out in the field running your tractor. You're not*
22 *going to hear a pager go off. We just got all of the radio*
23 *communication s up in Sweet about 7, 8 years ago. It's really*
24 *good stuff now. So our response time to a fire could be*

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25 anywhere from 30 minutes to an hour.

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1 When that development starts filling up, those people are
2 going to be looking for the same public safety that everybody
3 else is. I'm certain that we're going to get a considerable
4 number of volunteers. That would aid it if the volunteers were
5 right there to protect their own subdivision.

6 MR. DAVID POOLE: Well we have housed a firetruck over at
7 Gatfield. For instance, in Ola we've housed firetrucks farther
8 up the canyon, simply because it takes so long for response.

9 MR. MARK JOHN: Some of the problems we arise by having
10 the firetrucks setting out. In the winter time, where you have
11 a lot of structure fires, those vehicles freeze up. So a heated
12 fire building would be very good.

13 MR. DON WILKERSON: Unless the staff tells me different,
14 being this is a PUD, I don't think this Commission could put a
15 condition on the applicant that they have to provide dedicated
16 lot or a building. If it was like Black Canyon, where it's
17 larger, I don't know. Also, you mentioned about a barn with a
18 slab floor. I don't know if that would go good against a
19 \$400,000 home. The exterior would have to compliment the homes.

20 MR. MARK JOHN: I agree.

21 MR. DON WILKERSON: There's e-mails here between Angie and
22 Dennis. It says in here that we require each home owner to put
23 in a two thousand gallon tank or a sprinkler. Well a sprinkler
24 system, you know what that's going to be. Do you people have a

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25 design on what's required for a two thousand gallon tank, and

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55

1 the plumbing that goes along with it?

2 MR. MARK JOHN: Yes, sir. We've had them put in on the
3 subdivision that McConnel put in, lawn. Those places are just
4 worthless. They're not maintained by home owners or the
5 association. They're not filled regularly. When you throw your
6 hose in there to pump out of them, all you get is either air or
7 algae.

8 MR. DON WILKERSON: So what I read from these e-mails, you
9 and the applicant haven't come to a decision or an agreement
10 yet.

11 MR. MARK JOHN: No we haven't.

12 MR. DON WILKERSON: We'd like to see it in writing, not just
13 handshake agreement.

14 MR. MARK JOHN: I'd like to work with them.

15 MR. DON WILKERSON: It sounds like you were against tanks.
16 You may force this subdivision to go to a sprinkler system and I
17 know that's been an issue in this county before.

18 MR. MARK JOHN: And the sprinkler systems are fantastic if
19 they're all on a city water system or a back up power system,
20 but the minute that fire starts, the first thing that goes out is
21 the power. Then you've lost your sprinklers. So you've lost
22 your effectiveness of the fire suppression.

23 MR. J. B.: What would make you happy? It sounds like you
24 don't like tanks and you don't believe in the sprinklers.

25 MR. MARK JOHN: A fire house there. The Bureau of

1 Reclamations got water, right adjacent to Shale Rock road. We
2 could put a pumping station in there, dry hydrant and/or a
3 regular electric pumping station. Then we can have ready access
4 to all the water we needed. We'd have firetrucks that would
5 move right to the fire. It would give us time to bring our
6 tenders and our other fire equipment out of Sweet and Ola.

7 MR. J.B.: In lieu of if they said okay, we're not going to
8 put sprinklers or tanks in, but we'll help put a pump in, would
9 you have a problem that, they're not putting sprinklers or tanks?

10 MR. MARK JOHN: I wouldn't have a problem with that.

11 MR. J.B.: Okay. So it sounds like something that perhaps
12 the two of you could work out. We'd like to see that happen.

13 MR. DAVID HARGRAVES: You can require mitigation of
14 development. Legislature's given you that authority. The
15 important thing to do is decide what is the impact of the
16 development so that you can tailor mitigation to that impact.

17 You don't want to exceed it. You don't want to be less than it.

18 You want to try to hit it right on the head. The best thing to

19 happen is for the political subdivision and the developer to get

20 together and decide what that is and come up with an agreement.

21 Otherwise we have to continue this meeting, come in and submit a

22 study as to what is the impact of this many lots in this type of

23 an area, and what does it take to suppress fires.

24 MR. DAVID POOLE: Can we make a decision at this meeting on

25 this without waiting for their decision, for them to get

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1 together?

2 *MR. DAVID HARGRAVES: The Board of County Commissioner's are*
3 *probably going to want to see most of this completed before it*
4 *get to them. I think legally, yes you could. Whether that's*
5 *the best thing or not...*

6 *MR. DAVID POOLE: Can we recommend to the County*
7 *Commissioner's with that resolution made? So in other words*
8 *when it get's there, do they have to have that problem resolved?*

9 *MR. DAVID HARGRAVES: I think so.*

10 *MS. ANGIE COMISH: We can commit to agree to work together.*

11 *MR. DAVID HARGRAVES: But the Commissioner's are going to*
12 *want to see --*

13 *MR. DAVID POOLE: That resolution before they move on.*

14 *MS. ANGIE COMISH: Well obviously we're going to present*
15 *that.*

16 *MR. DAVID POOLE: If they can resolve that, if we're in*
17 *agreeance that we want to do that, when is it going to come*
18 *before the Board of the County Commissioner's?*

19 *MR. BRAD HAWKINS-CLARK: Six weeks.*

20 *MS. ANGIE COMISH: That's plenty of time.*

21 *MR. DAVID POOLE: So in six weeks they should be able to*
22 *resolve this issue. If they don't resolve the issue, they*
23 *haven't done what we asked them to do.*

24 *MR. DAVID HARGRAVES: I think from here on out, we probably*
25 *ought to get the developer and some of the public subdivisions*

□

1 together earlier.

2 MR. DAVID POOLE: With the fire districts.

3 MR. J.B.: Would it be wise to continue it for the two

4 weeks, until May 14th, and see if they can come up with

5 something so we see what it is, or go forward with it with the

6 promise that they come up with a solution?

7 MR. DAVID POOLE: If they come up with a resolution before

8 the Board of County Commissioner's, we don't care what it is.

9 MR. J.B.: All right.

10 MR. DAVID HARGRAVES: You probably want to make this

11 condition attached to the subdivision plat, rather than the PUD.

12 MR. DAVID POOLE: Okay. Instead of the PUD we'll attach that

13 to the subdivision plat.

14 MR. DON WILKERSON: Before we pass this on to the Board of

15 County Commissioner's, I'd like to have Brad take this and

16 comment on what I've highlighted and see if we're causing more

17 controversy.

18 MR. BRAD HAWKINS-CLARK: This is from the Messenger Index,

19 April 25 addition. Comments from the Board of County

20 Commissioner's, "there are several p&z hearings that we have

21 been spending a great amount of time on. We are trying to

22 schedule a night hearing for those with controversy. This has

23 been taking a great deal of time."

24 MR. DON WILKERSON: Should we be resolving those issues

25 here, making sure they're resolved, before we ship it on up to

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1 the Board of County Commissioner's?

2 MR. BRAD HAWKINS-CLARK: My experience is that yes, they
3 would prefer that.

4 MR. DAVID POOLE: In this case, if there is no rebut,
5 nothing you need to bring before us...

6 MS. ANGIE COMISH: I did meet with Dennis. We did exchange
7 some e-mails. I thought at one point they were going to come
8 forth with a letter and I have not received that. I'm more than
9 willing to work with these guys. I know my clients said they
10 would be willing to work with them as well. We'll do what it
11 takes to make sure we have a safe place.

12 MR. DAVID POOLE: We'll close the public portion of this
13 hearing and move to the Commission.

14 MR. J. B.: It seems that the discussion as to the fire
15 suppression should go on the subdivision plat. So on the final
16 planned unit development, with the conditions that the staff has
17 put on it, I think everything was covered.

18 MR. DON WILKERSON: Looks like in page 8 of the staff
19 report, or the final PUD, the only changes we made, we had a
20 discussion on item 3 that the walkways between the parking lot
21 and the amadas would be pavement or concrete. Is this the
22 location where we need to make a decision on where open space
23 has to abut each building lot, or is that something that
24 Angela's going to look at?

25 MR. DAVID POOLE: That's under the PUD portion, right?

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1 MR. BRAD HAWKINS-CLARK: Yeah. That would be where a
2 condition would go. I think it would be really helpful if the
3 Commission does have some recommendation on that.

4 MR. DON WILKERSON: I make a motion that we recommend to the
5 Board of County Commissioner's approval of the final PUD
6 application per the six conditions in the staff report, with
7 addition under item 3, that the walking pass be concrete or
8 asphalt due to the different types of visitors. If we add an
9 item 7, that the applicant addressses and brings to us for the
10 May 14th meeting, resolution to where each building lot within
11 the subdivision needs to abut open space.

12 MR. J. B.: Second it.

13 MR. DAVID POOLE: Been moved and seconded that we recommend
14 to the County Commissioner's with those additions. Number 7, I
15 kind of have a question on that, Don. If they have to come back
16 before this board, we're not really recommending the whole
17 thing. So I think under those circumstances, I don't know how
18 staff would be comfortable in making a recommendation there. How
19 would you want that worded so that detail is tied up?

20 MR. DAVID POOLE: Just add it as a condition that each lot
21 abut the open space in some trail system or whatever's
22 necessary?

23 MR. BRAD HAWKINS-CLARK: As David mentioned earlier, we have
24 a "should" and a "shall" in the same condition in our ordinance.
25 So what I'm hearing is that this P&Z Commission wants them to

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1 come up with the open space. That's what matters right now, not
2 that they comply with what the Board of County Commissioner's
3 want because they want to know what you want. So what we need
4 is clarity on --

5 MR. J.B.: And that can be a trail or something that gives
6 them access. It doesn't have to be elaborate.

7 MR. BRAD HAWKINS-CLARK: So we'll work together. You want
8 to see this on the 14th. At this point, this is not a
9 recommendation of the board.

10 MR. DAVID HARGRAVES: So you want additional information
11 back? You want to continue with it then?

12 MR. DAVID POOLE: We have to get this done before we can
13 move ahead with the other ones. So if we're continuing it, we
14 have to continue the one below it.

15 MR. DON WILKERSON: So I need to change my motion from a
16 recommendation to the Board of County Commissioner's to a
17 continuance to the May 14th meeting on that particular item.

18 MR. DAVID POOLE: If that's your feelings, yes.

19 MR. DON WILKERSON: It seems like that's the feelings of
20 staff, then that's my amended motion.

21 MR. DAVID POOLE: That you want to continue this?

22 MR. DON WILKERSON: Continue it to May 14 to add item 7.

23 MR. DAVID POOLE: That they come up with a system.

24 MR. DON WILKERSON: Come up with a solution that each
25 building lot abuts open space.

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1 MR. J.B.: I'll second it.

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2 **MR. DAVID POOLE:** Discussion on the motion? If not, all
3 those in favor signify by saying I. Opposed same sign. Motion
4 to continue carries until the 14th.

5 (Vote unanimous.)

6

7 **Item No. 3 Preliminary Subdivision Plat (Stage Coach Canyon)**

8 **Angie Comish**

9 **MR. DAVID POOLE:** The next item on our agenda, we can open
10 for public hearing or do you want to continue it right away?

11 **MR. J. B.:** Let's get this part out of it.

12 **MR. DAVID POOLE:** We can table it I guess.

13 **MR. BRAD HAWKINS-CLARK:** You could, but I think you already
14 have taken quite a bit of testimony on the fire.

15 **MR. DAVID POOLE:** Okay. Well we need to open the public
16 hearing portion of the preliminary subdivision plat. You have
17 comments to make, Angela?

18 **MS. ANGIE COMISH:** What I've said is relevant to the PUD and
19 to the preliminary plat. So unless you have any additional
20 questions specific to it, then I think I pretty much covered
21 everything.

22 **MR. DAVID POOLE:** I think the only thing we had as specific
23 on this, we do have some conditions that we have addressed. We
24 have an additional condition that involves Gem County Fire
25 District No. 2.

□

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1 **MS. ANGIE COMISH:** Okay.

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2 **MR. DAVID POOLE:** *We'll close the public portion of this*
3 *hearing and open it for discussion. I think this is a*
4 *continuance to get the balance of the information.*

5 **MR. J. B.:** *I move that we continue the preliminary*
6 *subdivision plat with the expectation that the sole item of an*
7 *agreement between the fire department and the developer is*
8 *reached in writing.*

9 **MR. DON WILKERSON:** *Second.*

10 **MR. LAWRENCE WHITSELL:** *Second.*

11 **MR. DAVID POOLE:** *We've got two seconds to that motion.*
12 *That means that motion carries.*

13 *(Vote unanimous.)*

14 **MR. DAVID POOLE:** *You've got a deadline of two weeks, till*
15 *the 14th.*

16 **MS. ANGIE COMISH:** *All right. We're meeting next week.*

17 **MR. DAVID POOLE:** *David, items from the legal?*

18 **MR. DAVID HARGRAVES:** *I was just going to address Don's*
19 *comment about dedicating a public right-of-way. In cases like*
20 *this, this variance, you got people on both sides that are*
21 *fighting whether this is a public road or not. That may be one*
22 *reason why the county wouldn't accept the dedication, because*
23 *some other people are claiming ownership of it.*

24 **MR. J. B.:** *I move that we adjourn.*

25 **MR. DAVID POOLE:** *Motion's been seconded and carried.*