

August 2007

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

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*6 **Date: August 13, 2007***

*7 **Time: 7:00pm - 9:17***

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

9

*10 **MEMBERS PRESENT:***

*11 **Don Wilkerson, Lawrence Whitsell, Debbie Rouwenhorst, David***

*12 **Poole, Will Maupin, and J.B.***

13

*14 **MEMBERS ABSENT WITH PRIOR NOTICE:***

*15 **Brent Jensen***

16

*17 **OTHERS PRESENT:***

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

*19 **Planner 1, and David Hargraves - Deputy Prosecuting***

*20 **Attorney***

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*24 **This is a summary, not verbatim.***

*25 **Summary Transcription done by Amanda Shaw.***

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PROCEEDINGS

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City of Emmett, Gem County, August 13, 2007

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5 **MR. DAVID POOLE:** *Are you going to be doing the minor*
6 *subdivision review, Wendy?*

7 **MS. WENDY AKINS:** *Yes.*

8 **MR. DAVID POOLE:** *So the way we're going to set this up is*
9 *the applicant or their spokesman will have an opportunity to*
10 *speak. Then the public will have their opportunity to speak.*
11 *Then the applicant with will have an opportunity to rebut.*
12 *First is the minor subdivision review.*

13

14 *Consent Agenda - Item No. 1A Chloe Hollow Subdivision*

15

16 **MS. WENDY AKINS:** *This is on the consent agenda. Would you*
17 *like to pull it off and discuss it?*

18 **MR. DAVID POOLE:** *Commissioners, do you have any questions*
19 *on the minor subdivision that's on the consent agenda? Are*
20 *there any questions for staff?*

21 **MR. DON WILKERSON:** *I'd like to see it pulled off the*
22 *consent agenda because I do have some questions.*

23 **MR. DAVID POOLE:** *You want to put that in the form of a*
24 *motion, Don?*

25 **MR. DON WILKERSON:** *I make a motion that we pull the Chloe*

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1 *Hollow Subdivision off the consent agenda for additional*
2 *discussion.*

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

4 **MR. LAWRENCE WHITSELL:** *I'll second it.*

5 **MR. DAVID POOLE:** *It's been moved and seconded. All those*
6 *in favor signify by saying 'I'. Opposed same sign. Motion*
7 *carries.*

8

9 *(Vote unanimous.)*

10

11 *Consent Agenda - Item No. 2 Approval of the minutes of*
12 *July 9, 2007.*

13

14 **MR. DAVID POOLE:** *The next item is the approval of minutes*
15 *from July 9th, 2007. Anybody want to make a motion or do we*
16 *have corrections?*

17 **MS. DEBBIE ROUWENHORST:** *The only correction that I have is*
18 *that Sissy Stewart is no longer and she was on here under*
19 *members absent.*

20 **MR. DAVID POOLE:** *Line 18 page 1. Any further omissions or*
21 *corrections?*

22 **MR. LAWRENCE WHITSELL:** *Brent Jensen isn't mentioned here.*

23 **MR. DAVID POOLE:** *Okay. Anything further?*

24 **MR. J.B.:** *I move that we approve the minutes as amended.*

25 **MS. DEBBIE ROUWENHORST:** *I second it.*

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1 MR. DAVID POOLE: All those in favor signify by saying 'I'.

2 Opposed same sign. Motion carries.

3

4 (Vote unanimous.)

5

6 Items Moved From Consent Agenda - Item No. 1A. Minor Subdivision

7 Review: Chloe Hollow Subdivision

8

9 MR. DAVID POOLE: Okay we'll go directly to the Chloe

10 Hollow Subdivision. Now you got a question for staff, Don?

11 MR. DON WILKERSON: No. I just have a couple of questions.

12 I don't see anybody here from....

13 MR. DAVID POOLE: Diane Streeby's here.

14 MR. DON WILKERSON: Okay. Your engineer is not with you

15 tonight?

16 MS. DIANE STREEBY: No. He is not.

17 MR. DON WILKERSON: I guess, if you want to step up, I do

18 have some questions.

19 MS. DIANE STREEBY: My name is Diane Streeby. My address

20 is 520 West Central Road Emmett, Idaho.

21 MR. DON WILKERSON: The question I have is that Corp of

22 Engineers requested there be a 15 foot setback from Haw Creek or

23 building, but on your plat map it shows the Haw Creek going in a

24 completely straight line. Is that a true statement? Is it a

25 meandering creek?

□

7

1 MS. DIANE STREEBY: No. It is straight. It sets back at

August 2007

2 an angle off of Central.

3 MR. DON WILKERSON: So you're saying the plat map is
4 correct.

5 MS. DIANE STREEBY: I do agree that it is.

6 MR. DON WILKERSON: Okay. In the statements we got from
7 the staff, there was supposed to have been an agreement on fire
8 suppression with Fire District No. 1. Has that been completed?

9 MS. DIANE STREEBY: I don't believe so. Actually Rick
10 Welch signed off the preliminary. I was not aware that I needed
11 more.

12 MR. DON WILKERSON: Did you read the staff report statement
13 it was in?

14 MS. DIANE STREEBY: It's on page 8.

15 MR. DON WILKERSON: The reason I'm asking these questions
16 is I'd like to see those things, as a Board, are completed
17 before we pass it on to the Board of County Commissioners.

18 MS. DIANE STREEBY: Okay.

19 MR. DON WILKERSON: I wish Mr. Welch was here because I
20 questioned whether the hammer head at the end of Chloe Lane was
21 adequate. You would think that a fire truck or county truck
22 that wants to go down there and maintain that road would want to
23 be able to turn around. That's just a question that I think
24 ought to be addressed.

25 MS. DIANE STREEBY: I do know that it had been changed and

□

8

1 Roger had gone and had to change the dimensions of it so that it

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2 would be adequate. When I took it to Rick Welch, that is the
3 one thing he did double take and make sure it's appropriate and
4 then that's when he signed off on it.

5 MR. DON WILKERSON: On item 5, John says the Haw Creek
6 Subdivision shows a 50 foot sanitary restrictive easement along
7 their westly property line. Should there be a similar easement
8 shown along the eastly property of this development? Staff
9 tried to find out what that easement entailed from the Haw Creek
10 Sub, which they said they couldn't. I believe looking at
11 property description at the courthouse would probably tell us.
12 I think that's something that should also be put on this
13 subdivision. I'm just going to guess, sanitary restrictive
14 easement might mean that you can't put a septic system within 50
15 feet of Haw Creek.

16 MS. DIANE STREEBY: Right. We already had the Army Corp of
17 Engineers come out. We already had the holes dug and the soil
18 tested on all four lots. Then they went further and did the
19 actual testing of the soil and the dimension of how far we had
20 to be away from Haw Creek for the septic.

21 MR. DON WILKERSON: Okay. What is that dimension?

22 MS. DIANE STREEBY: I can't do it right off my head.

23 MS. WENDY AKINS: It's on the staff report.

24 MR. DON WILKERSON: Well they say the setback is 10 to 15
25 feet, but it doesn't address the septic system.

□

9

1 MS. WENDY AKINS: That was their request. The Army Corp of
2 Engineers was looking at protecting Haw Creek so that as the

August 2007

3 buildings were being constructed nothing goes into the creek.

4 So that setback addresses that. It doesn't address the septic.

5 MR. DON WILKERSON: I'd like to have an answer to that

6 sanitary restrictive easement before we approve this. Also, I

7 think it's in one of the conditions of approval, that you

8 provide an easement for your community water system on your

9 plat.

10 MS. DIANE STREEBY: And that, after talking to Roger, he

11 had put that up in the common area.

12 MR. DON WILKERSON: Well you have to have an easement to

13 get domestic water to each lot. That's what the easements for.

14 It's in the staff report.

15 MS. DIANE STREEBY: Okay.

16 MR. DON WILKERSON: I'd like to see those questions

17 answered prior to approving this minor subdivision.

18 MS. DIANE STREEBY: So, Wendy, will I get a letter of that

19 so I know what they're exactly asking?

20 MS. WENDY AKINS: Yes. So it's my understanding right now

21 you want a letter from the Fire District saying what fire

22 suppression is in place?

23 MR. DON WILKERSON: What type of fire suppression system

24 are they going to require for this subdivision.

25 MS. WENDY AKINS: Okay. Then the sanitary restrictions.

□

10

1 MR. DON WILKERSON: Sanitary restrictive easement. One

2 other thing I just noticed on Quail Hollow Sub, when that was

August 2007

3 put together, the individual there had to relocate the
4 irrigation system that's out in the public right of way. Per
5 Kim Reed's letter, there's going to be a 40 foot right of way
6 and he also says all structures within that right of way needs
7 to be moved. That's a requirement of our Ordinance. I think
8 the Board of County Commissioners may waiver that, but I don't
9 think we can. So those are my concerns with this minor
10 subdivision.

11 MS. DIANE STREEBY: I'm not clear on that.

12 MR. DON WILKERSON: There's a note here that says that the
13 true corner falls on the irrigation facility. Five foot set is
14 five foot off set. So that tells he you must have an irrigation
15 structure right on your property line. So it's got to be moved
16 to your side of the property line, away from the public right of
17 way. It's got to be relocated. The gentleman to the west of
18 you had to relocate several hundred feet of ditch.

19 MS. DIANE STREEBY: And it is the actual valve with the
20 cement. But it could be waived?

21 MR. DON WILKERSON: Well that's what I understand unless
22 the County Commissioners changed their since last meeting.

23 MR. BRAD HAWKINS-CLARK: They have been allowing license
24 agreements just for the irrigation only. Fences have been
25 required to be moved but there's no fence.

□

11

1 MR. DON WILKERSON: And there is a difference between the
2 plat map we got with the application and the plat map that was
3 sent to us in the staff report. It's a minor one. It's where

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4 Don Henderson addressed the fence on lot 2, now it shows there's
5 trees on that fence line.

6 MS. DIANE STREEBY: There's a straight fence with existing
7 poplar trees in front of it. There's just a perfectly straight
8 row of poplar trees.

9 MR. DON WILKERSON: I do have one question to staff. Where
10 the Corp of Engineers recommended a 10 to 15 foot setback from
11 Haw Creek, it looks like you were requesting a larger setback;
12 is that true?

13 MS. WENDY AKINS: Yes, to insure protection of Haw Creek.

14 MR. DON WILKERSON: What dimensions were you looking at in
15 your thoughts there? In here, you say 15 feet.

16 MS. WENDY AKINS: Right. That was the Army Corp of
17 Engineers.

18 MR. BRAD HAWKINS-CLARK: I think a minimum of 25 from the
19 bank would be preferable.

20 MR. DAVID POOLE: The bank being the high water mark?

21 MR. BRAD HAWKINS-CLARK: Ordinarily, yeah.

22 MR. DON WILKERSON: Thank you for your time.

23 MR. DAVID POOLE: Anymore questions for Ms. Streeby while
24 she's up here, Commissioners? Thank you very much. Okay,
25 gentleman, I think we've got to make some type of determination

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12

1 on this.

2 MR. J.B.: I'm at agreement that these questions should be
3 answered before we move.

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4 MR. DAVID POOLE: Any further discussion, Commissioners?

5 Okay. Don, I think you need to formulate a motion to continue,
6 if that's the case.

7 MR. DON WILKERSON: I make a motion that we continue the
8 Chloe Hollow Subdivision until the next meeting, which would be
9 our September meeting. That would be the 10th of September.
10 The applicant will receive some information from the staff on
11 what questions we need answered.

12 MR. DAVID POOLE: Do you understand what questions he's
13 asking for?

14 MS. WENDY AKINS: Yes.

15 MR. J.B.: I'll second that.

16 MR. DAVID POOLE: Discussion on the motion? If not, all in
17 favor signify by saying 'I'. Opposed same sign. Motion carries
18 for a continuance.

19

20 (Vote unanimous.)

21

22 Public Hearing - Item No. 1 (Continued) Special Use Permit

23 #SUP-07-003 - STP Concrete Company

24

25 MR. DAVID POOLE: Okay. Next item on the agenda for the

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13

1 public hearing is the continuation for a special use permit

2 #SUP-07-003. Do we have an applicant or anybody here for that?

3 MS. WENDY AKINS: They have requested to have that

4 continued until September.

August 2007

5 MR. DAVID POOLE: Okay. Should of put that on the agenda.

6 Is there any reason we need to make a motion for that?

7 MR. J.B.: I move that we continue to the next meeting.

8 MR. LAWRENCE WHITSELL: I'll second.

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

11

12 (Vote unanimous.)

13

14 MS. DEBBIE ROUWENHORST: I have one question for staff.

15 Will we have Kim Reed there on September 10th?

16 BRAD HAWKINS-CLARK: Yes.

17 MS. DEBBIE ROUWENHORST: Okay. We had questions for him.

18

19 Public Hearing - Item No. 2 Rezone #RZ-07-010

20 Harrison Development

21

22 MR. DAVID POOLE: Okay. Lets move on to Item No. 2, rezone

23 RZ-07-010. That is the Harrison Development. So, Wendy, I

24 guess you're on here. Do you want to explain the rezone to us

25 here, please?

□

14

1 MS. WENDY AKINS: This is a rezone request by Duane and

2 Lillian Harrison to rezone 10.14 acres from A-2 rural

3 transitional agriculture 5 acre minimum lot size to an R-3 rural

4 residential 2 acre minimum lot size. It's located on South

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5 Slope Road. The subjects site is approximately 340 feet east of

6 Ranch Road.

7 The site is currently undeveloped, nonirrigated land.

8 There are water rights for the site.

9 The site is designated as suburban agricultural on the 1995

10 Gem County Comprehensive Plan. This application was filed prior

11 to the adoption of the 2007 Comprehensive Plan on June of 2007.

12 Therefore, the Commission must use the 1995 Plan to evaluate

13 this rezone application.

14 Two letters were received from adjoining property owners in

15 favor of the rezone request.

16 Parcels in the area range from 1 acre to 45 acres. Access

17 is currently taken from west South Slope, which is designated as

18 a minor arterial in the 1995 Comprehensive Plan. This plan says

19 that it is a suburban agricultural, which is defined as an area

20 where Gem County recognizes that there will be rural residential

21 development in the future but the purpose of this land use is to

22 protect agricultural pursuits and provide guidelines for

23 conversions of suburban development. A 5 acre minimum lot size

24 is currently established for suburban agricultural land use.

25 The Commission should determine if the established minimum

15

1 lot size is a requirement of the Comprehensive Plan designation

2 or merely a guide. If the Commission determines that the

3 designation does allow for smaller lots, the proposed rezone

4 change does meet all of the required findings from the Zoning

5 Ordinance listed in section 7 of the staff report and also

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6 conforms with the overall intent of the applicable Comprehensive
7 Plan policies and future land map.

8 Here is the site from the site looking east on South Slope
9 Road. Looking north from South Slope road is an apple orchard.
10 This is the view looking south. This is the site. That's what
11 I have. Questions?

12 MR. J.B.: Even though we're to use the '95 Comprehensive
13 Plan and not the current one, what changes would the current one
14 have on this.

15 MS. WENDY AKINS: The current plan, I believe, calls this
16 out to be a priority growth area 2 or 3.

17 MR. J.B.: Thank you very much.

18 MR. DAVID POOLE: Okay. Any further questions for Wendy?
19 Will the applicant would step forward?

20 MR. MIKE WILLIAMS: Good evening. My name's Mike Williams,
21 825 Hawthorne. I'm representing Duane and Lillian Harrison of
22 Harrison LLC. The Harrison's are requesting a rezone from A-2
23 suburban ag to an R-3 rural residential, allowing the minimum
24 lot size of one unit per 2 acres. If you look at suburban ag in
25 your Comprehensive Plan, this is an area where Gem County

□

16

1 recognizes there will be rural residential development in the
2 future. The purpose of the land use is to protect agricultural
3 pursuits and provide guidelines to suburban development.
4 A 5 acre minimum lot size is currently established for
5 suburban ag land use area. Let's talk about that. When we

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6 *started on this Comp Plan back in '93 or '94, we recognized*
7 *specific areas for county residential impact areas, city impact*
8 *areas, suburban ag, and of course on top where we did not go*
9 *below 40 acres for a minimum lot size. At that time is '93/'94.*
10 *As we all know, with the amount of market changes within not*
11 *only the valley here but also the valley over the hill, quite a*
12 *bit of growth has occurred. When you look at the definition of*
13 *your suburban ag within the Comp Plan, it calls for rural*
14 *residential in the future.*

15 *We did submit this under the '95 Comp Plan but the County*
16 *did recognize that the Comp Plan was a little bit tired and they*
17 *have rewritten the Comp Plan since. This is submitted under the*
18 *'95 Comp Plan but just recognizing that there was a Comp Plan*
19 *needing to be changed tells you that markets and conditions have*
20 *changed. That's one of the reasons the applicant has come in*
21 *and requested this rezone, to address rural residential in the*
22 *future.*

23 *In regards to irrigation, yes the property has irrigation*
24 *rights. There is currently risers that run down the west*
25 *boundary of this property. So there is irrigation available.*

□

17

1 *So if you're going to look at future development, which this is*
2 *the reason the rezone is being requested, is to facilitate a*
3 *future development. One unit per 2 acres or more than likely 4*
4 *lots with a road that comes off South Slope. This piece*
5 *actually has quite a bit of frontage on South Slope Road.*
6 *The applicant does recognize that at the time of*

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*7 development a right of way will more than likely be required per
8 the Gem County Road Departments request. If you go look at
9 what's out there today and what's been in South Slope, a lot of
10 South Slope is on prescriptive use easements. It would be nice
11 to get some dedicated right of way out there. With the
12 dedication of right of way, they're probably going to have to
13 widen the road.*

*14 Right now, if you were to look at a PUD development and
15 just take in this whole area and provide a variety of lot sizes
16 and a variety of housing opportunities, you have all the 1 acre
17 lots. The Arnold Subdivision is only about 600 feet from this
18 proposal. Right next door, you have three 1 acre lots. This is
19 the piece that they're looking to rezone. Here's your frontage
20 of South Slope and it's 528.64 feet. You'd probably be looking
21 at dedication of right of way due to the fact it looks like it's
22 plated off as an easement and not a public road. If you look at
23 what's going on in the general vicinity, will two and a half
24 acre lots fit out here? Yes. If they come in later and have to
25 do a development, they will have to address all of the concerns*

□

18

*1 of the impacted agencies like Gem County Roads, the schools, and
2 Southwest District Health for well and septic. Southwest
3 District Health, at the time of development, will require
4 engineering. They will require a subdivision application of
5 their own and that's what goes in with your engineering and site
6 plan. The only way that four lots would be approved by*

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7 Southwest District Health is if the engineering meets the
8 criteria to allow for the well an septics to be permitted on
9 site.

10 Title 11, Chapter 15, Section 4 of your Zoning Ordinance is
11 where you get your findings to substantiate the support of a
12 rezone. If you look at the Comp Plan, it says it's currently
13 established as a 5 acre zone. We all know that comprehensive
14 plans are merely a guide. You use your zoning ordinances to
15 implement your Comprehensive Plan.

16 The Harrison's are requesting this rezone. Yes it is below
17 5 acres in size. Would it go along with what's going on out
18 there? Yes. You have 1 acre lots, 10's, and 5's. It provides
19 a mix of housing that's up on the slope. It would be irrigated.
20 It's all fronted by South Slope Road. They'd have to do a road
21 into the center of it to insure frontage of the four lots.

22 With the narrative I've provided you. I've provided
23 findings where it meets the findings for the rezone. Also, if
24 you read your staff recommendation, if you could look at not
25 just the 5 acres, what it says is currently established in the

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19

1 Comp Plan, but look at your findings, this rezone would make all
2 the findings to allow for it. Any questions?

3 MR. J.B.: I think you're early. You're pushing the
4 envelope by about 5 or 10 years because not only under the old
5 plan was it 5 acres but under the new plan it remains 5 acres.
6 Yes, there's other things going around but I see an orchard
7 across the street. Orchards are hindered and hurt by

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8 subdivisions. The rezone is there for the future development,
9 but I think your 5 or 10 years early. If it was really where
10 the County wanted growth to go in something less than 5 acres,
11 the new Comprehensive Plan would have allowed that and it
12 doesn't. It's still 5 acres. So I would not be able to support
13 this.

14 MR. DAVID POOLE: I understand your comments but I think we
15 need to move on to the public hearing side. Do you have any
16 questions for him other than comments?

17 MR. DON WILKERSON: You probably saw Kim Reed's response.
18 He says a 30 foot dedicated right of way. I think, in most
19 cases, it would probably be a 40. Also, going to a residential
20 zone would require open space. So that may effect size of the
21 lots. You could probably still get four 2 acre lots but it
22 might effect the size of them. Are you aware of that?

23 MR. MIKE WILLIAMS: Yes. The possibility is there. That's
24 something that will have to be addressed at the time of
25 development.

□

20

1 MR. DON WILKERSON: I'm just saying that in case they may
2 want to look at changing the zoning. I just want to bring it to
3 your attention.

4 MR. MIKE WILLIAMS: I don't want to zone it any tighter
5 than that. I think an R-2 is to dense for the area. R-3 allows
6 for the transition and something that would be halfway
7 supportive of what's currently going on.

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8 **MR. LAWRENCE WHITSELL:** *Is Harold B. Williams the orchard*
9 *across the road, to the north?*

10 **MR. MIKE WILLIAMS:** *Mr. Williams is here. If you look in*
11 *your staff report, there is correspondence from Mr. Williams*
12 *regarding this rezone. I encourage you to read the letter where*
13 *he is in support of it.*

14 **MR. LAWRENCE WHITSELL:** *But is he the person directly north*
15 *of the development?*

16 **MR. MIKE WILLIAMS:** *I'll let him answer that question.*

17 **MR. DAVID POOLE:** *Further questions for Mr. Williams? If*
18 *not, public input that is in favor of this?*

19 **MR. HAROLD WILLIAMS:** *I'm Harold Williams, 2455 West South*
20 *Slope Road. I do own the orchard across the road from his*
21 *property and I'm in favor of the rezone, as my letter earlier*
22 *stated.*

23 **MR. DAVID POOLE:** *Questions for Mr. Williams? Thank you*
24 *very much. Further input in favor of this rezone?*

25 **MR. DAVID TOLMIE:** *My name is Dave Tolmie and I own the*

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21

1 *land directly to the south of that rezone.*

2 **MR. DAVID POOLE:** *Can you state your address please?*

3 **MR. DAVID TOLMIE:** *It's 1985 West South Slope Road. The*
4 *only concerns that I have, and I am in favor of it, is the water*
5 *situation. The irrigation situation on that needs to be, in my*
6 *opinion, re-engineered. If you were to look at the southwest*
7 *corner starting from that point right there and all the way*
8 *back, there's one head gate on that section of property, which*

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9 is probably close to 40 acres. The problem that exists is
10 everybody's trying to get water from that one corner and it's
11 just a head gate. There's two or three pumps on it now and
12 there will be even additional pumps on it from that point.

13 The problem we have is the water isn't maintained. They
14 bring the water in and use it for a period of time but they
15 don't go back and take the water out. So it floods our
16 property. We've had it flood to the point where it runs down
17 our electrical conduit underground and into the shop. There's
18 been 2 inches of water in the shop.

19 So my opinion is that whole area needs to be re-engineered
20 as far as water goes, but I am in favor of it. Thank you.

21 MR. DAVID POOLE: Questions? Thank you very much. Further
22 input in favor? Neutral? Opposition to this rezone?

23 MS. SUZIE BENKSTEIN: My name is Suzie Benkstein and I'm at
24 2645 West South Slope. I oppose this. We have 5 acre parcels
25 up there. We have issues already with land being just

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22

1 subdivided to 5 acre parcels. We have problems with irrigation.

2 We're an agricultural area.

3 One of the issues we have is a lot of people are coming in
4 and building big houses and putting 8 to 10 high powered lights
5 on their house. We are really losing our agricultural area. I
6 believe that coming down less than 5 acres just adds to that
7 whole issue.

8 I understand that Williams Orchards in favor of this. He

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9 has in his letter it's due to weeds and some other issues.

10 Owning an orchard at 2875 South Slope for over 11 years, if you

11 continue to bring people up there that are not involved in

12 agriculture, you're going to have some issues with the spray. I

13 have a neighbor that's farther down the slope and she's always

14 complaining about how the spray is going to effect her and her

15 family. So I think that needs to be looked at. I think it

16 needs to stay agricultural.

17 If you let him subdivide less than 5 acres, your going to

18 open a door. They need to develop the irrigation. That's very

19 important.

20 State law says you can't use a domestic well for over a

21 half acre. Arnolds subdivision, if you look at those homes,

22 they have been developed for quite a while and they all fit into

23 rural area. There's no junk cars and no bright lights that a

24 subdivision would bring into our area. So I'm opposed.

25 MR. DAVID POOLE: Questions?

□

23

1 MR. DON WILKERSON: Could you point out on that map where

2 you live?

3 MS. SUZIE BENKSTEIN: I can see Williams Orchard from my

4 house.

5 MR. DAVID POOLE: Further opposition to this rezone?

6 MS. SHARON RAGLAND: I'm Sharon Ragland, 1915 West South

7 Slope Road. My property is right up against the back of where

8 that property starts. I oppose this. I'd like to keep it at

9 the 5 acre minimum until the time comes you change that. I

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10 *bought my property with the understanding that it would stay*
11 *rural for quite some time.*

12 **MR. DAVID POOLE:** *Questions? Thank you very much. Further*
13 *opposition to this rezone? If not, would you like to address*
14 *any of these, Mr. Williams?*

15 **MR. MIKE WILLIAMS:** *Thank you, Mr. Chairman. I'm not going*
16 *to address any of the positive comments. To address Suzie*
17 *Benkstein's comments of lights to bright, that's something that*
18 *can be done with development. You can restrict your lighting.*
19 *Spray, in Idaho State Statute allows and provides for and has to*
20 *be noted on the plat the right to farm. Less than 5 acres will*
21 *open a door, I think if you look at what's going on around each*
22 *one of these developments, if future rezones were to come in,*
23 *this body and the Board has to make the findings to allow a*
24 *rezone.*

25 *Sharon Ragland just wants it to remain rural. I can*

□

24

1 *understand that. In my eyes, two to two and a half acres is a*
2 *rural size lot.*

3 **MR. DAVID POOLE:** *Further questions? Thank you very much.*
4 *We'll close the public portion of this meeting and bring it*
5 *before the Board.*

6 **MR. DAVID HARGRAVES:** *I need to add a little bit here.*
7 *It's been mentioned that the Supreme Court stated that the Comp*
8 *Plan functions primarily as a guide. I just want to throw in*
9 *another piece to the legal puzzle here. Statutes have stated*

August 2007

10 that the zoning ordinances have to be in accordance with the
11 Comprehensive Plan. So you have to take a close look. A 5 acre
12 minimum lot size is designated in the Comp Plan and you have a
13 request to go down to a 2 acre lot size. I just want to point
14 that out.

15 MR. DAVID POOLE: Commissioners, any questions for staff or
16 for Dave? If not, Don, you got comments you want to make on
17 this?

18 MR. DON WILKERSON: I'm just looking for where the
19 definition for suburban ag is in our old Comp Plan.

20 MR. BRAD HAWKINS-CLARK: Land use chapter.

21 MS. WENDY AKINS: It's also in the staff report.

22 MR. DON WILKERSON: Thank you.

23 MR. DAVID POOLE: Any other comment while Don is reviewing
24 that?

25 MR. J.B.: I'll make a comment. I think our attorney just

□

25

1 made it pretty clear. Our zoning has to go along with our
2 Comprehensive Plan. Our Comprehensive Plan states this is 5
3 acre parcels. So I'm prepared to make a motion to deny this
4 based on it doesn't follow the Comp Plan.

5 MR. DON WILKERSON: I tend to agree with J.B. and what Dave
6 just said. We need to look at both the Comp Plan and the
7 Ordinance. Even though the Comp Plan is a guide, it's 5 acres.
8 I don't know that I agree with your comment earlier that it's
9 ahead of the game. One thing I have to say about the Arnold
10 Subdivision, it was platted in 1974 probably under an old Comp

August 2007

11 *Plan and things have changed. Thank you.*

12 *MR. DAVID POOLE: Further comment, Commissioners?*

13 *MS. DEBBIE ROUWENHORST: It looks like it fits the area.*

14 *However, on the new Comp Plan, and I know this came under the*

15 *'95, it does fit under the 5 acres. So I agree that it stays at*

16 *the 5 acres.*

17 *MR. DAVID POOLE: Any other comments, Commissioners?*

18 *MR. WILL MAUPIN: It says we need to be consistent in our*

19 *application. So because of that, I'm not in favor of it. We're*

20 *bound by it and we need to know how we've ruled on that suburban*

21 *designation in the past and we shouldn't deviate from it.*

22 *MR. LAWRENCE WHITSELL: I agree with Will. I think it*

23 *should be consistent.*

24 *MR. DAVID POOLE: Does somebody want to make a motion to*

25 *recommend to the County Commissioners?*

□

26

1 *MR. J.B.: I move that we recommend to the County*

2 *Commissioners that they do not approve this application because*

3 *it does not comply with the Comprehensive Plan.*

4 *MS. DEBBIE ROUWENHORST: I'll second it.*

5 *MR. DAVID POOLE: All right. Discussion on the motion? If*

6 *not, all those in favor signify by saying 'I'. Opposed same*

7 *sign. Motion carries.*

8

9 *(Vote unanimous.)*

10

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11 **MR. DAVID POOLE:** *You'll be notified, Mike. You have the*
12 *right to go to the County Commissioner for appeal. Thank you.*

13

14 **Public Hearing - Item No. 3 Rezone #RZ-07-011**

15 **Danny and Frances Yett**

16

17 **MR. DAVID POOLE:** *Okay. Next item on our agenda is Rezone*
18 *#RZ-07-011. Wendy, you want to bring us up to speed on this?*

19 **MS. WENDY AKINS:** *This is a rezone request by Danny and*
20 *Frances Yett to rezone a 40 +/- acre from A-1 prime agricultural*
21 *40 acre minimum lot size to an A-2 rural transitional*
22 *agriculture 5 acre minimum lot size. It's located at 2670 Gem*
23 *Avenue. The subjects site is located on the north east corner*
24 *of Central and Gem Avenue intersection. It is within priority*
25 *growth area 2 of the County residential area on the 2007 Gem*

□

27

1 *County Future Land Use Map. This application was complete after*
2 *the adoption of the 2007 Comprehensive Plan. Therefore the*
3 *Commission must use the 2007 Comprehensive Plan when reviewing*
4 *this request.*

5 *The site is approximately 40 acres and is currently being*
6 *used as a residence and dairy farm. There are two residential*
7 *units on this site. There's a stick built and a manufactured*
8 *home. The dairy farm has frequent and numerous deliveries from*
9 *trucks ranging in size from 7 to 32 tons.*

10 *One letter was received from an adjoining property owner in*
11 *opposition to the rezone request.*

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12 *Parcels range in size from approximately .429 acres to over*
13 *80 acres. Access is currently taken from Gem Avenue. Future*
14 *access could also be taken from West Central Road as well. The*
15 *2007 Comprehensive Plan Future Land Use Map identifies the area*
16 *as county residential area, priority growth area 2. This is a*
17 *special land use designation immediately adjacent to Emmett and*
18 *area of city impact. The county residential area is set aside*
19 *for primarily residential development. The priority growth area*
20 *2 allows densities at one unit per 5 acres or as allowed under*
21 *existing zoning until 80 percent of the area within priority*
22 *growth area is served or can be clearly demonstrated that it*
23 *will be served by essential public facilities as defined in the*
24 *front of the land use chapter. The proposed A-2 zone*
25 *designation would allow for a 5 acre lot.*

□

28

1 *Staff finds the proposed rezone change meets all of the*
2 *required findings from the Zoning Ordinance listed in section 7*
3 *of the staff report and conforms with the overall intent of the*
4 *applicable Comprehensive Plan policies and future use map. It*
5 *appears that a 5 acre lot size would be appropriate at this*
6 *time, in this location.*

7 *Most of the cows are kept out in this area. There are*
8 *three large irrigation holding ponds that are here. There is a*
9 *corn crop adjacent to the site.*

10 *So the area, at this time, hasn't fully been developed to*
11 *the north and west. However, east and south have smaller*

August 2007

12 parcels. This is the site on Gem looking north.

13 MR. DON WILKERSON: Wendy, I have a question for you. The
14 manufactured home is on the southwest corner of the property?

15 MS. WENDY AKINS: Yes.

16 MR. DON WILKERSON: Is that a separate parcel? How did
17 they get a second building?

18 MS. DEBBIE ROUWENHORST: Employee housing.

19 MS. WENDY AKINS: That was my understanding.

20 MR. DAVID POOLE: Any other questions for Wendy? Thank
21 you. We'll open this up for public input. If the applicant or
22 their spokesman would step forward please?

23 MR. DAN YETT: My name is Dan Yett. I live at 2670 Gem
24 Avenue. I'm not going to waste your time with a bunch of stuff.
25 We want to rezone it for 5 acres. We think it is what it's

□

29

1 zoned for. We're not looking to build on it or sell it right at
2 this moment. We're looking for financial reasons to better the
3 value of our property.

4 MR. DON WILKERSON: Mr. Yett, you just own the 40 acres?

5 MR. DAN YETT: That's it.

6 MR. DON WILKERSON: In your comments, you were concerned
7 about being restricted from putting a dairy there. Are you
8 talking about a new dairy?

9 MR. DAN YETT: No. I just don't think it's appropriate for
10 a dairy there. To the south there's sixteen homes there
11 already. I just meant that your new Comprehensive Plan would
12 not let a new dairy go within a mile of residential area.

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13 MR. DAVID POOLE: Any further questions for Mr. Yett?

14 Thank you. Further public input? Those in favor? All opposed

15 to this rezone? Neutral? Okay. We'll close the public portion

16 of this. We were reminded it is under the guidelines of the new

17 2007 Comp Plan. Comments, Commissioners?

18 MR. J.B.: This does apply to the Comprehensive Plan and I

19 have no problem supporting it.

20 MR. DAVID POOLE: Further comments, Commissioners?

21 MS. DEBBIE ROUWENHORST: I make a motion that we recommend

22 the rezone of #RZ-07-011 for 5 acre parcels because it complies

23 with the 2007 Comprehensive Plan and it falls within the

24 parameters of the development that the County and area would

25 like to see.

□

30

1 MR. WILL MAUPIN: I'll second that motion.

2 MR. DAVID POOLE: All those in favor signify by saying 'I'.

3 Opposed same sign. Motion carries.

4

5 (Vote unanimous.)

6

7 Public Hearing - Item No. 4 Rezone #RZ-07-012

8 David and Laura Blackstock

9

10 MR. DAVID POOLE: We'll move right on forward to rezone

11 #RZ-07-012. Wendy, would you bring us up to speed on this one

12 please?

August 2007

13 MS. WENDY AKINS: This is a rezone request by David and
14 Laura Blackstock to rezone 27 acres from A-2 rural transitional
15 agricultural, a 5 acre minimum lot size, to R-2 residential
16 transitional 1 acre minimum lot size. This property is located
17 at 4239 South Johns Avenue. It is approximately 450 feet east
18 south of South Slope road on the west side of Johns Avenue. It
19 is in priority growth area number 1 on 2007 Future Land Use Map.
20 This application was complete after the adoption of the 2007
21 Comprehensive Plan.

22 The site is approximately 27 acres. In my staff report I
23 indicate that it is the Last Chance Canal that runs through the
24 property. It is, in fact, the Black Canyon Canal.
25 Approximately 8.6 acres is to the south of the canal. That

□

31

1 property is zoned A-3, not R-2. However, the request is only
2 talking about the 18 acres. There is an error in my report that
3 does state that the 6 acres is R-2 and it is actually R-3 but it
4 is not part of the rezone request.

5 MR. DAVID POOLE: So the rezone request is for how many
6 acres now?

7 MS. WENDY AKINS: 18 acres and it is from A-2 to R-2.

8 MR. DON WILKERSON: You said that the 6 acres is R-3.

9 MS. WENDY AKINS: A-3.

10 MR. DON WILKERSON: A-3. Okay.

11 MS. WENDY AKINS: An existing substandard bridge is used to
12 access the southern portion of the site, which is the upper
13 portion. It's that 6 acres. If the site is developed in the

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14 *future, the site of this bridge will need to be addressed.*

15 *Parcels range in size from approximately .6 acres to 20.73*
16 *acres. The property is irrigated orchards with single family*
17 *residents and out buildings. A site visit did determine that*
18 *most of the orchards have been pulled. The trees are on the*
19 *ground and nonproducing. Access is currently taken from South*
20 *Johns Avenue.*

21 *The 2007 Comprehensive Plan Future Land Use Map identifies*
22 *the subject area as county residential impact area priority*
23 *growth area 1. This is a special land use designation*
24 *immediately adjacent to Emmett and areas of city impact. The*
25 *county residential impact area is set aside for primarily*

□

32

1 *residential development. The priority growth area 1 allows for*
2 *densities at one unit per acre and as the Zoning and Subdivision*
3 *Ordinances allow. The proposed R-2 zoning designation would*
4 *allow one unit per acre.*

5 *Staff finds that the proposed rezone meets all of the*
6 *required findings from the Zoning Ordinances listed in section 7*
7 *of this report and conforms with the overall intent of the*
8 *applicable Comprehensive Plan policies and Future Land Use Map.*
9 *The 1 acre minimum lot size appears to be appropriate for this*
10 *location, at this time. Based on the information presented to*
11 *date, staff supports this application.*

12 *Here's the lower portion, the 18 acres that is being*
13 *requested to be rezoned from A-2 to R-2. There is an existing*

August 2007

14 resident over here along with some out buildings. The bridge
15 that I was discussing is here. It would need to be used to
16 access this property up here, which is not a part of this
17 application. Here's a photo looking north on Johns Avenue.
18 Here's the residence. It is a gentle slope. The field has a
19 more gentle slope to it than what this picture depicts.

20 MR. DON WILKERSON: The road's gravel, right?

21 MS. WENDY AKINS: Yes.

22 MR. DON WILKERSON: Okay. Thank you.

23 MS. WENDY AKINS: Questions?

24 MR. DAVID POOLE: Commissioners, any questions for Wendy?

25 Thank you, Wendy. Let's open the public portion of this. If

□

33

1 the applicant or his spokesman would step forward please?

2 MR. DAVID BLACKSTOCK: My name is David Blackstock. I live
3 at 2252 Haw Creek Circle. We bought this piece of property only
4 wanting 5 acres of it. The owner had basically just made it to
5 where he said we'll buy it all and it's going to get sectioned
6 off anyway. We're not developing the upper acreage because of a
7 lot of reasons. One is it's not really conducive yet
8 financially. Also that's in consideration for us to be that
9 fortunate that we will be living on.

10 MR. DAVID POOLE: So that's the 6 acre parcel?

11 MR. DAVID BLACKSTOCK: That is the south portion, which is
12 at the bottom of the canal portion of the property.

13 We basically just started interviewing perspective buyers
14 and asking them what lot size they would like in such a

August 2007

15 *beautiful area.*

16 *Just to correct, the road all the way to the bridge is*

17 *asphalt and is maintained by the County.*

18 *MR. DAVID POOLE: So is it a chip seal or is it asphalt?*

19 *MR. DAVID BLACKSTOCK: That's probably a chip seal. So*
20 *would that still be considered gravel?*

21 *MR. DAVID POOLE: Combination.*

22 *MR. DAVID BLACKSTOCK: And everyone of the people we've*
23 *talked to about buying was interested in the 1 acre. They*
24 *didn't want to take care of 2 acres. They didn't want goats.*

25 *As far as I know, most people we talked to in the area don't*

□

34

1 *want livestock on the property.*

2 *As was stated, the lot sizes are just a mix. There's under*
3 *and acre, right next to it an acre, 2 acre, 2 acre, 5 acres, and*
4 *then above is agricultural and it's going to stay that way. The*
5 *orchards above, I think, will be a minimal impact to the homes*
6 *there because of the distance and the drop in the elevation.*
7 *There's a significant drop in elevation. I would guess just 20*
8 *to 25 feet from the top of the canal road just down to the*
9 *actual start of the property.*

10 *The plan right now is to stay in the guidelines of what is*
11 *required to develop the property properly. Community well. The*
12 *orchard is irrigated right now from the canal. As far as I*
13 *understand, that's where it comes from.*

14 *I'm going to live there. So impact-wise, I'm going to*

August 2007

15 *basically hire an attorney and get some covenants and they're*
16 *going to have some teeth. I live in a subdivision that has*
17 *covenants that are not followed but have no teeth to any of the*
18 *covenants. Lighting restrictions; I like to see the stars. I'm*
19 *going to have things about noise, tree growth, maintenance, and*
20 *square footage per house. I'm going to have everything.*
21 *There's a lot of really nice homes. There's some not so*
22 *elaborate. The idea is to make it a beautiful little area and*
23 *keep it that way. So that's where we're at as far as that. For*
24 *any technical questions I have ALS here.*
25 **MR. DON WILKERSON:** *I realize you're just here for a rezone*

□

35

1 *and we don't need to address subdivisions. I just have a*
2 *question on lot 15 it looks like there's a hundred foot easement*
3 *there. Could you tell me what that's for?*
4 **MR. WALT NEITZ:** *I'm Walt Neitz with ALS. That hundred*
5 *foot easement you see along there is the Last Chance Canal*
6 *easement. There's no building allowed with in that area.*
7 **MR. DAVID POOLE:** *Could you state your address please?*
8 **MR. WALT NEITZ:** *It's 1103 West Main Street in Middleton.*
9 **MR. DAVID POOLE:** *Anymore questions for the applicant or*
10 *his professional? If not, you'll have an opportunity to rebut.*
11 *Okay. Public input that's in favor of this rezone? If not,*
12 *those that may be neutral on this rezone?*
13 **MS. PATTY BOWMAN:** *My name is Patty Bowman. My address is*
14 *225 East South Slope. I'm right in front of lot 4, 5, and 6. I*
15 *would love to have some new homes in back of me because what's*

August 2007

16 *there now is a fire hazard.*

17 *I do have some concerns. I built a new home there last*
18 *year and was flooded by this property from the irrigation. It*
19 *took a river down the side of my property. This is orchard*
20 *ground. It's not ground where water runs off into a ditch and*
21 *it takes it somewhere else. There's no ditches. So you really*
22 *have to think about where the water is going to go. My husband*
23 *and I are learning this. We put underground sprinklers on our 2*
24 *1/2 acres. We're sprinkling and we've got erosion. Hopefully*
25 *we can address that.*

□

36

1 *As Mr. Blackstock indicated, there's quite a slope on this*
2 *property. It was all an orchard. There's going to be some real*
3 *water issues here from irrigation. I just want to be protected*
4 *with berms or something. Like you said, you need to make note*
5 *of all the easements that are pre-existing now on the property.*

6 *We, the people down here do not have covenants. So I can*
7 *have goats or pigs or anything I want. So the people who buy*
8 *these lots need to understand that. Thank you very much.*

9 *MR. DON WILKERSON: If this rezone is approved and they*
10 *come back with a subdivision, they need to look with the natural*
11 *drainage. Maybe your lot has blocked the natural drainage from*
12 *that property.*

13 *MS. PATTY BOWMAN: My lot was part of that pasture, or that*
14 *orchard.*

15 *MR. DON WILKERSON: But what I'm saying is your lot may*

August 2007

16 *have been the natural drainage for this piece of ground.*

17 *MS. PATTY BOWMAN: They didn't realize that your supposed*

18 *to turn the water off. So many, many hours and days went by and*

19 *I wasn't living in the home yet. So it created a river, but*

20 *there's got to be something done there.*

21 *MR. DON WILKERSON: When that comes back for a subdivision*

22 *we can address that.*

23 *MR. DAVID POOLE: Further neutral input?*

24 *MS. TINA TURNER: Tina Turner, 501 North Star Road in Star.*

25 *My concern on this rezone, with meetings that we've had in the*

□

37

1 *past, it looks like we're creating a split zone and not covering*

2 *the whole 27 acres. We've had a problem with mixed use and*

3 *agricultural and this one is now going to be 1 acre parcels and*

4 *5 acre parcels.*

5 *MR. DAVID POOLE: We have two different determinations on*

6 *this property. If separated, it would not be contiguous because*

7 *of the canal.*

8 *MS. TINA TURNER: Okay.*

9 *MR. DAVID POOLE: Thank you, Ms. Turner. Further neutral*

10 *input? Those that are not in favor of this rezone?*

11 *MS. CATHY ROBERTSON: I'm Cathy Robertson. I also*

12 *represent my husband Kevin Robertson and we live at 824 West*

13 *South Slope Road. We oppose this application for the rezoning*

14 *of this property. Even though we live down the street on South*

15 *Slope, the impact of the traffic is huge to us. As you look*

16 *into the future it will be huge to all the neighbors on South*

August 2007

17 Slope. Let me walk you through where my process and logic has
18 gone. We're talking about, I believe it's 18 acres, if I'm
19 correct. We're assuming that each of those 18 acres has a house
20 with a couple of people that live there, you've got a couple of
21 cars. Can someone show me where the road goes into that
22 property? Does it go off South Johns?

23 MR. DAVID POOLE: Sounds like South Johns borders a portion
24 of that property.

25 MS. CATHY ROBERTSON: I was told there is a road that goes

□

38

1 into the left, just beyond a blue house there. It's one of
2 those. I am a small group of walkers. We walk that street
3 almost on a daily basis. To make it short, the impact to that
4 road, adding 36 vehicles per day coming in and out going has a
5 huge impact. The impact today is really a small thing compared
6 to if you allow the 1 acre parcels to be approved for this
7 acreage because other property owners, there's about 10, could
8 possibly use this rule to continue on. So the impact on the
9 roads for approximately another 10 properties that might want 1
10 acre approval, there's possibly going to be 136 additional
11 vehicles per day on our road. That's a huge thing to my husband
12 and I. Thank you.

13 MR. DAVID POOLE: Thank you. Further negative input?

14 MR. ROBERT TYLER: My name is Robert Tyler. I live at 145
15 East South Slope. If we could have the map or the area photo
16 back up, I'd like to show you something. This is our orchard.

August 2007

17 *We have about 10 or 12 acres right there. It is above the canal*
18 *but the spray is going to drift right there. Spray always*
19 *drifts down hill. It always drifts from west to east. In the*
20 *evening, the colder air condenses down into the valley and it*
21 *takes that spray with it. That's one of my concerns. I don't*
22 *want to get blamed for poisoning somebody's child.*
23 *I have an easement on the west side of the property.*
24 *There's another old bridge right here that we access quite often*
25 *and I don't want to see that blocked off by somebody's fence or*

□

39

1 *something. As a matter of fact, I think there's a garage right*
2 *on the corner of my easement.*

3 *In the summer, we sell a lot of U-Pick out of our orchard.*
4 *So we have lots of traffic. Especially in June and July. They*
5 *cross this bridge and goes up to the orchard. What I mean by*
6 *lots of traffic is 50 to 100 cars about an hour. That's all I*
7 *have to say.*

8 *MR. DAVID POOLE: Questions?*

9 *MS. DEBBIE ROUWENHORST: On the easement that you have that*
10 *your concerned about, do you have a dedicated easement?*

11 *MR. ROBERT TYLER: Yes. I do. That easement was our*
12 *easement when we first obtained our building permit. In*
13 *addition to what the easement was at the time we bought the*
14 *property, we had to get the other land owners to extend that*
15 *easement in width to satisfy Planning and Zoning.*

16 *MR. DAVID POOLE: So it's a deeded easement is it, Rob?*

17 *MR. ROBERT TYLER: Yes.*

August 2007

18 **MS. DEBBIE ROUWENHORST:** *So they can't block your easement.*

19 **MR. ROBERT TYLER:** *Well we've already got a garage on it.*

20 **MS. DEBBIE ROUWENHORST:** *Well they're not supposed to.*

21 **MR. DAVID POOLE:** *Further negative input?*

22 **MR. CHRIS ALEXANDER:** *My name is Chris Alexander and I own*

23 *the piece of property due west of the proposed subdivision. We*

24 *bought in Emmett because of the 5 acre rural and we like it 5*

25 *acres. We want to keep it 5 acres. I have a lot to say and I*

□

40

1 *know I don't have time to say it all. I feel a tremendous sense*

2 *of responsibility. I suggested that Mr. Blackstock talk to*

3 *Rusty about this and at that time he was talking about 5 acre*

4 *splits. We couldn't of been happier to have a neighbor that was*

5 *in the same mindset that we all are. Imagine our surprise when*

6 *we see this 1 acre thing come in. It just looks like the*

7 *neighbors are getting sold out. It's 5 acres now and it needs*

8 *to stay 5 acres. That's the way that hill needs to stay. We*

9 *have traffic issues. We have well water issues. The other*

10 *items that were brought up were real. Thank you.*

11 **MR. DAVID POOLE:** *Questions for Mr. Alexander? Thank you.*

12 *Further negative input?*

13 **MR. BILL OVERTON:** *Bill Overton, 500 East South Slope,*

14 *which is right on the corner of South Slope and Johns. Quality*

15 *of life. That's the reason I moved here with my family. That's*

16 *the reason my neighbors and I built and live here. I knew Rusty*

17 *and the orchard. You start putting in 1 acre home sites and I*

August 2007

18 *might as well move to Boise. This valley is unique and should*
19 *be maintained in the same type of rural uniqueness that it has.*
20 *I'm not going to argue if 10 or 15 years down the road, you may*
21 *have to go to 1 acre home sites. You've got land everywhere.*
22 *Why are we going to carve up this hillside? If you want to put*
23 *in 5 acres, it's fine with me. What's the imperativeness to*
24 *build 1 acre homes? We already have two problems with the canal*
25 *with two builders who carved into the canal and almost flooded*

□

41

1 *the neighbors. Now we're going to build 18 homes, a bunch of*
2 *them along the canal. So I'm against it, as are most of my*
3 *neighbors. We were never talked to about this development. We*
4 *found out about it. Thank you.*

5 *MR. DAVID POOLE: Thank you. Further opposition input?*

6 *MR. MARK AHLERS: My name is Mark Ahlers and I live just to*
7 *the west of Mr. Overton at 400 East South Slope. We have 2.6*
8 *acres on ours. I think the lots on the north side of South*
9 *Slope are also in that range. I think that there is an*
10 *additional issue with how steep that section of South Johns and*
11 *how narrow it is. That's a lot of traffic. I just feel like*
12 *the traffic and the change from what we have now, 5 acres would*
13 *be fine with me, but I think the 1 acre would change the*
14 *atmosphere of the neighborhood.*

15 *MR. DAVID POOLE: Thank you. Any questions for Mr. Ahlers?*
16 *Thank you very much, sir. Further opposition to this rezone?*

17 *MS. HEATHER DYKEMA: Heather Dykema, 311 East South Slope*
18 *Road. I agree with the gentleman that just spoke. We live*

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19 *exactly south of these parcels. I agree that I would not want*
20 *to see 1 acre lots behind my house. We built there to enjoy our*
21 *space. If you want to live in a subdivision, move into town.*
22 *That's not what rural is for. I want to have animals. If they*
23 *don't want to have animals, they can move into town.*
24 *We have water issues already. I'm not sure if they're*
25 *going to tap in at for their irrigation. I don't know if*

□

42

1 *they'll have access to the canal or not.*

2 *We have no sidewalks out there for kids. If your going to*
3 *have that many more homes, you're going to need to have*
4 *sidewalks. We need wider roads. There's just a lot of issues.*
5 *Thank you.*

6 *MR. DAVID POOLE: Thank you. Further negative input?*
7 *Further opposition? Okay. If not, we've got to give Mr.*
8 *Blackstock or his professional an opportunity to rebut.*

9 *MR. WALT NEITZ: I'm Walt Neitz. The folks concerns are*
10 *real. There's no doubt about that. Addressing the traffic*
11 *situation, I believe that South Johns is designated as a minor*
12 *arterial. If the subdivision gets approved, they'll be*
13 *requiring a wider right of way. In all agricultural areas*
14 *there's the right to farm act. That's a state statute. That*
15 *will be included in the final plat.*

16 *This 1 acre application complies with your 2007*
17 *Comprehensive Plan and is in conformance with the plan. Had*
18 *these folks opposed that, they should have brought that up at*

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19 *the time the plan was put together. Traffic is a problem and*
20 *will always be a problem. I think with the widening of South*
21 *Johns in the future, traffic will be taken care of. I'd be glad*
22 *to answer your questions.*

23 *MR. DAVID POOLE: Questions for Mr. Neitz? Thank you very*
24 *much. I guess we'll close the public portion of this. I'll ask*
25 *if there's anybody here that has ex parte communication with the*

□

43

1 *applicant or has had a site visit?*

2 *MR. J.B.: My only conflict of interest, but it isn't at*
3 *all because I haven't discussed this with him, but Mr. Neitz is*
4 *an engineer that I use from time to time.*

5 *MR. DAVID POOLE: Okay.*

6 *MR. DON WILKERSON: Can I take some time and just put their*
7 *map up there?*

8 *MR. DAVID POOLE: That might help all of us, Don.*

9 *MR. J.B.: I like consistency and this conforms with the*
10 *Comprehensive Plan. Change is happening. Our staff recommends*
11 *it and it complies. So I would have no difficulty supporting*
12 *it.*

13 *MR. DAVID POOLE: And we're just discussing the rezone at*
14 *this point. Anything in the future has to be addressed if the*
15 *rezone is passed and they decide to subdivide.*

16 *MR. J.B.: Future plat, future water, future drainage,*
17 *future anything has nothing to do with tonight.*

18 *MS. DEBBIE ROUWENHORST: Anything in the letter of intent*
19 *does not carry over then to a rezone?*

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20 MR. DAVID POOLE: David?

21 MR. DAVID HARGRAVES: Sorry, I missed that.

22 MS. DEBBIE ROUWENHORST: She's asking, from a legal

23 standpoint, in the letter of the intent, or their preliminary

24 plat, or that sort of thing, does that carry over from this

25 rezone? All we're doing at this point is voting to or not to

□

44

1 rezone this particular piece of property; is that correct?

2 MR. DAVID HARGRAVES: I'd like to advise you to focus on

3 the findings that are found for a rezone. A lot of these other

4 issues would be addressed at the development stage. If it is

5 rezoned, then other land use ordinances and subdivision

6 ordinances would apply.

7 MR. J.B.: More specifically, their drawing, as far as a

8 plat, what they're thinking of doing in the future, we're not

9 obligated to have any consideration of that. If it comes back,

10 he can't say we approved or nodded in that favor. We're

11 strictly doing rezone.

12 MR. DAVID HARGRAVES: That's correct.

13 MR. DAVID POOLE: Further comments from the Commissioners?

14 MR. J.B.: I make a motion that we recommend to the County

15 Commissioners that they approve this because it does comply with

16 the existing Comprehensive Plan.

17 MR. DAVID POOLE: Been moved that we recommend this to the

18 County Commissioners because of the reasons stated. Is there a

19 second to that motion?

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20 MR. WILL MAUPIN: I'll second it.

21 MR. DAVID POOLE: Discussion on this motion? If not, all
22 those in favor signify by saying 'I'. Opposed same sign.

23 Motion carries. You'll be notified. Thank you very much.

24

25 (Vote unanimous.)

□

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1

2 Public Hearing - Item No. 5 Rezone #RZ-07-013

3 Glenn and Connie Harding

4

5 MR. DAVID POOLE: Okay. Next item on our agenda is Rezone
6 #RZ-07-013. Wendy, if you could bring us up to speed on this
7 one, I'd appreciate it.

8 MS. WENDY AKINS: This is a rezone request by Glenn and
9 Connie Harding to rezone 55 acres from A-1 prime ag, 40 acre
10 minimum lot size to an R-2 rural transitional, 5 acre minimum.
11 It's located at 1795 West Black Canyon Highway.

12 Here's Gem Avenue. Here's West Black Canyon Highway. This
13 rezone request is within priority growth area 2 of the county
14 residential area on the 2007 Gem County Future Land Use Map.
15 The subject area encumbers two parcels, which is a total of
16 54/55 acres. The two parcels are separated by a drainage ditch.
17 There is an existing residence located on the south east corner
18 of the 20 acre parcel. Access is currently being taken from
19 West Black Canyon Highway.

20 This application was complete after the adoption of the

August 2007

21 *2007 Comp Plan. Therefore, the 2007 Comp Plan needs to be used.*

22 *Parcels in the area range from .944 acres to over 80 acres.*

23 *The property has an existing single family residence with out*

24 *build ings and irrigated pasture land.*

25 *Access is currently taken from West Black Canyon Highway*

□

46

1 *but future access can also be taken from Gem Avenue. Black*

2 *Canyon Highway is designated as a collector by the County.*

3 *The growth area 2 allows densities for one unit per 5*

4 *acres, or as allowed under existing zoning, or until 80 percent*

5 *of the area within the priority growth area 1 is served or can*

6 *be clearly demonstrated that it will be served by essential*

7 *public facilities. The proposed A-2 zone designation would*

8 *allow the 5 acre zone. The 5 acre minimum lot size appears to*

9 *be appropriate for this location, at this time.*

10 *MR. WILL MAUPIN: I have a question. You say that Black*

11 *Canyon is considered a collector. Is that the Highway*

12 *Department's designation? In the plan it says it's a principle*

13 *arterial.*

14 *MR. BRAD HAWKINS-CLARK: That's not the State Highway*

15 *though.*

16 *MR. DAVID POOLE: West Black Canyon is not Highway 52 so*

17 *it's a street.*

18 *MR. WILL MAUPIN: It just says Black Canyon Highway.*

19 *MR. DAVID POOLE: But it's not a highway.*

20 *MS. WENDY AKINS: Here's the view on West Black Canyon*

August 2007

21 Highway looking east across the site looking north. The rezone
22 that we talked about for the dairy earlier, that was recommended
23 for approval, is right here. So it's literally across the
24 street on Gem.

25 MR. DAVID POOLE: Questions for Wendy, Commissioners? If

□

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1 not, if the applicant can step forward, we'll start the public
2 hearing portion of this.

3 MR. GLENN HARDING: My name is Glenn Harding and I reside
4 at 1795 West Black Canyon. My wife's name is Connie. We're
5 here to request a rezone from A-1 to A-2, 5 acre minimum under
6 the new Comp Plan. I guess that's it.

7 MR. DAVID POOLE: Questions for Mr. Harding? Thank you
8 very much. Public comment in favor of this rezone? Public
9 comment in the neutral position? Opposition?

10 MR. JAY MILES: I'm Jay Miles, 1812 West Black Canyon
11 Highway. I live on the north side of the Hardings. Right now
12 we're asking for more 5 acre parcels and we're taking out our
13 agricultural areas.

14 We have a problem with the water right now. The problem is
15 from the head ditch, which is right here. It comes off of the
16 main ditch. There's a concrete conduit that runs completely
17 under my property, in front of my driveway, and supplies all of
18 the water to this area. That concrete ditch has been a hazard
19 to my animals and it is starting to fall apart. So if this was
20 to cave in anywhere along here, it's already leaking right here
21 and it's causing damage to the back structure of my garage.

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22 MR. DAVID POOLE: So it's a pipe, not a ditch?

23 MR. JAY MILES: Yeah, a pipe. What's going to happen is if

24 this pipe goes down anywhere here, this division is not going to

25 have water for months. It's going to cause some major damage.

□

48

1 So with this 5 acre zoning, we've already knocked out all

2 the wildlife. I see no need in knocking out this agriculture.

3 We keep saying agriculture but 5 acres is not agricultural.

4 That's somebody's little hobby farm. I'd like to see that stay

5 there until it's absolutely necessary to make those changes.

6 After talking with the neighbors, they feel the same way.

7 MR. DAVID POOLE: What kind of farming do you do?

8 MR. JAY MILES: Alfalfa.

9 MR. DON WILKERSON: How many acres do you have?

10 MR. JAY MILES: 20 acres.

11 MR. DAVID POOLE: Thank you very much, sir. Any comments

12 you want to make as far as a rebut?

13 MR. GLENN HARDING: I've known since we brought that

14 property that the water comes from 10 miles of property across,

15 underneath his property and I don't know whose responsibility

16 that is. We just spent \$4,000 on redoing our head gate and

17 putting in 800 feet of 12 inch pipe between mine and Don Love's

18 house. All the neighbors that get water from there put the

19 money in to take care of that end of it. Since we got the head

20 gate in we have more water.

21 MS. DEBBIE ROUWENHORST: On your property, you do have the

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22 *water rights then?*

23 *MR. GLENN HARDING: Yes.*

24 *MS. DEBBIE ROUWENHORST: So I think it's my understanding,*

25 *when the water comes across someone else's property, the person*

□

49

1 *it's being delivered to is responsible for that stretch of*

2 *irrigation. We get our water from the same irrigation company.*

3 *MR. GLENN HARDING: We had problems and so we fixed all the*

4 *problems on our side of the road.*

5 *MR. LAWRENCE WHITSELL: How many people take water out of*

6 *that pipe?*

7 *MR. GLENN HARDING: There's five of us.*

8 *MR. LAWRENCE WHITSELL: Okay. Does that water get*

9 *distributed once it crosses the highway?*

10 *MR. GLENN HARDING: Yes it does. We've got a head gate*

11 *there and they give us so much through Jay's property, comes*

12 *out, and they measure it. We all share it.*

13 *MR. DAVID POOLE: Further questions for Mr. Harding from*

14 *the Commissioners? Thank you, sir.*

15 *MR. GLENN HARDING: Thank you.*

16 *MR. DAVID POOLE: We'll close the public portion of this*

17 *meeting and bring it before the Commissioners. Any questions*

18 *for staff or for legal?*

19 *MR. DON WILKERSON: I have a question for staff. When you*

20 *go from priority growth area 1 to priority growth area 2, you*

21 *don't go until priority growth area 1 gets a density of 80*

22 *percent; right?*

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23 MR. BRAD HAWKINS-CLARK: *It's not density. It's based on*
24 *services, availability of the utility providers and the roads.*

25 MR. DON WILKERSON: *How do you determine that 80 percent?*

□

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1 MR. BRAD HAWKINS-CLARK: *Well it depends on which utility*
2 *you're talking about. If you look at the definition at the*
3 *front of the Comp Plan, it's essential public facilities. It*
4 *talks about water, storm water, waste water, roads, schools, and*
5 *emergency services. So I think each one, how you measure*
6 *whether the service capacity is there is going to be different.*
7 *Schools, for example, one of the factors will be the busing*
8 *capacity. If they're already in that area and the buses are at*
9 *80 percent, 90 percent, we would say the capacity isn't there.*
10 *Roads are based on the functional class. So if it's a*
11 *collector, it's going to be projected to carry 8,000 trips per*
12 *day. If it's a local, it's carrying 500 trips per day. If it's*
13 *an arterial it's carrying upwards of 12,000 to 15,000 trips per*
14 *day. So we would look at the ability of the roadway to handle*
15 *those. We are working on a chart that basically shows the*
16 *utilities and how that 80 percent is factored on each one.*
17 *The water and the waste water is thrown in there. I don't*
18 *think that will probably factor in too much because the County*
19 *is not in the business of water and waste water appreciation,*
20 *but I still think it will be looked at in terms of ground water*
21 *and test wells from DEQ.*
22 MR. DAVID POOLE: *Is this information we need prior to*

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23 *making these decisions?*

24 **MR. BRAD HAWKINS-CLARK:** *The way that I think the Comp Plan*

25 *is drafted, and maybe the Commission has different ideas, if*

□

51

1 *it's in the blue, the county residential area, then the 5 acre*

2 *is not subject to the 80 percent that Don just mentioned. It's*

3 *only if they're asking for less than five.*

4 **MR. DON WILKERSON:** *So if you had start exceeding your*

5 *ability to serve essential service in priority area 1 at 1 acre,*

6 *does that open priority area 2 up to 1 acre?*

7 **MR. BRAD HAWKINS-CLARK:** *Yes.*

8 **MR. DON WILKERSON:** *Thank you.*

9 **MR. DAVID POOLE:** *Any further questions?*

10 **MR. LAWRENCE WHITSELL:** *And there is exceptions to that if*

11 *it's a PUD or something like that.*

12 **MR. BRAD HAWKINS-CLARK:** *There is a clause in the plan that*

13 *talks about if you compile properties and have your own service*

14 *provisions. It all still has to be looked at.*

15 **MR. LAWRENCE WHITSELL:** *It has to be approved, but that's*

16 *looked at favorably.*

17 **MR. BRAD HAWKINS-CLARK:** *Yeah.*

18 **MR. DAVID POOLE:** *Commissioners, any comments on this*

19 *rezone?*

20 **MR. DON WILKERSON:** *I know we just approved one within*

21 *eye-sight of this parcel, but if you look at the maps, it's got*

22 *more A-1 agricultural ground around it than the previous one.*

23 *So I'm a little hesitant to approve this rezone until we see*

August 2007

24 more development out toward this parcel. That's all I have.

25 Thank you.

□

52

1 MR. DAVID POOLE: Further comments?

2 MR. J.B.: Based on staff report, and this is in that blue
3 area, it sounds like it's not an issue of other development at
4 the 5 acres. It kind of automatically qualifies. Dave, Brad,
5 am I correct? Are you of the opinion that unless there's
6 something major, it pretty much qualifies for 5 acres?

7 MR. DON WILKERSON: When we look at approving these, we
8 need to look at more than just if it meets the Comprehensive
9 Plan and the Future Land Use Map. There's five items in here
10 that we need to look at. One of them is the impact on the area.
11 I think we need to look at more than if it just meets the Comp
12 Plan.

13 MS. DEBBIE ROUWENHORST: Jackson is the break off for
14 priority 1, 2, and 3. To the west and to the north of this
15 property, it is going to stay A-1 because it's designated as
16 A-1. I mean, this is 40 acres. So this still falls within the
17 growth pattern of 5 acres. Until the Comprehensive Plan is
18 rewritten, the map is redone, it will stay prime ag to the west
19 and to the northwest of this property. Right now, the 3 area,
20 that is still prime ag up in that area.

21 MR. LAWRENCE WHITSELL: It's sort of subjective though
22 because we just allowed a 40 acre approval and we can kind of
23 use the same -- I don't know how you approach this. This isn't

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24 quite the same situation.

25 MR. DAVID HARGRAVES: I think Don's correct. There are

□

53

1 really 5 findings that you have to make. Number 4 talks about

2 the essential character of the area. That's on page 9 paragraph

3 number 4.

4 MR. DAVID POOLE: Any further questions, Commissioners? We

5 do need to move forward.

6 MR. WILL MAUPIN: I'd just like to make one comment. I

7 understand the concern but we have five findings and of those,

8 one is in question. There's been an opportunity for public

9 comment; the surrounding people. There was none. So this

10 thing, in my mind, complies to the Comprehensive Plan and the

11 Land Use Map. I would be in favor of the rezone.

12 MR. DAVID POOLE: Further comments, Commissioners?

13 MR. WILL MAUPIN: I make a motion to recommend approval of

14 the rezone with the finding of facts because it, in my mind,

15 complies with the Land Use Map and the Comprehensive Plan.

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

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

18 MR. DAVID POOLE: It's been moved and seconded that we

19 recommend this to the County Commissioners for a rezone.

20 Discussion on the motion? If none, all those in favor signify

21 by saying 'I'. Opposed same sign.

22 MR. DON WILKERSON: I oppose.

23 MR. DAVID POOLE: So we have a 4 to 1 vote. It passes for

24 recommendation to the County Commissioners. Thank you very

25 much.

□

1

2 *Regular Meeting - Item No. 1 Items from the Public*

3

4 *MR. DAVID POOLE: We'll move toward our regular meeting.*

5 *Is there any items from the public?*

6 *MS. TINA TURNER: Tina Turner, 501 North Star Road in Star.*

7 *I'm still questioning your 27 acres that was in the newspaper*

8 *saying it was 27 acres but it's a different thing. I do*

9 *question some legality on that because it stated in the paper it*

10 *was a 27 acre total rezone.*

11 *MR. DAVID POOLE: We did have a public meeting and a*

12 *hearing so they could have heard what was put into the record.*

13 *MS. TINA TURNER: Yes. I agree.*

14 *MR. DAVID POOLE: Any other items from the public?*

15 *MR. J.B.: Mr. Chairman, the County Commissioners have not*

16 *told me yet whether they'd like me to resign or give me a leave*

17 *of absence. I will be in China until the 25th of January. I've*

18 *offered my resignation for the purpose of you being able to meet*

19 *quorum. They've indicated that they might let me have my chair*

20 *back when I get back. It will be up to them of whether or not*

21 *they accept my resignation. If they do, it will be because your*

22 *not meeting quorums.*

23 *MR. DAVID POOLE: We've had some of those problems. You*

24 *actually had a place for that under Item No. 5 but that's okay.*



1

2 *Regular Meeting - Item No. 2 Items from the Planning*

3 *Director/Administrator*

4

5 *MR. DAVID POOLE: Items from the Planning*

6 *Director/Administrator.*

7 *MR. BRAD HAWKINS-CLARK: Our office has been doing a couple*

8 *of things. Bill, our code enforcement officer, has gone to help*

9 *his parents out. So we did hire a new code enforcement officer*

10 *who starts Monday. I know that you don't really interact too*

11 *much with the code enforcement officer but I did just want to*

12 *let you know there was a change there on our staff. Any code*

13 *violations, things that come up, or that you hear about from the*

14 *community, or you yourself observe, please feel free to call us*

15 *and particularly ask for Paul.*

16 *Wendy's been working a lot of boundary property*

17 *adjustments, some minors.*

18 *The budget, the hearing's coming up in 3 to 4 weeks. One*

19 *of the things that I had proposed in the Development Services*

20 *budget is reimbursement for you folks. So, at this point, it*

21 *appears we'll probably just ask you for your mileage from home*

22 *to the courthouse. So I just wanted to let you know that that's*

23 *in there. Some money for professional services for a couple of*

24 *things. One would be help with the Zoning Ordinance rewrite.*

25 *There's a lot of issues with the Zoning Ordinance.*

1 **MR. DAVID POOLE:** *Is there a way to budget in a*
2 *professional photographer or something?*

3 **MR. BRAD HAWKINS-CLARK:** *You wanted the 360. We'll have to*
4 *look at that. My guess is that probably wouldn't fit the budget*
5 *for a professional photographer.*

6 **MR. J.B.:** *Couldn't we pass an Ordinance that includes that*
7 *fee?*

8 **MR. DAVID POOLE:** *If we could do a virtual tour prior to*
9 *the meeting, it could probably be uploaded on the website so*
10 *that the public could also view it prior to the meeting.*

11 **MS. DEBBIE ROUWENHORST:** *It would just help. One little*
12 *picture doesn't do it.*

13 **MR. BRAD HAWKINS-CLARK:** *The City Council and the Board of*
14 *County Commissioners meet monthly in a joint meeting. They met*
15 *today. We did talk about the Planning and Zoning Department.*
16 *We're probably going to reduce the time that we spend on City*
17 *matters. At least, for six months, we're still going to be a*
18 *joint office. It really won't effect the County much.*

19 **MR. LAWRENCE WHITSELL:** *Have they indicated when that's*
20 *actually going to be in place?*

21 **MR. BRAD HAWKINS-CLARK:** *They did not set a date today. So*
22 *I don't know.*

23 **MR. DAVID HARGRAVES:** *I don't know the time frame. I know*
24 *it's been discussed for probably the past 6 months. I expect*
25 *we'll see it in the near future.*

1 **MR. BRAD HAWKINS-CLARK:** *The Ordinance itself is drafted;*
2 *correct?*

3 **MR. DAVID HARGRAVES:** *It needs to be adjusted.*

4 **MR. BRAD HAWKINS-CLARK:** *The Road Standards Ordinance; they*
5 *did adopt that today. It's the one that sets the widths and*
6 *sections. Your changes were incorporated. You had asked for*
7 *the aluminum culvert to be removed and the urban street section*
8 *to not be changed. That did officially become Ordinance today.*
9 *So any new subdivision developments will have to follow those*
10 *guidelines. So that's about all.*

11

12 *Regular Meeting - Item No. 3 Items from the Deputy Prosecuting*
13 *Attorney*

14

15 **MR. DAVID POOLE:** *Items from the Deputy Prosecuting*
16 *Attorney.*

17 **MR. DAVID HARGRAVES:** *One thing I think would be helpful to*
18 *staff as we draft your decisions is the staff does a real good*
19 *job of laying out what the legal requirements are for each*
20 *application. So if you could mention in your motion whether you*
21 *accept the analysis of the staff report, that would be helpful.*

22 *If you disagree with a particular item in the staff report, say*
23 *what you disagree with. That would be helpful for us as staff.*

24 **MS. DEBBIE ROUWENHORST:** *I would like to thank the staff*
25 *for all the hard work because it sure makes a difference when we*

□

1 read. Thank you.

2

3 Regular Meeting - Item No. 4 Items from the Planning and Zoning

4 Commission

5

6 MR. DAVID POOLE: Okay. Items from the Commissioners.

7 MR. J.B.: You heard mine.

8 MR. WILL MAUPIN: I'll be out of town for the next regular

9 meeting. I'll be here for the special meeting.

10

11 Regular Meeting - Item No. 5 Adjourn

12

13 MR. J.B.: I make a motion that we adjourn.

14 MS. DEBBIE ROUWENHORST: Second.

15 MR. DAVID POOLE: Been seconded by Commissioner Rouwenhorst

16 and carries unanimously.

17

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