

September 2007

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

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6 **Date: September 17, 2007 (continued from September 10th)**

7 **Time: 7pm - 8:37pm**

8 **Place: Gem County Courthouse**

9

10 **MEMBERS PRESENT:**

11 **David Poole, Debbie Rouwenhorst, Don Wilkerson, and Will**

12 **Maupin.**

13

14 **MEMBERS ABSENT WITH PRIOR NOTICE:**

15 **Lawrence Whitsell.**

16

17 **OTHERS PRESENT:**

18 **Brad Hawkins-Clark - Planning and Zoning**

19 **Director/Administrator and David Hargraves - Deputy**

20 **Prosecuting Attorney.**

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

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

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PROCEEDINGS

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City of Emmett, Gem County, September 17, 2007

4

5 *MR. DAVID POOLE: We have a couple of subdivisions tonight.*

6 *Can you bring us up to speed on what we're going to bring before*

7 *the public hearing here?*

8

9 *ITEMS MOVED FROM THE CONSENT AGENDA: Item No. 1A (Continued)*

10 *Chloe Hollow Subdivision*

11

12 *MR. BRAD HAWKINS-CLARK: This item wasn't part of the*

13 *public hearing. It was on the consent agenda. The Commission*

14 *chose to pull Chloe Hollow off. Commissioner Wilkerson had a*

15 *couple of specific questions he asked the applicant to address.*

16 *One of those was related to the type of fire suppression system.*

17 *The other was related to the sanitary restriction easement. I*

18 *may be missing something. So fill me in if I'm not, because*

19 *Wendy kind of handled this one.*

20 *The Streeby's did provide to our office a September 10th*

21 *letter from Gem County Fire District 1, which stated they would*

22 *be required to install a fire department stand pipe in the*

23 *right-of-way that has to have 80 gallons per minute production.*

24 *Staff is recommending that you adopt that letter as a condition*

25 *from Rick Welch.*

□

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1 We did not get anything in writing regarding Southwest
2 District Health. Dian Streeby did submit a letter September
3 4th, which said she met with Southwest District Health. So
4 where you're at is, is this information adequate? If so, you
5 can make a recommendation to the Board of County Commissioners.

6 One point of clarification, Southwest District Health
7 standard policy for open water is if you have a channel of open
8 water of any kind, it's 200 foot separation for drain fields.
9 So you see on the revised plat, that was provided tonight,
10 there's a septic drain field easement along the private road.
11 It's along the west side of the private road. We often don't
12 see this on plats because those individual septic are up to
13 each individual property owner. In this case, they have
14 actually designated on the plat an area where those drain fields
15 will have to go. So it will obviously still be up to each
16 individual property owner to figure out their particular lot,
17 but in terms of any concern there might be about drain field
18 separation from Haw Creek, staffs pretty comfort able with them
19 moving that up there. So in essence, they won't be able to do
20 drain fields on the side of the private road that their houses
21 are going to be on, they're going to be on the other side. It
22 may require a pump, if the topography is such.

23 MR. DAVID POOLE: Jus got to follow the rules and
24 regulations.

25 MR. BRAD HAWKINS-CLARK: Got to follow Southwest District

□

7

1 Health rules. So that's what would be necessary.

September 2007

2 MR. DAVID POOLE: Is the applicant here? First of all, has
3 anybody had any prior discussion with the applicant on this or
4 any site visits?

5

6 (Unanimously, everyone answered "no.")

7

8 MR. DAVID POOLE: Don, did you have some questions?

9 MR. DON WILKERSON: At the last meeting we asked for the
10 letter from the Fire District, which you provided. Also, there
11 was some concern about the sanitary restrictive easement. I
12 think that's been taken care of.

13 You show, on the plat, a 15 foot easement on the Haw Creek
14 side of the plat. The staff recommends that be 25 feet. I
15 think we ought to adopt that as a condition of approval. Also,
16 that would have to be a non buildable easement. In other words,
17 you couldn't put a permanent structure on that easement. So
18 that may push your building envelope a little closer to the
19 road. So those two issues are pretty well taken care of.

20 I don't see any place on this plat, per the Irrigation
21 District, showing the easement for the pressurized irrigation
22 line. So that could be a condition of approval.

23 Another item that I have, they also require a 5 foot
24 easement, not only by the county requirements, but I think the
25 letter from Intermountain Gas asks that you have an easement on

□

8

1 the side lot lines also. It's not showing on the plat. The

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2 *internal side lot lines.*

3 *MRS. DIAN STREEBY: Internal meaning between?*

4 *MR. DAVID POOLE: Between each lot.*

5 *MR. DON WILKERSON: Yeah. So it should show an easement on*
6 *there.*

7 *MR. DAVID POOLE: We were just discussing that we have an 8*
8 *foot setback for building anyway.*

9 *MRS. DIAN STREEBY: So you're talking about the irrigation*
10 *line that runs down the lane?*

11 *MR. DAVID POOLE: Yeah. He just didn't see the easement*
12 *written in. That's all.*

13 *MR. DON WILKERSON: But there's nothing on this plat that I*
14 *see that shows there's an irrigation easement.*

15 *MR. BRAD HAWKINS-CLARK: Yeah. It's there.*

16 *MR. DON WILKERSON: You have an irrigation for water. That*
17 *10 foot easement is on this subdivisions property. You can't*
18 *put your irrigation on his property, can you? I don't think*
19 *that's legal that you can put your irrigation system on his*
20 *property.*

21 *MR. DAVID POOLE: Is that acceptable to Quail Hollow?*

22 *MR. DON WILKERSON: I think all you'd have to do on that 40*
23 *foot road right-of-way is include irrigation, water, and*
24 *utilities easement.*

25 *MRS. DIAN STREEBY: So put irrigation in the little slot*

□

9

1 *that says water and utility easement? You want it to say water,*
2 *utility, and irrigation easement?*

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3 **MR. DON WILKERSON:** *Right. Where do you plan to put your*
4 *pressurized irrigation system.*

5 **MRS. DIAN STREEBY:** *It would go in that irrigation*
6 *easement.*

7 **MR. DON WILKERSON:** *Okay. So I'd just say, to protect the*
8 *property owners, it ought to be there. Also, the side lot*
9 *lines.*

10 **MRS. DIAN STREEBY:** *So between each lot, you want it to say*
11 *5 foot easement?*

12 **MR. DON WILKERSON:** *Well, like you said, Intermountain Gas*
13 *is requesting it and the County Ordinance requires easements on*
14 *side lot lines.*

15 **MR. ROGER BENNIE:** *No it does not.*

16 **MR. DAVID POOLE:** *You have a comment?*

17 **MR. ROGER BENNIE:** *Roger Bennie, Tri-County Surveying.*
18 *County Ordinance does not require a side lot line. It requires*
19 *it along the front but not down the side lot lines.*

20 **MR. DON WILKERSON:** *We have a letter here from --*

21 **MR. ROGER BENNIE:** *Intermountain Gas, and they've said it*
22 *on every subdivision that comes through in Gem County. We're*
23 *trying to get away from every lot being encumbered by easements*
24 *all the way around it. I mean, we have a 40 foot easement right*
25 *down the front that's present to serve every house in this*

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10

1 *thing. We're not going to cross. We've got Haw Creek*

2 *Subdivision on the other side. So we're not going to cross over*

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3 and provide them with gas. So what would be the use of putting
4 a 10 foot --

5 MR. DON WILKERSON: But also there's a letter here from the
6 County Engineer, Item 4, there is not a 10 foot utility easement
7 or irrigation easement showing or noted along the front lot
8 lines, rear lot lines, and side lot lines as required. So I
9 guess Brad has to figure out whether the ordinance says you need
10 side lot line easements.

11 MR. BRAD HAWKINS-CLARK: Commissioners, when we developed
12 this ordinance, we were pretty intentional about not wanting to
13 encumber every single lot with easements all the way around, and
14 really just put the easements where the utility companies want
15 them. My interpretation of it is that we don't actually require
16 them automatically like a lot of jurisdictions do. There are
17 different arguments for and against it. In urban areas it's
18 particularly helpful because you don't --

19 MR. DAVID POOLE: Start concentrating the housing and it's
20 pretty difficult without it.

21 MR. BRAD HAWKINS-CLARK: Yeah. My interpretation of our
22 ordinance is put them where the utility company wants them. So
23 in this case, you do have a letter from the utility company
24 that's asking for them. I have talked to Michelle Singleton at
25 Intermountain Gas twice. Her statement to me is "my boss tells

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11

1 me I have to put this letter out to every jurisdiction." She
2 says, "we likely will be able to accommodate, and if we need an
3 easement in the future, if Intermountain Gas ever gets out

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4 there, then they will have to acquire that." She said, "if it's
5 on there, then they will use it." So they don't have a lot of
6 heartburn, Intermountain Gas particularly, about whether you
7 require it or you don't. That letter is just put out there
8 because they want to respond. They're preference is for 5 foot
9 on the interior lot lines, but they'll find a way to get gas to
10 those houses if they ever get out there. I know that's kind of
11 jumbled.

12 MR. DON WILKERSON: What does the Ordinance say? Do you
13 know?

14 MR. BRAD HAWKINS-CLARK: Yeah. It deals with utility
15 easements in two different places.

16 MR. DON WILKERSON: But does the Ordinance say that there
17 should be an easement on interior lot lines or not? I agree
18 with what Brad said. It probably won't need it on this to serve
19 them if they bring gas down a private lane. That's all the
20 comments I have.

21 MR. DAVID POOLE: Any further questions?

22 MRS. DIAN STREEBY: Can I ask a question regarding the 25
23 foot buffer along Haw Creek?

24 MR. DAVID POOLE: You have it as 15 on your map and 25 is
25 what the County was asking for.

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12

1 MRS. DIAN STREEBY: I just have a question as to why 25
2 feet and not the 15 feet that Army Corp of Engineers suggested.
3 They actually wrote they're letter, came out and looked at the

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4 property, and determined it wasn't a wetland. They're the ones
5 that made that 15 foot buffer and I just wonder why we need
6 another 10 feet.

7 MR. DAVID POOLE: Brad can you answer that?

8 MR. BRAD HAWKINS-CLARK: Well staff recommended 15.

9 MR. DON WILKERSON: No. You recommended 25.

10 MR. BRAD HAWKINS-CLARK: Because number 1B says, show a
11 minimum 15 foot building setback from the high water mark of Haw
12 Creek. Is there another location?

13 MR. DON WILKERSON: Yeah. There's another location here
14 under staff findings.

15 MRS. DEBBIE ROUWENHORST: It was 6B, under the staff
16 recommendations on page 8.

17 MR. BRAD HAWKINS-CLARK: That's where it says 15, right?

18 MRS. DEBBIE ROUWENHORST: Then it says a larger setback is
19 strongly recommended by the County, but not required.

20 MR. DON WILKERSON: I think that you thought it should be
21 25 feet.

22 MR. DAVID POOLE: We were going to recommend that because
23 you suggested to recommend that.

24 MRS. DIAN STREEBY: I haven't seen it recommended. It was
25 discussed in the last meeting that the old Haw Creek Subdivision

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13

1 had 25 or 50 feet, but that's how ever many years ago and I'm
2 just curious as to why we need to a add another 10 feet when the
3 Army Corp of Engineers has recommended 15.

4 MR. BRAD HAWKINS-CLARK: The Army Corp of Engineers is

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5 *mainly looking at wetland delineation and not necessarily flood*
6 *events. This hasn't been mapped by FEMA. So just as a*
7 *protective measure, in the case of a flood event, the further*
8 *you are from the bank, the more protected the properties are.*
9 *You provide that much more room for absorption into the ground.*
10 *So, it's really a flood protection recommendation. We tried to*
11 *make clear it wasn't a requirement. I guess it's up to this*
12 *Commission whether they recommend that to the Board or not.*

13 *MRS. DIAN STREEBY: And I guess that's where I wish you*
14 *would consider the narrowness of this private lane and the*
15 *easements on the other side. Haw Creek already does have a bank*
16 *on it. It's not like we're even level.*

17 *MR. DAVID POOLE: That would certainly help if we had a*
18 *topography map here.*

19 *MRS. DIAN STREEBY: I don't know what that is. I'm just*
20 *asking you to look at it as a narrow piece.*

21 *MR. DAVID POOLE: Okay. Any questions on that?*

22 *MR. DON WILKERSON: Do you have a 10 foot septic drain*
23 *field easement?*

24 *MRS. DIAN STREEBY: Yes.*

25 *MR. DON WILKERSON: I think, by code, you have to stay 5*

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14

1 *feet away from the property line with your drain field. That's*
2 *going to make it awful narrow. Can you tell me how you're going*
3 *to design a drain field in a 5 foot section?*

4 *MR. ROGER BENNIE: I'm not an engineer. I can't tell you.*

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5 I talked to Jeff Thomas at Southwest District Health and asked

6 him if that would do it, and he said yes.

7 MR. DON WILKERSON: Because you have to have so many square

8 feet of drain field per residence.

9 MR. DAVID POOLE: Per bedroom.

10 MRS. DIAN STREEBY: The very first thing we did at the very

11 beginning of this was have the soil engineered. We met Jeff out

12 there and the drain fields were actually marked as to where they

13 could be located. That was the first thing we did.

14 MR. DON WILKERSON: That must have changed because now

15 you're putting them clear out on the west side of the property.

16 Another thing is you have to have an option for an alternative

17 drain field in case the one you put in today goes bad 5 years

18 from now. I'm just wondering if you're going to have enough

19 room in that 10 foot easement there to do it.

20 MRS. DIAN STREEBY: It's up to Southwest District Health.

21 MR. DAVID POOLE: Yeah. They won't allow a septic system

22 to go in without that. Any other questions? Thank you very

23 much.

24 MRS. DIAN STREEBY: Thank you.

25 MR. DAVID POOLE: This is open to the public. Is there any

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15

1 discussion on what has been talked about here? Anything? If

2 there is no public input, we're going to close the public

3 portion of this meeting and bring it before the Board.

4 Commissioners, do you have any discussion you want to bring

5 here before the Board before we make a determination on this?

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6 *If not, would any of you like to propose a motion?*

7 *MR. DON WILKERSON: I make a motion that this P&Z Board*
8 *make a recommendation of approval of Minor Subdivision Chloe*
9 *Hollow, there's no number on it, with the following conditions:*
10 *That they meet the recommendations of Fire District No.1 in the*
11 *letter presented; there is an added easement showing on the plat*
12 *for irrigation; that the easement along Haw Creek be extended*
13 *from 15 feet to 25 feet and that be in a non buildable easement.*

14 *MR. DAVID POOLE: Do we have a second to that motion?*

15 *MRS. DEBBIE ROUWENHORST: I'll second it.*

16 *MR. DAVID POOLE: It's been moved and seconded. Any*
17 *discussion on that motion? If none, all those in favor signify*
18 *by saying 'I'. Opposed same sign. Motion carries. Thank you*
19 *very much.*

20

21 *(Motion carries unanimously.)*

22

23 *CONSENT AGENDA: Item No. 1B Darnell Lane Estates Minor*
24 *Subdivision*

25

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16

1 *MR. DAVID POOLE: We have one that was pulled from the*
2 *meeting and that was the Darnell Estates. So we're going to*
3 *move right into the public hearing. We've got a continuation*
4 *from STP Concrete again.*

5

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6 **CONSENT AGENDA: APPROVAL OF THE AUGUST 13TH AND AUGUST 27TH,**

7 **2007 TRANSCRIPTIONS**

8

9 **MR. DAVID POOLE:** *Approval of minutes. Any corrections to*
10 *the minutes? If not, do we have a motion to accept the minutes*
11 *as presented?*

12 **MRS. DEBBIE ROUWENHORST:** *I make a motion to accept the*
13 *minutes.*

14 **MR. DON WILKERSON:** *Second.*

15 **MR. DAVID POOLE:** *Been moved and seconded. All those in*
16 *favor signify by saying 'I'. Opposed same sign. Motion*
17 *carries.*

18

19 *(Motion carries unanimously.)*

20

21 **PUBLIC HEARING:** *Item No. 2 Rezone #RZ-07-014 - Kirsten and*
22 *Jason May, Edith Minium, Candace Jones, and William and Robin*
23 *Shumate*

24

25 **MR. DAVID POOLE:** *Okay. Now we can move on to the*

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17

1 **RZ-07-014.** *Brad, will you bring us up to speed on that one*
2 *please?*

3 **MR. BRAD HAWKINS-CLARK:** *All the public hearings tonight*
4 *deal with rezones. I just would like to state, largely for the*
5 *publics benefit, but also as a reminder for you, the Commission,*
6 *I just wanted to touch base on the five standards that the*

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7 County Ordinance requires your recommendation to the Board be
8 based on. So these are the five findings that the applicant has
9 to make and you have to either concur or disagree with. So
10 these are taken directly out of Title 11, Chapter 15 whenever
11 somebody wants to apply to amend the Zoning Map.
12 So the first one is the request complies with the
13 comprehensive plan text and Map. B, that the request is not
14 materially detrimental to the public health, safety, or welfare.
15 C, that the suggested property meets the minimum lot size. D,
16 the proposed zoning would be harmonious and would not change the
17 essential character of the same area. One critical word that's
18 missing there is the essential character of the existing or
19 intended. So meaning D kind of ties back to A. So if the
20 Comprehensive Plan calls out an area to be 5 acres in the
21 future, but maybe it's 40 acres now, the intended character on
22 the Comprehensive Plan is that it would be 5 acres. I mean,
23 that's the intended. So you really are looking at both when
24 you're analyzing for that finding, that the proposed zoning is
25 both harmonious with both existing and intended character.

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18

1 Then the last one, that the effects of the proposed zone
2 upon the delivery of public services have been considered and no
3 adverse impacts on those services will impose additional costs
4 on current residents. Basically, growth pays for itself.
5 That's the philosophy behind that one. The public services, in
6 this case, are primarily the ones that the County's providing.

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7 *So that's road and bridge, EMS, all public services can be*
8 *considered.*

9 *MR. DON WILKERSON: Schools.*

10 *MR. BRAD HAWKINS-CLARK: Schools. All those public*
11 *services; that those have been considered and there's no adverse*
12 *impact and that the general public isn't going to be paying more*
13 *in taxes because you've approved this rezone to allow for*
14 *potentially more lots.*

15 *So those are the five required findings. It's just been a*
16 *while since we've talked about those. You changed the Ordinance*
17 *a while back and the Commissioners have agreed with you. There*
18 *used to only be two. So I just wanted to touch base on those.*

19 *The comprehensive plan is a large document and it includes*
20 *both the text and the map. Our staff reports try to address*
21 *both of those issues.*

22 *So we'll go on to the first request tonight by Kirsten and*
23 *Jason May, William and Robin Shumate, Candace Jones, and Edith*
24 *Minium. These are four adjoining properties. Total acreage is*
25 *25.93 acres. Currently, it's a 5 acre minimum lot size.*

□

19

1 *They're proposing 1 acre minimum lot size. The properties are*
2 *generally in this 2500 block of Waterwheel Road.*

3 *MR. DON WILKERSON: I have a question for you. The only*
4 *reason they can put it on one application is because they're*
5 *contiguous.*

6 *MR. BRAD HAWKINS-CLARK: Yes. We have actually encouraged*
7 *people, rather than individual applications, if you talk to your*

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8 neighbors and you all want to come in, it's just easier.

9 Here's the purple line that surrounds these peoples
10 properties. You'll see that the majority of those 25 acres is
11 on the north side of Waterwheel. Here's Waterwheel, which runs
12 east/west. This is Plaza over here on the right.

13 There is one property here on the south side of Waterwheel.
14 I mainly point that out because that is in the area of city
15 impact. A reminder that this application -- these are the last
16 ones that you have tonight that were filed under the 1995
17 Comprehensive Plan. So the new Comprehensive Plan is not being
18 used. These are the last two that you have tonight that are
19 under the old Comprehensive Plan. So in the new Comprehensive
20 Plan, the area does get bumped up a little bit. I think it's
21 important because the old Comprehensive Plan did not set a 5
22 acre minimum lot size in the area of impact. The new one does,
23 but the 1995 plan did not.

24 So here are some site photos. You're probably familiar
25 with the area. This is Waterwheel Road. This is looking west.

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20

1 This is the residence on the south side of Waterwheel Road that
2 I was mentioning.

3 So our staff report does go into a lot of detail on those
4 five required findings that I mentioned. There's comments
5 regarding any future subdivision. Of course, none of these
6 rezones grant anyone any kind of subdivision approval. That's a
7 later request. Right now the request is to just rezone the

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8 property. All of the property surrounding this application, for
9 the most part, is the same Comprehensive Plan designation and
10 that's county residential impact, with the exception on the
11 south side of Waterwheel. That property is urban residential in
12 the 1995 plan.

13 The parcels range in size in the area from .3 acres to 40
14 and greater. So staff's analysis is there. We find that they
15 do generally meet all the guidelines and policies of the Comp
16 Plan and the other findings. So with that, I'll leave it for
17 your discussion. We do have a zoning map that I can pull up and
18 we can look at the existing zoning if that will help at all.

19 MR. DAVID POOLE: Okay. Any questions for Brad while he's
20 got this in front of him? Any Commissioners had any site visits
21 or ex parte communications?

22

23 (Commissioners responded "no.")

24

25 MR. DAVID POOLE: Okay. Then at this point, we'll start

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21

1 with the four applicants. The way the meeting will work is that
2 each of the applicants in this case will have an opportunity to
3 express their opinion. After that, we're going to have the
4 public comments. Do you have one representative for all of you?

5 MR. TERRANCE JONES: Yes. My name is Terrance Jones.
6 Candace Jones is my mother. We thought that since we have one
7 application that might just make it easier to have one person
8 speak on behalf of the four land owners.

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9 I appreciate Brad's discussion. I think that he's
10 identified up there on the map, you can see the property in
11 question. The analysis by the member of the staff planner Wendy
12 Atkins seems to be right on track in terms of analyzing those
13 five findings. I think one of the key issues is that we're
14 under the '95 plan and not under the current plan. I think that
15 helps to further justify the request to break this property
16 down. I think it's important to keep in mind these land owners
17 don't have the right to subdivide. All this does is give them
18 the opportunity.

19 A lot of the area around, as you can see on the map, there
20 are a lot of developments around that area where the land spaces
21 have been broken down into much smaller areas. I think the
22 largest piece of property there is 10 acres. Those of you with
23 a farming background know you can't farm a whole lot with 10
24 acres. So just to have the opportunity and the option to be
25 able to, as the County grows and the tax space grows, if they

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22

1 want to subdivide and get rid of 1 or 2 acres because they can't
2 care for it, they can.

3 A number of these people are older members of our community
4 and they can no longer care for the 5 or 6 acres. As they get
5 older and they want to help take care of their health care needs
6 and their families needs, they would like to have this
7 opportunity at least available to rezone and to carve off part
8 of their property if possible.

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9 I don't know if there's any specific questions that can be
10 brought up based on the findings of the staff report, which
11 finds that this particular rezoning request be granted.

12 Again, the total acreage here in question is rather small.

13 It's not quite 26 acres.

14 I don't know if there's any questions or details about the
15 application or the parcels that as representative of these
16 parties I can answer or address for the members of this
17 Committee.

18 MR. DAVID POOLE: Are there any questions from the
19 Commissioners at this time?

20 MR. TERRANCE JONES: I just wanted to bring up that it's
21 been a couple of weeks since we got anything from the Committee.
22 So we're laboring under the belief that there were no letters of
23 concern or anything like that.

24 MR. DAVID POOLE: Anything like that should have been
25 forwarded to you.

□

23

1 MR. BRAD HAWKINS-CLARK: We didn't receive any.

2 MR. TERRANCE JONES: So I think that also strongly supports
3 the fact that none of the neighbors have any concerns about this
4 particular request that have been advanced.

5 MR. DAVID POOLE: Okay. Thank you.

6 MR. TERRANCE JONES: Thank you.

7 MR. DAVID POOLE: Further public input in favor of this
8 rezone? If not, those that are neutral for this rezone? Those
9 opposed for this rezone? Then I guess there's no need for you

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10 to rebut anything. All right. Then that being the case, we're
11 going to close the public portion of this and bring it before
12 the Board for a determination. Commissioner Debbie, would you
13 like to start off with your thoughts on this one?

14 MRS. DEBBIE ROUWENHORST: Okay. I looked at the staff
15 report and all the findings concur that it meets with the
16 Comprehensive Plan. It's not detrimental to public health and
17 safety. So I'm in agreement that it should be rezoned.

18 MR. DAVID POOLE: Okay.

19 MR. WILL MAUPIN: If that's a motion, I'll second it.

20 MR. DAVID POOLE: I didn't here a motion but if you want to
21 put it in that form we'll move on.

22 MR. WILL MAUPIN: Basically I agree with the Commissioner.

23 MR. DON WILKERSON: I have two questions for Brad. On the
24 staff report, this particular staff report didn't address
25 landscape requirements like some of the others did. So just for
□

24

1 the knowledge of the applicant, the 2 parcels that's over 5
2 acres would have to meet the landscape requirements, open space,
3 and street buffers once they subdivide; correct?

4 MR. BRAD HAWKINS-CLARK: Correct.

5 MR. DON WILKERSON: Also, I'd like to have on page 10, it
6 actually starts on page 9, staff estimates traffic to increase
7 to 152 to 190 vehicles. Then it says Plaza Road and Locust will
8 experience the most impact of any future development. I think
9 you also need to add North Substation Road on here because if

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10 people out here work in Boise, they're going to go down North

11 Substation Road to get to Boise. I see Substation probably

12 being impacted more than the other two on here.

13 The only other comment I have is on Item 5 of the

14 recommendations of the required findings. This rezone, as it

15 stands alone, won't have a lot of impact, but we've got four

16 rezones here before us tonight with a total of 63 acres plus.

17 So that could be 63 new residents. I see it really having an

18 impact on roads and schools because right now the County has no

19 way to -- well I guess the County does have an item on roads.

20 Once you get a building permit you're required to pay \$1800 per

21 building permit, which will go towards the roads, but right now

22 there's nothing in the County that helps support the schools.

23 If we continue to see rezones at 1 acre lots, we're going to add

24 a lot of students to the School District. Thank you.

25 MRS. DEBBIE ROUWENHORST: Okay. Just on the school, Maria

□

25

1 Salazar did a report on Thursday morning. Our school dropped

2 again in enrollment this year. So we aren't up to our

3 capacities on our schools.

4 MR. DAVID POOLE: Okay. Any further comments? If not,

5 does any of the Commissioners want to make a motion?

6 MR. WILL MAUPIN: I make a motion that based on findings of

7 fact and the old Comprehensive Plan and Land Use Map, that this

8 application applies and should be approved.

9 MR. DAVID POOLE: Second to the motion?

10 MRS. DEBBIE ROUWENHORST: I second.

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11 **MR. DAVID POOLE:** *Been moved and seconded. Discussion on*
12 *the motion? If not, all those in favor signify by saying 'I'.*

13 *Opposed same sign. Motion carries. Thank you very much.*

14

15 *(Motion carries unanimously.)*

16

17 **PUBLIC HEARING:** *Item No. 3 Rezone #RZ-07-015 - Steve Kaiser,*
18 *Loyal Jordan, and Ron Sharp*

19

20 **MR. DAVID POOLE:** *Okay. So that brings us to Rezone*

21 *#RZ-07-015, Kaiser, Jordan, and Sharp. Can you bring us up to*
22 *speed on that one?*

23 **MR. BRAD HAWKINS-CLARK:** *Chairman, I'm sorry. I may have*
24 *missed it, but on Item No. 1 under the public hearing, did you*
25 *continue that STP Concrete?*

□

26

1 **MR. DAVID POOLE:** *No. We didn't make a motion on that one.*

2 *So we do need to do that.*

3 **MR. BRAD HAWKINS-CLARK:** *Whenever you want.*

4 **MR. DAVID POOLE:** *Okay. We'll take care of that. We'll*
5 *need to set a date for that.*

6 **MR. BRAD HAWKINS-CLARK:** *Okay. Commissioners, this*
7 *application is in the same neck of the woods as the prior one.*

8 *There are three applicants on this one. There's Steve Kaiser,*
9 *Loyal Jordan, and Ron Sharp. They also have adjoining,*

10 *approximately, 25 +/- acres. Requesting from a 5 acre minimum*

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11 lot size to a 1 acre minimum lot size. Two of the properties
12 are on Waterwheel and one is on Jordan Lane. So this is just a
13 little bit further east than the prior application, which was in
14 this area.
15 Jordan Lane runs north/south. So all these properties lie
16 east of Jordan and north of Waterwheel. The first two
17 photographs are the same as the last. This just adds a view
18 north of Jordan. One of the findings relating to
19 transportation, Jordan is a little bit narrower than some of our
20 other streets. So if these properties subdivided in the future,
21 there would be anticipated to be more of a take on the property
22 in order to meet the minimum 60 foot county road because of the
23 narrowness. That's just anticipated. We don't know that right
24 now.
25 So this is up on the north end of Jordan looking south down

□

27

1 towards Waterwheel. This is at the intersection of Pleasant
2 Valley Road and Jordan looking east. The property is down here
3 in this area.
4 Staff report makes a couple of comments about the drain
5 ditch in this area. That was another reason we just wanted to
6 include that. So I think you have the staff report in front of
7 you. There are similar findings. They are all county
8 residential impact area Comprehensive Plan designations. The
9 main difference in terms of adjacent properties is the
10 subdivision here on the north side of Pleasant Valley, which has
11 half acre to 1 acre lot sizes that abuts this property on the

September 2007

12 north side. It's pleasant Valley Acres or something like that.

13 So that's all I had unless you have any questions.

14 MR. DAVID POOLE: Questions for staff? If not, thank you

15 very much. Any ex parte communication or site visits?

16

17 (Unanimously, everyone answered "no.")

18

19 MR. DAVID POOLE: Okay. Do we have a spokesman for this

20 rezone or do we have each individual applicant going to speak?

21 MR. RON SHARP: Steve Kaiser was going to be our

22 spokesperson.

23 MR. DAVID POOLE: Okay. Will you state your name and

24 address please?

25 MR. RON SHARP: My name is Ron Sharp. I live on 2880

□

28

1 Waterwheel Road. Steve was supposed to be the speaker but he's

2 not here tonight. I know both of these guys. I grew up with

3 both of them in school. Nobody has any plans of selling off any

4 of their land right now and probably not for the next 5 or 10

5 years. We'd just like to rezone. Steve's deal is that if some

6 of his kids would like to move out next to him as he grows older

7 or something, he would like to maybe sell off an acre to them or

8 something like that.

9 I just got married a couple of weeks ago and I'm kind of in

10 the same position. I'm 56. In the next 10 years when I retire,

11 if 5 acres gets to be to much, I'd like to maybe sell off a

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12 little bit but there's no plans. We'd just like to have the
13 zoning changed so that when the opportunity arrives in the
14 future we are able to do that. So we're pretty much set up like
15 the people you talked to before. Nobody really has any plans to
16 do anything.

17 MR. DAVID POOLE: Questions for Mr. Sharp from the Board?
18 Thank you very much. Public input that's in favor of this
19 rezone? Public input for the neutral position? Public input in
20 opposition to this rezone? If not, then if it's okay with you,
21 Mr. Sharp, if you have nothing more to say, we'll close the
22 public hearing and bring it before the Board.

23 MR. DON WILKERSON: It appears Loyal Jordan, if he
24 subdivides, he'd also have to abide by the Landscape Ordinance.
25 I'd like to see him add North Substation Road as an impacted

□

29

1 road.

2 Also, on page 9 of the application, the staff does suggest
3 that the Commission and the Board place the applicant on notice
4 of the following issues that were raised during the review of
5 the application. Number 1, Pleasant Valley Road, the county
6 will likely require any future access on Pleasant Valley Road to
7 align with Kathy Street. So that could be an impact if it's
8 subdivided. Number 2, Jordan Lane is a substandard road and we
9 may require improvements for future development. They just
10 wanted to put you on notice for that. Other than that, I've
11 read the staff report. I'm still concerned again, down in the
12 future, how this will impact the schools, but at this time I am

September 2007

13 *in favor of the application.*

14 **MRS. DEBBIE ROUWENHORST:** *I'm in favor of the application.*

15 *It needs to be brought to the attention, and I spoke to Brad*

16 *about this, with the county roads, the required dedications,*

17 *some of these lots where we're talking about an additional 20*

18 *homes could possibly be 18 because of the setbacks. It's going*

19 *to impact the amount of residences that come.*

20 **MR. DAVID POOLE:** *Yeah. If and when they subdivide,*

21 *they'll have to follow the current rules and regulations.*

22 **MR. WILL MAUPIN:** *I would just say that I'm in favor of*

23 *this application. We keep talking about things that happens in*

24 *a subdivision application and I think that's up to the land*

25 *owner and their due diligence. Right at the moment, I'd make a*

□

30

1 *motion based on findings of facts and the staff report that we*

2 *approve this rezone.*

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

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

5 **MR. DAVID POOLE:** *Been moved and seconded. Is there*

6 *discussion on that motion? If not, those in favor signify by*

7 *saying 'I'. Motion carries. Thank you very much.*

8

9 *(Motion carries unanimously.)*

10

11 **PUBLIC HEARING:** *Item No. 4 Rezone #RZ-07-016 - Steve and Wendy*

12 *Weston*

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13

14 *MR. DAVID POOLE: Okay. Let's move on to RZ-07-016 Steven*
15 *and Wendy Weston.*

16 *MR. BRAD HAWKINS-CLARK: Moving to a little different part*
17 *of the world here, this rezone request is by Wendy and Steve*
18 *Weston to rezone 6.9 acres from A-2, 5 acre minimum lot size to*
19 *R-2. They're located at 333 Wills Road. This is just south of*
20 *Sales Yard Road. This is the intersection of Wills and Sales*
21 *Yard. The property is just south of that intersection here on*
22 *the west side of Wills Road. So you can see there is an*
23 *existing residence on the property. There is an existing*
24 *residence to the north as well as on the east side of Wills and*
25 *on the south. Rural residential is the character of the area.*

□

31

1 *They're largely irrigated.*

2 *This application, unlike the last two, was filed later. So*
3 *this is using the 2007 Comp Plan.*

4 *Here's a few site photos to familiarize you with the area.*
5 *You can see the ditch and some existing trees. This is looking*
6 *south on Wills near the property entrance. So those are the*
7 *photos of the area.*

8 *Since both this application and the next application deal*
9 *with the 2007 plan, I just wanted to pull that up so you can*
10 *have that to refer to.*

11 *I'll just mention that the existing area zoning is*
12 *primarily all A-2 surrounding this property. The trailer court*
13 *has actually got a commercial zone on it. There's an*

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14 approximately 18 lot trailer court, which is north of the site.

15 The other parcels in the area range from about 1.5 acres in size

16 to 33 and larger. There are individual private septic systems out in

17 the area. I'm sorry. I was referring you to that trailer

18 court. Sorry about that. That's on the next application.

19 Here's the area that we're talking about. On the 2007

20 Comprehensive Plan Map, Wills Road is shown here. You can see

21 Sales Yard is the proposed area of impact boundary, which

22 actually for all intents and purposes is where it will be. It

23 hasn't been fully adopted yet. That's on your October agenda.

24 For the Comprehensive Plan standpoint, everything south of Sales

25 Yard is in this priority growth area number 1, which runs to the

□

32

1 canal and generally runs here on the west of the highway over to

2 Mill Road. The purpose of that priority growth area 1 is to

3 allow for potential down to 1 acre lot sizes as long as you can

4 meet Health Department and other public service requirements at

5 the time you want to subdivide. It's to provide an area next to

6 the area of city impact that would allow for a little denser

7 county development. So that's the purpose of that area. You

8 obviously still have to make your five required findings on this

9 but just wanted to point out that's the main change on the 2007

10 map for this area south of Sales Yard.

11 I think the rest of our findings are outlined there in the

12 report. So unless you had any other questions... I did want to

13 point out that we do have written letters of opposition on this

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14 application. Also, there's a letter from the Last Chance Ditch
15 Company that's dated August 28th, which is by Doyle Backler, the
16 ditch manager. He just states that they have no objections
17 regarding the rezone at this time. They do want two points
18 there to be considered for the future and that is water delivery
19 and water drainage. Then there are letters from Sandra
20 Goehring, Brent and Debbie Kimball, Don and Joan Kimball, the
21 Lanes, and Donna Heap.

22 MR. DAVID POOLE: In opposition.

23 MR. BRAD HAWKINS-CLARK: Those are the letters we've
24 received into the record.

25 MR. DAVID POOLE: Okay. Any questions for staff? Thank

□

33

1 you very much. The applicant, Wendy and Steven Weston, please
2 step forward. You have the first opportunity.

3 MR. STEVEN WESTON: My name is Steven Weston. Our address
4 is 3333 Wills Road. Our intentions for the desired change to
5 rezone is so that we can split our property into 4 parcels. The
6 smallest would be 1.1 acre or there about's. It would be
7 whatever is required for Southwest District Health for the
8 septic requirement, for the minimum size necessary and to retain
9 the lot on Wills Road at the front. That would allow us to
10 build another home for ourselves. So our intention is to sell
11 off 2 lots on the western portion of our property, a little more
12 than 1 acre each. We would retain just above 2 acres on Wills
13 Road on the south east corner and sell the existing property
14 with about 2 and a half acres.

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15 MR. DAVID POOLE: Any questions for the Weston's?

16 MR. DON WILKERSON: I have a question. In your letter
17 here, you said that you'll probably sell 2.2 acres with your
18 existing home. If you sell it, that leaves you 4.7 acres. So
19 that's where you're coming up with 4 lots of 4.4 acres. Most
20 likely when you subdivide, you'll have to give another 15 feet
21 of right-of-way to the County, which decreases the size of your
22 acreage.

23 MR. STEVEN WESTON: That additional footage is actually
24 including the ditch along Wills Road.

25 MR. DON WILKERSON: So that further decreases your

□

34

1 available acreage.

2 MR. STEVEN WESTON: Understood. That's why the portion
3 that's, we'll call it "left" for us, after we sell off the other
4 2 lots is fully adjustable by us down to whatever is required by
5 Southwest District Health for septic requirements.

6 MR. DON WILKERSON: And you realize when you rezone to an
7 R-2 you have to put in a community water system. One water
8 system that feeds all the lots; the existing lots plus the four
9 new ones.

10 MR. STEVEN WESTON: No. It's one existing and three new
11 ones. There's a total of four.

12 MR. DON WILKERSON: Okay.

13 MR. STEVEN WESTON: One existing is already there. We
14 would put in one existing well for the two back 1 point

September 2007

15 *something lots, and then we would install a separate well for*

16 *our new --*

17 *MR. DON WILKERSON: You can't do that under an R-2.*

18 *MR. STEVEN WESTON: Okay.*

19 *MR. DON WILKERSON: You have to have a community well for*

20 *all the lots. You can't have two or three wells on this parcel*

21 *if you have an R-2. So what I'm getting at is, and I may be*

22 *stepping out of line, I question why you would be going for R-2*

23 *if you're going to keep 2.2 acres approximately for yourselves.*

24 *Why don't you go R-3 with 2 acre minimums and you don't have to*

25 *put in a community water system.*

□

35

1 *MR. STEVEN WESTON: At the time of our application we*

2 *weren't informed that was available.*

3 *MR. DON WILKERSON: Well I don't think that's up to the*

4 *staff to inform you but that's a zone or a rezone you can look*

5 *at. I'm just throwing it out as something you might want to*

6 *consider.*

7 *MR. STEVEN WESTON: Our preference would be to have our own*

8 *well on the new house.*

9 *MR. DON WILKERSON: Let me check with staff. Am I speaking*

10 *out of term? If they go R-2, they have to have a community*

11 *well.*

12 *MR. BRAD HAWKINS-CLARK: That's correct.*

13 *MR. DON WILKERSON: For all lots. The existing lot and the*

14 *new ones.*

15 *MR. BRAD HAWKINS-CLARK: Correct.*

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16 MR. DAVID POOLE: One well for the whole subdivision.

17 MR. DON WILKERSON: One well for the whole parcel. I just
18 wanted to bring that up to you.

19 MR. DAVID POOLE: Under the circumstances, if they're
20 intent is as they speak, is there any way to adjust this
21 application to an R-3 as opposed to an R-2? I guess it would
22 have to be re advertised and all that sort of thing.

23 MR. DON WILKERSON: Put it as a 2 acre minimum instead of 1
24 acre minimums.

25 MR. DAVID HARGRAVES: I think that's fine to do if that's

□

36

1 what they want. The reason for that is you're going to be
2 making a recommendation and the Board of County Commissioners
3 are going to be conducting another hearing. So there's an
4 opportunity for those that would like to comment on that.

5 MR. DAVID POOLE: Okay. So at this point it's up to you
6 guys. We just need to know how to proceed. Do you want to
7 leave it as is?

8 MRS. WENDY WESTON: Can I ask a few more questions?

9 MR. DAVID POOLE: Sure.

10 MRS. WENDY WESTON: If it's R-3, then it would be 3 lots;
11 correct?

12 MR. DAVID POOLE: But you got one existing and two more.

13 MR. DON WILKERSON: You'd probably get 3 lots. The
14 existing and 2 new ones of 2 acre minimum.

15 MRS. WENDY WESTON: Okay. Now how much water does a

September 2007

16 community pump have to push up?

17 MR. DAVID POOLE: In this case, you don't really need the
18 well, the community well. You want to explain to them what roof
19 that falls under, Brad?

20 MR. BRAD HAWKINS-CLARK: Well the County Ordinance doesn't
21 actually regulate the wells other than where you need to have a
22 community well and where you need to have individual wells.
23 It's up to your well driller to actually work with the Idaho
24 Department of Water Resources, pull a drilling permit, and file
25 their log. So until you get the 9 houses, it's not regulated by

□

37

1 the County or by the Idaho Department of Water Resources. So
2 the main thing we're saying is that the well is centralized and
3 you give everybody access to it.

4 MR. STEVEN WESTON: I honestly don't think that will be an
5 issue. Our current well has a production rate of fifty.

6 MR. DAVID POOLE: Via the Health Department, is there some
7 special ruling they have to pass as far as quality on that well?
8 So it's after 9 is what you're saying?

9 MR. BRAD HAWKINS-CLARK: Yep. It's not a public drinking
10 system until you have 9 or more. There's a couple other factors
11 involved. It's up to individual owners of that well. An
12 association is what usually gets formed to run the test and to
13 have whoever come out. That's not a County responsibility.

14 MR. DAVID HARGRAVES: We're really focusing on the rezone.
15 We're not talking about subdivision. Sometimes there's a lot of
16 time between the properties rezone and it's development as a

September 2007

17 subdivision. The rules can change during that period. So you
18 just want to keep that in mind. It may be that for some reason
19 down the road the County decides a community well is not needed
20 on 1 acre parcels. So some of these are subject to change.

21 MR. DAVID POOLE: It's just at this point, you may want to
22 be aware of what direction you want to travel.

23 MRS. WENDY WESTON: So at this moment, if we left it the
24 way it's written --

25 MR. DAVID POOLE: Then we can proceed.

□

38

1 MRS. WENDY WESTON: Is there a future hearing?

2 MR. DAVID POOLE: Well you'll go before the County
3 Commissioners. We make a determination and then it goes before
4 the County Commissioners.

5 MR. DON WILKERSON: If we make a recommendation here
6 tonight to the County Commissioners to approve this rezone as
7 it's given to us as an R-2 and you want to change your mind, you
8 can go to the Board of County Commissioners and still change your
9 mind. You can go from an R-2 to an A-2 if that's what you want
10 to do. You still have that option to change your mind. What we
11 do tonight doesn't lock you in.

12 MRS. WENDY WESTON: Thank you.

13 MR. DAVID POOLE: We have all the power in the world to
14 recommend.

15 MR. DON WILKERSON: So your decision now is to continue
16 with an R-2?

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17 **MR. STEVEN WESTON:** *Correct. We appreciate your input.*

18 *Thank you.*

19 **MR. DAVID POOLE:** *All right. Any further questions for the*

20 *Weston's? If not, thank you very much. Public input in favor*

21 *of this rezone? Public input that's neutral on this rezone?*

22 **MS. SANDRA GOEHRING:** *My name is Sandra Goehring. I live*

23 *at 901 East Sales Yard Road. My property adjoins his on the*

24 *west side. We have talked about this. Our concern is the water*

25 *levels in the area. Most of us are on individual wells and if*

□

39

1 *community wells are put in, we were concerned about how that*

2 *would effect the other existing wells in the area and the same*

3 *for the sewer systems. If there were individual sewer systems*

4 *anywhere near to the other wells, what kind of regulations are*

5 *there on that?*

6 **MR. DAVID POOLE:** *Just from experience, that's a difficult*

7 *thing to state. The State of Idaho is in charge of that*

8 *regulation. Without running some in depth testing in your area,*

9 *that information would probably be difficult to give you.*

10 *There's enough homes up there that maybe the Health Department*

11 *could help you along that line.*

12 **MS. SANDRA GOEHRING:** *How can you approve rezoning in an*

13 *area where you don't know what the water results are going to*

14 *be?*

15 **MR. DAVID POOLE:** *We can rezone, which means it gives the*

16 *opportunity to do this building, but if they don't pass those*

17 *state tests, then they can't build. I don't care what we rezone*

September 2007

18 *it, they can't build.*

19 *MS. SANDRA GOEHRING: But wouldn't they need to know that*
20 *if they went forward?*

21 *MR. DAVID POOLE: Well, you would assume that that's the*
22 *case, but under the circumstances, it's just a situation where*
23 *they have the opportunity to rezone. So if we rezone it and if*
24 *the County Commissioners okay the rezone, that means that now*
25 *it's rezoned and they can go ahead and proceed from here, at the*

□

40

1 *expense to them, and find out whether or not they can do it.*

2 *MS. SANDRA GOEHRING: And the other thing is the difference*
3 *between the 1 acre lots and the 2 acre. You mentioned the*
4 *community well is required for 1 acre but not the other.*
5 *Shouldn't they have been made aware of that before this?*

6 *MR. DON WILKERSON: But I don't blame staff. The people*
7 *came in, they asked for an R-2. I don't think it's the staffs*
8 *responsibility to tell them what's all available.*

9 *MR. DAVID POOLE: Well we gave them the opportunity here to*
10 *make adjustments if they wish to.*

11 *MS. SANDRA GOEHRING: I just wonder how else would they*
12 *know if they didn't ask.*

13 *MR. DON WILKERSON: What we're doing here is rezoning to a*
14 *minimum of 1 acres. Once they want to subdivide and the Health*
15 *Department gets involved, the Health Department may say that due*
16 *to the conditions out there, that they may have to be larger.*
17 *They may only be able to get a house on 2 acres or 3 acres, but*

September 2007

18 *these people have 6 acres. They could say I just want to have 2*
19 *to 3 acre parcels. They could have bigger parcels even with*
20 *this rezone.*

21 *MR. DAVID HARGRAVES: The bottom line is this is not a*
22 *guarantee that they're going to be able to divide their property*
23 *into 1 acre parcels or even divide it at all. There's another*
24 *process, a subdivision process.*

25 *MS. SANDRA GOEHRING: I'm just mentioning some concerns*

□

41

1 *about the water and sewer in the area. I do want to ask what*
2 *the landscape and open space requirements are. I've never heard*
3 *that before.*

4 *MR. DAVID POOLE: Instead of taking time up in here, you*
5 *can go to the website and get those things on line.*

6 *MS. SANDRA GOEHRING: Are there any ordinances on dumping?*

7 *MR. DAVID POOLE: Again, we're not here to police that.*

8 *We're just trying to work through --*

9 *MS. SANDRA GOEHRING: Well I'm just asking.*

10 *MR. DAVID HARGRAVES: This hearing here tonight is to just*
11 *take your input, not necessarily answer questions. You can drop*
12 *by the Planning and Zoning Department and they can guide you*
13 *through some of those ordinances.*

14 *MS. SANDRA GOEHRING: You can't say yes or no that there's*
15 *an ordinance?*

16 *MR. DAVID HARGRAVES: There is.*

17 *MR. DAVID POOLE: Okay. It's just the time involved,*
18 *ma'am. I'm sorry. Further input neutral or in opposition? Did*

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19 *you have a comment?*

20 *MS. DONNA HEAP: I'm Donna Heap and I'm living at the same*
21 *address, 901 East Sales Yard. My question is if you're living*
22 *in the County, there's one particular piece of property out*
23 *there that they're just using as a dump. They haul in dumps of*
24 *loads of trash. Now where do you go to get something corrected*
25 *about that?*

□

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1 *MR. BRAD HAWKINS-CLARK: You go to us if you're referring*
2 *to the one on Sales Yard. Our code enforcement officer has been*
3 *working with them since last Thursday.*

4 *MS. DONNA HEAP: So you are aware of it?*

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

6 *MS. DONNA HEAP: Good deal.*

7 *MS. DEBBIE KIMBALL: I'm Debbie Kimball. I live at 759*
8 *East Sales Yard Road. I had a question when he was viewing*
9 *that. You indicated it was rural residential in character.*

10 *What did you mean? We're not rural residential, right?*

11 *MR. BRAD HAWKINS-CLARK: Well rural residential is*
12 *generally, by our Comprehensive Plan, 1 acre lot sizes and*
13 *bigger.*

14 *MS. DEBBIE KIMBALL: But we're not that, right? I just*
15 *want to get that clarified.*

16 *MR. DAVID POOLE: That's where the new Comprehensive Plan*
17 *puts you is what he's saying.*

18 *MS. DEBBIE KIMBALL: Okay, but currently we are rural*

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19 *agriculture, right?*

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

21 *MS. DEBBIE KIMBALL: Great. I just wanted to make sure.*

22 *MR. DAVID POOLE: Your zoning is that way. It's just for*
23 *future rezones we have to take these things into consideration.*

24 *MS. DEBBIE KIMBALL: Okay. Concerns with the area and the*
25 *people out in that area is like Sandra indicated. We do have to*

□

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1 *have above ground septic systems. So 1 acre, having those,*

2 *we're going to look like New Orleans cemetery pretty soon.*

3 *The other question is, he spoke to Last Chance Ditch*

4 *District. We are Lincoln Lateral Ditch District. That runs*

5 *from Wills Road and goes all the way up to South Slope for*

6 *irrigators. Do you know if they were contacted? Last Chance*

7 *Ditch runs in front of Sales Yard Road but the irrigators where*

8 *I'm at, we're all Lincoln Lateral Ditch District.*

9 *MR. DAVID POOLE: So the water's not delivered by Last*

10 *Chance.*

11 *MS. DEBBIE KIMBALL: Correct.*

12 *MRS. WENDY WESTON: Not ours.*

13 *MS. DEBBIE KIMBALL: Okay, but we irrigate from the ditch*

14 *that comes off their place.*

15 *MR. DAVID POOLE: Well it is good to know because in the*

16 *future, if there's another irrigation district that needs to be*

17 *notified, they need to be aware of it.*

18 *MS. DEBBIE KIMBALL: Okay.*

19 *MR. DAVID POOLE: Thank you.*

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20 **MR. BRAD HAWKINS-CLARK:** *Sometimes the larger irrigation*
21 *districts do communicate to the smaller laterals.*

22 **MS. DEBBIE KIMBALL:** *Okay.*

23 **MR. BRAD HAWKINS-CLARK:** *So we may send, for example, to*
24 *Last Chance main office and then they know which ditch riders*
25 *handle certain laterals and then will pass on the information.*

□

44

1 *I appreciate you mentioning that. I'll definitely check to see*
2 *if Last Chance passed this on to Lincoln.*

3 **MS. DEBBIE KIMBALL:** *Okay. The last meeting that I*
4 *attended, they opposed an area out there to rezone. The Board*
5 *stated that they wanted to keep that area zoned as agriculture*
6 *and that's why you guys denied it. I just hope that it stays*
7 *that way.*

8 **MR. DAVID POOLE:** *Thank you very much. Any further neutral*
9 *or opposition? If not, would you like to rebut anything that's*
10 *been said, Mr. Weston?*

11 **MR. STEVEN WESTON:** *In regards to the water issue concerns,*
12 *we are planning to build a new home and stay there. Therefore,*
13 *we want to have the same quality of water that everyone else is*
14 *concerned about. Our septic system was approved for a standard*
15 *septic system and not an above ground due to the soil conditions*
16 *at our site. We anticipate the same at the new home site on*
17 *Wills Road. Also, for the neighbors that don't know, our*
18 *current well is 109 feet deep. It comes from the third water*
19 *table that our driller went through. The surrounding neighbors*

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20 mostly have water from either the 30 foot level or the 60 foot
21 level. There's two additional levels above ours. So our
22 intentions for a new well would be to go to the same third water
23 level depth for draw of water.

24 MR. DAVID POOLE: Okay. Thank you for your input. We'll
25 close the public portion of this meeting and bring it before the

□

45

1 Board. Comments, Commissioners?

2 MR. WILL MAUPIN: I really don't have to many comments
3 other than we realize we're talking about a rezone. We're not
4 in the business of restricting peoples land use as long as it
5 complies with the Comprehensive Plan and the Future Land Use
6 Map. So I just want to reiterate that this isn't a guarantee
7 that they're going to be able to subdivide. If they want to do
8 a subdivision or something along those lines, they're going to
9 come under another series of hearings, rules, and regulations
10 that they're going to have to comply with. So having said that,
11 I make a motion that we approve this based on findings of facts
12 and the staffs recommendations and let the people decide what
13 they want to do with their land.

14 MR. DAVID POOLE: Do we have a second to Commissioner
15 Maupin's motion?

16 MRS. DEBBIE ROUWENHORST: I second it.

17 MR. DAVID POOLE: It's been moved and seconded. Discussion
18 on the motion? No discussion. All those in favor signify by
19 saying 'I'. Opposed same sign. Motion carries. Thank you very
20 much. So we are referring it to the County Commissioners.

September 2007

21

22 *(Motion carries unanimously.)*

23

24 **PUBLIC HEARING: Item No. 5 Rezone #RZ-07-017 - Brian and**

25 **Charlene Fackrell**

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1

2 **MR. DAVID POOLE: All right. The next item on our agenda**
3 **is RZ-07-017, that's Brian and Charlene Fackrell.**

4 **MR. BRAD HAWKINS-CLARK: The last rezone here is by Brian**
5 **and Charlene Fackrell. This is 5.5 acres. It's the same**
6 **request, 5 acre to 1 acre minimum lot size. This application is**
7 **just a little further west from the one you just looked at, 3210**
8 **South Johns Avenue. So Wills is just over here on the right**
9 **hand side of the screen. This is located approximately a**
10 **thousand feet south of Sales Yard Road.**

11 **You can see the existing houses that are in the area. That**
12 **trailer court that I mentioned earlier is up here on the north**
13 **side of Sales Yard, just about halfway between Johns and Wills.**
14 **This is the property here on the east side of Johns Avenue. You**
15 **can see that at one point there was quite a junkyard there.**

16 **This photo is 3 years old at least. The site photos will show**
17 **that the applicant has made some attempts to clean that up.**

18 **This is looking north on Johns near the area. There's a**
19 **little bit higher density along Johns then on Wills. The houses**
20 **are a little closer together and a few more of them. This is**

September 2007

21 looking south on Johns toward South Slope. Here's a site
22 looking east past it. You probably saw in the staff report that
23 the property at one point actually had three dwelling units on
24 it. Today, I believe, there are two. There's a 1930's or 40's
25 stick built and then you can see approximately a mid 70's single

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1 wide trailer. There's also some outbuildings on the property.

2 The comprehensive plan designation for this area is the
3 same. Again, this is that priority growth area 1 designated in
4 the 2007 plan. Here is South Johns Avenue and the black line is
5 Sales Yard. The surrounding zoning is almost all similar, 5
6 acre minimum A-2 just like this property is with the exception
7 of that trailer court. There are a couple of other existing R-2
8 parcels that are to the south and to the north of this property.
9 Most of the findings in the staff report are very similar to the
10 last ones.

11 At this point in time, typically we will point out to the
12 Board if there is an actual violation on the property so that
13 you have that when you're making a decision. At this point in
14 time, I do not believe there are. That probably would have
15 qualified as being a Nuisance Ordinance violation in the past
16 with the debris and scrap. It would have qualified as a
17 violation of our Nuisance Ordinance, but I believe that they've
18 made enough clean up on the property that we didn't raise that
19 in the staff report as a concern or some kind of action on the
20 property.

21 Similar to the last one, we did receive some letters of

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22 concern as well as some letters of objection. Last Chance Ditch
23 Company had a similar letter. We did receive letters from Brent
24 and Debbie Kimball, John and Dawn Kimball, and the Lanes. Also,
25 Sandra Goehring, Rocky and Cindy Smith, Ron and Candy Kay, and

□

48

1 Donna Heap all submitted letters noting concerns. So those are
2 in the public record for your decision.

3 MR. DAVID POOLE: Questions for staff?

4 MR. DON WILKERSON: Is the manufactured home being lived in
5 now?

6 MR. BRAD HAWKINS-CLARK: I'd have to defer to the applicant
7 on that.

8 MRS. DEBBIE ROUWENHORST: On the existing domestic wells,
9 if it were to go under R-2, would only one well be allowed, or
10 are both of those allowed?

11 MR. BRAD HAWKINS-CLARK: That's a good question. When the
12 ordinance talks about abandoning wells I think it anticipates
13 that abandoning wells is at the owners choice, not necessarily
14 that the County is requiring them to be abandoned. I guess I
15 wouldn't be able to answer that until we looked at it further.
16 That would all be dealt with at the time of the subdivision.

17 MRS. DEBBIE ROUWENHORST: Okay.

18 MR. DAVID POOLE: Further input that we need down the line
19 as well. Okay. Is there any ex parte communication or site
20 visits from any Commissioners?

21

September 2007

22 (Unanimously, everyone answered "no.")

23

24 MR. DAVID POOLE: Okay. If not, if the applicant would

25 like to step forward or the spokesman...

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1 MR. BRIAN FACKRELL: My name is Brian Fackrell. I live at

2 185 Colane Drive in Boise.

3 MRS. CHARLENE FACKRELL: My name is Charlene Fackrell, his

4 wife, and I live at the same address he stated.

5 MR. BRIAN FACKRELL: We bought this property a little bit

6 less than 2 years ago with the idea we were going to upgrade

7 what we considered substandard dwellings on the property. At

8 the time, there was a moratorium and no building permits were

9 allowed. So we kind of had to leave the property as it is,

10 other than the clean up that we've provided. We've spent over

11 2,000 dollars hauling off debris. We've cleaned a lot out of

12 there. We've got on the report, it says that there's two

13 dwellings. There used to be three. There's three septic

14 systems. There's two wells. There's currently three addresses

15 associated with this property and we've had three power pulls

16 with it. The addresses we've got are 3210 South Johns, 3238

17 South Johns, and 3240 South Johns. We waited until the

18 Comprehensive Plan was adopted and then we adapted our plans for

19 the property based on what the Comprehensive Plan said, hoping

20 to fulfill the needs of the community.

21 MR. DAVID POOLE: Questions? You say you've got three

22 septic systems. Are they approved septic systems or just

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23 *because there were three homes there?*

24 *MR. BRIAN FACKRELL: I went down and talked to the Central*

25 *District Health Department and he told me I had plenty of drain*

□

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1 *fields for what was there. He made a few suggestions of what I*

2 *was allowed to do and what I wasn't allowed to do, but he never*

3 *came out and inspected the systems.*

4 *MR. DAVID POOLE: Okay. Questions, Don?*

5 *MR. DON WILKERSON: No questions.*

6 *MR. DAVID POOLE: Okay. Thank you very much. Input in*

7 *favor of this rezone? Input in neutral positions?*

8 *MS. SANDRA GOEHRING: I'm expressing concern about the*

9 *community well and the septic systems at this particular*

10 *address.*

11 *MR. DAVID POOLE: Thank you very much. Further neutral or*

12 *opposing input?*

13 *MS. DEBBIE KIMBALL: I have the same concerns as given on*

14 *the above address. I have concerns about the water, the well,*

15 *the ditches, the irrigation, and trying to keep that area out*

16 *there agriculture 5 acre.*

17 *MR. DAVID POOLE: Okay. Thank you. Further public input?*

18 *Do you feel you need to rebut anything?*

19 *MR. BRIAN FACKRELL: I know that the letters were concerned*

20 *about the wells and the septic systems on the smaller acres, but*

21 *we are surrounded by certain lots that are within an acre or*

22 *half acre lot size. I want to know how those are working out*

September 2007

23 *with the wells or septic systems.*

24 *MR. DAVID POOLE: The Health Department is the one you have*

25 *to discuss that with.*

□

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1 *MR. BRIAN FACKRELL: I know some of the people that are*

2 *voicing concerns live on smaller than 1 acre lots. It seems to*

3 *be working on the half acre lots. It shouldn't be that much of*

4 *a concern on the 1 acre lots.*

5 *MR. DAVID POOLE: Thank you. We'll close the public*

6 *portion of this meeting and bring it before the Board.*

7 *Commissioners, discussion? Don, would you like to start?*

8 *MR. DON WILKERSON: I have no concerns on the application.*

9 *I'm still going to express my concerns on Item 5 of the required*

10 *findings in the staff report, the impacts on the schools. Thank*

11 *you.*

12 *MR. DAVID POOLE: Commissioner Rouwenhorst?*

13 *MRS. DEBBIE ROUWENHORST: I have a question for staff. If*

14 *there are three septic, were there three building permits at*

15 *one time?*

16 *MR. BRAD HAWKINS-CLARK: I believe there were.*

17 *MRS. DEBBIE ROUWENHORST: Are they no longer usable? Did*

18 *they just go away?*

19 *MR. BRAD HAWKINS-CLARK: Yeah. The Gem County Zoning*

20 *Ordinance allows one primary dwelling on one legal parcel. So*

21 *there would be legal nonconforming uses. Legal nonconforming*

22 *uses can stay as long as they remain active, but as soon as they*

23 *go away then the idea is to bring the site to meet the*

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24 ordinance. So in this case, if you had three dwelling units on
25 one parcel, if one goes away, then it's gone.

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1 MRS. DEBBIE ROUWENHORST: Okay.

2 MR. WILL MAUPIN: Could you clarify what going away -- what
3 constitutes going away?

4 MR. BRAD HAWKINS-CLARK: One year abandonment or removal of
5 the structure.

6 MR. WILL MAUPIN: Okay.

7 MR. BRAD HAWKINS-CLARK: And there might be a couple
8 others. We have a whole chapter on nonconforming uses.

9 MR. DAVID POOLE: Okay. Any further questions for staff?
10 Would one of you, Commissioners, like to make a motion?

11 MR. WILL MAUPIN: I find that the findings of fact and the
12 staffs recommendation, that it complies with the Comprehensive
13 Plan and the Land Use Map and for those reasons I would
14 recommend approval of this application.

15 MR. DAVID POOLE: Second to the motion?

16 MRS. DEBBIE ROUWENHORST: Second.

17 MR. DAVID POOLE: Commissioner Rouwenhorst seconds the
18 motion. All those in favor signify by saying 'I'. Opposed same
19 sign. Motion carries.

20

21 (Motion carries unanimously.)

22

23 PUBLIC HEARING: Item No. 1 (Continued) Special Use Permit

24 #SUP-07-003 - STP Concrete Company

25

□

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1 MR. DAVID POOLE: Now we've got one more item on our public
2 hearing list and that's a continuation of the special use permit
3 SUP-07-003. We need to set a date for that, which I'm assuming
4 will be next month, which will be October 8th.

5 MRS. DEBBIE ROUWENHORST: Do they have their facts and
6 findings done that we had requested of them?

7 MR. BRAD HAWKINS-CLARK: I think the thing they're still
8 working on is the traffic study of Gatfield Road that you had
9 asked for.

10 MRS. DEBBIE ROUWENHORST: So October is sufficient time for
11 them?

12 MR. BRAD HAWKINS-CLARK: We don't know.

13 MR. DAVID POOLE: They just asked for a continuance, did
14 they not?

15 MR. BRAD HAWKINS-CLARK: Yes.

16 MR. DAVID POOLE: How heavy is our load next month?

17 MR. BRAD HAWKINS-CLARK: Two items.

18 MR. DAVID POOLE: Okay. Then I guess that's a good place
19 to park it. So does somebody want to make a motion to that
20 effect?

21 MR. DON WILKERSON: I make a motion that we continue
22 Special Use Permit 07-003, STP Concrete Company to the regular
23 meeting on October the 8th, 2007.

24 MR. DAVID POOLE: Second to that motion?

25 MR. WILL MAUPIN: I'll second that.

□

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1 MR. DAVID POOLE: Been moved and seconded. All those in
2 favor signify by saying 'I'. Opposed same sign. Motion
3 carries.

4

5 (Motion carries unanimously.)

6

7 REGULAR MEETING: Item No. 1 Items from the public

8

9 MR. DAVID POOLE: Now it's items from the public. Any
10 items from the public? If not, we're going to move to items
11 from the Planning Director/Administrator.

12

13 REGULAR MEETING: Item No. 2 Items from the Planning and Zoning
14 Director/Administrator

15

16 MR. BRAD HAWKINS-CLARK: Actually, Commissioners, I don't
17 have any real big updates for you unless you have questions for
18 me.

19 MR. DAVID POOLE: We haven't got to the items for
20 Commission.

21

22 REGULAR MEETING: Item No. 3 Items from the Deputy Prosecuting
23 Attorney

24

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25 **MR. DAVID POOLE:** *Okay. Prosecuting Attorney?*

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1 **MR. DAVID HARGRAVES:** *I don't have anything.*

2 **MR. DAVID POOLE:** *Nothing? Wow.*

3

4 **REGULAR MEETING:** *Item No. 4 Items from the Planning and Zoning*
5 *Commission*

6

7 **MR. DAVID POOLE:** *Planning and Zoning Commission?*

8 **MRS. DEBBIE ROUWENHORST:** *I believe you've answered all the*
9 *questions I had for this evening.*

10 **MR. DON WILKERSON:** *On the Darnell Estates Minor Subs, they*
11 *made reference to a sheet on the plat. I think it was sheet 3.*

12 *Is there a reason that we don't receive all the copies of the*
13 *plat? Is it because of size or what? They made a reference to*
14 *refer to sheet 3 for their 20 foot lane that was put in there.*

15 *So I'm just asking why we don't receive full copies of the plat.*

16 **MR. BRAD HAWKINS-CLARK:** *You know, I think we have only*
17 *been providing sheet 1. Typically, sheet 2 is the signature*
18 *page, which just has the owners signature and then the agency*
19 *signatures. It's easy to copy and we can start to do that if*
20 *you like.*

21 **MR. DAVID POOLE:** *Well, if it refers to it, we probab ly*
22 *should get the page.*

23 **MR. BRAD HAWKINS-CLARK:** *Okay.*

24 **MR. DON WILKERSON:** *One item, and I mentioned it several*
25 *times tonight, about the impacts on the schools. I think this*

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1 County really needs to look at somehow implementing impact fees
2 because of the amount of rezones we're getting. Even though it
3 may be 5 or 10 years down the road until these all fill out, we
4 need to look at impact fees to support the schools and any other
5 thing. So maybe you or David want to address that.

6 MR. DAVID HARGRAVES: I can tell you how that works.
7 Clearly the Counties are given the authority to require
8 mitigation impacts of a subdivision. So it really happens at
9 the subdivision level. You have to figure out what the impact
10 is going to be of this development on the school system. You
11 need testimony from the School District to inform you about what
12 that's going to be. Then you have to come up with some kind of
13 reasonable requirement to mitigate that impact. So there are
14 blanket mitigation fees, but before you can impose a mitigation
15 fee or an impact fee, it has to follow statute. That statute is
16 long and detailed and it takes a long time to actually impose
17 impact fees.

18 MR. DON WILKERSON: But I think that's where you need to
19 go. There's an impact fee just like roads for building permits.

20 MR. DAVID HARGRAVES: Actually, that's not an impact fee.

21 MR. DON WILKERSON: I know but it's a fee. You need to
22 look at an impact fee that addresses every future lot.

23 MR. DAVID HARGRAVES: Impact fee is when you require a
24 developer to pay a fee. The keyword is you can require
25 mitigation and developers can choose whether they want to pay a

□

1 *fee or donate a parcel property to build a school on or actually*
2 *build a school.*

3 *MR. DON WILKERSON: But mitigation is on each individual*
4 *application. What I'm saying is the County needs to look at*
5 *something that's County-wide.*

6 *MR. DAVID HARGRAVES: That would be a good recommendation*
7 *to make to the Board of County Commissioners.*

8 *MR. BRAD HAWKINS-CLARK: There's a 26 or 30 page report*
9 *that Boise County did earlier this year. It was done in*
10 *conjunction with the School District in Boise. A couple of*
11 *Planning and Zoning Commissioners in Boise and Attorney General*
12 *Wasden reviewed it and it's gotten quite a bit of attention just*
13 *as an idea that's been put out there to mitigate schools. I can*
14 *get that to you.*

15 *MR. DON WILKERSON: Is there a website?*

16 *MR. DAVID HARGRAVES: We've got a copy of it. It's not*
17 *necessarily an impact fee but they came up with a way to kind of*
18 *measure what the impact is going to be on the schools and to*
19 *come up with a dollar amount that could mitigate that. I don't*
20 *know how they've applied it yet.*

21 *MR. DAVID POOLE: Any further items from the Zoning*
22 *Commission?*

23

24 *REGULAR MEETING: Item No. 5 Adjourn*

25

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1 *MR. DON WILKERSON: I make a motion that we adjourn*

2 *tonights meeting.*

3 *MR. WILL MAUPIN: Second.*

4 *MR. DAVID POOLE: Seconded by Will Maupin. The motion*

5 *carries.*

6

7 *(Motion carries unanimously.)*

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