

*December 10th meeting*

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

*3*

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*6       **Date: December 10, 2007***

*7       **Time: 7:00pm - 9:48pm***

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

*9*

*10       **MEMBERS PRESENT:***

*11       **Debbie Rouwenhorst, Lawrence Whitsell, David Poole, Will***

*12       **Maupin, and Don Wilkerson.***

*13*

*14       **OTHERS PRESENT:***

*15       **Brad Hawkins-Clark - Planning Director/Administrator, Kandi***

*16       **Hall - Planner 1, and David Hargraves - Deputy Prosecuting***

*17       **Attorney.***

*18*

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

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

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*December 10th meeting*

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**PROCEEDINGS**

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*City of Emmett, Gem County, December 10, 2007*

4

5 **MR. DAVID POOLE:** *We'll get started with the December, 10th*

6 *meeting of the Planning and Zoning Commission. As far as the*

7 *public hearing goes, the applicant will have the opportunity to*

8 *speak their turn first. Then the public will be able to speak.*

9 *As long as you keep it short and concise, we'll be able to move*

10 *right through this. I think there's a time element that is*

11 *involved. Tonight we'll set it at about two minutes. If you*

12 *agree with somebody, just make that statement. We want to hear*

13 *from you. We want to get all the input we can from you. As far*

14 *as the applicant, they get a little longer, naturally.*

15 *Hopefully, we have a very good meeting. If you have any*

16 *questions, feel free to speak up. State your name and address.*

17 *It's for recording only. It does not magnify.*

18

19 **CONSENT AGENDA:**

20 *Item No. 1A - View Acres Minor Subdivision*

21 *Item No. 2A - Plaza View Minor Subdivision*

22

23 **MR. DAVID POOLE:** *The first portion is a minor subdivision*

24 *review. Any Board Members want to pull anything off of the*

25 *Consent Agenda?*

□

*December 10th meeting*

1 **MRS. DEBBIE ROUWENHORST:** *The Plaza View Minor Subdivision.*

2 **MR. DAVID POOLE:** *You want to pull the Plaza Subdivision?*

3 **MR. DON WILKERSON:** *Why don't you make a motion to just*  
4 *pull them both off?*

5 **MRS. DEBBIE ROUWENHORST:** *I would like to make a motion*  
6 *that we pull both View Acres Minor Subdivision and Plaza View*  
7 *Minor Subdivision off the consent and move it down to the Public*  
8 *Hearing from the Consent Agenda.*

9 **MR. DAVID POOLE:** *Do we have a second?*

10 **MR. DON WILKERSON:** *Second.*

11 **MR. DAVID POOLE:** *It's been moved and seconded.*

12 *Discussion? If not, those in favor signify by saying I.*

13 *Opposed same sign. Motion carries.*

14

15 *(Motion carries unanimously.)*

16

17 **CONSENT AGENDA:**

18 *Item No. 2 - Approval of the Minutes of November 13, 2007*

19

20 **MR. DAVID POOLE:** *Next item on the agenda is the approval*  
21 *of minutes. Anybody want to make a motion to approve the*  
22 *minutes?*

23 **MRS. DEBBIE ROUWENHORST:** *I'll make a motion that we*  
24 *approve the minutes as submitted.*

25 **MR. WILL MAUPIN:** *Second.*

□

7

1 **MR. DAVID POOLE:** *Been moved and seconded. All those in*

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2 *favor signify by saying I. Opposed same sign. Motion carries.*

3

4 *(Motion carries unanimously.)*

5

6 **ITEMS MOVED FROM CONSENT AGENDA:**

7 *Item No. 1A - View Acres Minor Subdivision*

8

9 *MR. DAVID POOLE: So let's then move to View Acres moved*  
10 *from the Consent Agenda. Do you want to give us a run down on*  
11 *that, Brad?*

12 *MR. BRAD HAWKINS-CLARK: Do you have questions that you*  
13 *wanted to talk about? We don't do presentations on minors.*

14 *MR. DAVID POOLE: So you have some questions for staff on*  
15 *the View Acres?*

16 *MR. DON WILKERSON: It says in the letter from the canal*  
17 *company that they request a pressurized irrigation but in the*  
18 *Ordinance it says pressurized irrigation is only required if*  
19 *it's less than 1 acre. So, we're not going to require*  
20 *pressurized irrigation on this particular minor sub. Is there a*  
21 *reason why there might need to be a pressurized irrigation*  
22 *system?*

23 *MR. BRAD HAWKINS-CLARK: Well, Commissioner, that call is*  
24 *really up to the Irrigation District except, as you point out,*  
25 *Gem County does require it if it's less than an acre in size.*

□

8

1 *Otherwise, it's left up to the Irrigation District. I think*

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2 *that they might be referring to the fact that they might call it*  
3 *pressurized even though it doesn't have a pump. They might be*  
4 *considering that pressurized because of the gravity flow. It's*  
5 *quite a bit up. That's not an improvement that our staff*  
6 *checks. We leave that up to the Irrigation District staff.*

7 *MR. DON WILKERSON: Okay. So what you're saying is what*  
8 *the irrigation company requests is what we should go along with,*  
9 *right?*

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

11 *MR. DON WILKERSON: Okay. Another item is I don't see*  
12 *anything in here from the County Engineer on this particular*  
13 *one. We usually get something. Is there a reason for that or*  
14 *it just wasn't required?*

15 *MR. BRAD HAWKINS-CLARK: Thanks for pointing that out. I*  
16 *was not in the office today. I see that we do have a letter*  
17 *here from the County Engineer. The first letter that we*  
18 *received from the County Engineer stated that this is a hillside*  
19 *subdivision. The surveyor, Roger Bennie, disagreed. So we came*  
20 *to the point of having the County Engineer, using one piece of*  
21 *data and saying it's a hillside -- of course, you can't do a*  
22 *minor if it's a hill side -- and then the surveyor saying no,*  
23 *it's not a hillside. So I don't know if this letter from Keller*  
24 *resolved that. Would it be possible to get Mr. Benny on the*  
25 *record?*

□

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1 *MR. DAVID POOLE: I think, at this point, we should.*

2 *MR. BRAD HAWKINS-CLARK: Because it looks to me like they*

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3 *have changed their mind and said that it's not.*

4 *MR. ROGER BENNIE: I haven't seen the letter.*

5 *MR. DON WILKERSON: While we're waiting for Mr. Benny to*  
6 *read the letter, I have another question. Buffer zones are not*  
7 *required on these types of subdivisions?*

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

9 *MR. DAVID POOLE: Okay.*

10 *MR. BRAD HAWKINS-CLARK: With the A zoning.*

11 *MR. DON WILKERSON: Okay. Thank you.*

12 *MR. ROGER BENNIE: In the latest letter that Gem County P&Z*  
13 *received from -- well, let's stop just a second. This is from*  
14 *the County Surveyor. He's got some minor things that need to be*  
15 *corrected. They've already been corrected on the plat. I've*  
16 *already seen this letter. I'm sorry. Keller said they've*  
17 *googled the picture of this and said it looked like it was*  
18 *hillside. I went out and did some topography shots and there is*  
19 *some hillside. It's right up next to the Black Canyon Canal.*  
20 *It's extremely steep. Not over 30% of the ground is over 10%*  
21 *slopes. So I didn't feel it needed to be a hillside*  
22 *subdivision.*

23 *MR. DAVID POOLE: Okay. Did that answer your question,*  
24 *Don?*

25 *MR. DON WILKERSON: Yes. Thank you.*

□

10

1 *MR. DAVID POOLE: Any other questions for staff on Valley*  
2 *Acres?*

*December 10th meeting*

3 **MRS. DEBBIE ROUWENHORST:** *When we had our CIP discussion*

4 *just prior to this meeting I had a question on mitigation for*

5 *the roads. It was under the required subdivision improvements.*

6 *It was going back to if they didn't complete the work within a*

7 *year, then the mitigation fees would change. So that's just*

8 *something I had a question on. You had answered it. You said*

9 *yes that if it didn't get done within that timeframe, then the*

10 *extension. Okay.*

11 **MR. BRAD HAWKINS-CLARK:** *So you're clear?*

12 **MRS. DEBBIE ROUWENHORST:** *Yeah.*

13 **MR. DAVID POOLE:** *And it's in the record now.*

14 **MRS. DEBBIE ROUWENHORST:** *Yes it's in the record now.*

15 **MR. DAVID POOLE:** *Any further questions for staff on Valley*

16 *Acres Subdivision? If not, does somebody want to make a motion?*

17 **MR. DON WILKERSON:** *I make a motion that we recommend*

18 *approval of this Minor Sub, View Acres Subdivision, per Exhibit*

19 *C of the Staff Report, required findings for Minor Subdivision*

20 *Permit. I make a recommendation for approval to the Board of*

21 *County Commissioners.*

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

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

24 **MR. DAVID POOLE:** *Discussion on the motion? If none, all*

25 *those in favor signify by saying I. Opposed same sign. Motion*

□

11

1 *carries.*

2

3 *(Motion carries unanimously.)*

*December 10th meeting*

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5 **ITEMS MOVED FROM CONSENT AGENDA:**

6 **Item No. 1B - Plaza View Minor Subdivision**

7

8 **MR. DAVID POOLE:** *Any questions for staff on Plaza View*  
9 *Minor Subdivision?*

10 **MR. DON WILKERSON:** *On the plat that we received tonight,*  
11 *on North Plaza Road, it shows a 15 foot easement there. I think*  
12 *that's for a buffer zone?*

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

14 **MR. DON WILKERSON:** *I think the ordinance says that if this*  
15 *is a minor arterial, it should be 25 feet.*

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

17 **MR. DON WILKERSON:** *So that should be increased to 25?*

18 **MR. BRAD HAWKINS-CLARK:** *Yeah. The Exhibit C conditions do*  
19 *say to change that.*

20 **MR. DON WILKERSON:** *Okay. Also, should that be considered*  
21 *a common lot or not, if it's a buffer zone?*

22 **MR. BRAD HAWKINS-CLARK:** *The ordinance does say that*  
23 *landscape street buffers should be on a common lot. We have*  
24 *allowed a waiver for that if it's just a large acre, single*  
25 *family, residential, where they really won't have a an*

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1 *association to take care of that common lot. So it's really*  
2 *going to end up being the home owner on whose lot the buffer is*  
3 *anyway. So the waiver allowed for an easement. The width*

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4 *doesn't change. They still have to improve it with the same*  
5 *number of trees, but whether it's on a common lot or not was*  
6 *waived. It's your recommendation. We can change it if you*  
7 *want.*

8 *MR. DON WILKERSON: But it does have to be increased to 25*  
9 *feet wide.*

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

11 *MR. DON WILKERSON: Okay. It appears to be an open*  
12 *irrigation ditch out there along North Plaza. That's going to*  
13 *have to be relocated at some time, under your agreement with*  
14 *them; right?*

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

16 *MR. DON WILKERSON: There are several questions concerning*  
17 *the delivery of water by the irrigation company. Have those*  
18 *concerns been taken care of per your approval or not, at this*  
19 *time?*

20 *MR. BRAD HAWKINS-CLARK: They have not.*

21 *MR. DON WILKERSON: Because, from what I see, that*  
22 *irrigation ditch ought to be moved back to private property*  
23 *before the berms are put in, unless they have a different way of*  
24 *servicing it. Then there's a question about servicing the southeast*  
25 *corner of lot 3. Is the representative for this application*

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13

1 *here tonight?*

2 *MR. BRAD HAWKINS-CLARK: I don't believe that he was going*  
3 *to make it tonight, Commissioner.*

4 *MR. DON WILKERSON: Okay. Well I have concerns that they*

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5 *haven't addressed the irrigation delivery. That's all I had.*

6 *Thank you.*

7 *MR. DAVID POOLE: Other questions for staff?*

8 *MR. LAWRENCE WHITSELL: I've got a question. Brad, what is*  
9 *the 30 foot drainage easements for this? Can you describe that?*

10 *MR. BRAD HAWKINS-CLARK: You're referring to the one on lot*  
11 *3.*

12 *MR. LAWRENCE WHITSELL: Yes. It runs kitty-corner to the*  
13 *lot. Is that just a little dip in the lot or --*

14 *MR. BRAD HAWKINS-CLARK: Yes. That's correct. There is*  
15 *not an actual supply or waste ditch. It is just a swale that is*  
16 *channeling to the Frozen Dog waste-way, which runs along the*  
17 *north side there. That's existing. It's not being created with*  
18 *this.*

19 *MR. LAWRENCE WHITSELL: Is that for flash floods, excess*  
20 *run off?*

21 *MR. BRAD HAWKINS-CLARK: I can't answer that. I don't know*  
22 *the exact function of it. They can't build on it and they can't*  
23 *encroach into that 30 feet.*

24 *MR. LAWRENCE WHITSELL: It doesn't create a hazard though.*  
25 *It doesn't need to be fenced, in your opinion.*

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14

1 *MR. BRAD HAWKINS-CLARK: No. It's not that deep.*

2 *MR. LAWRENCE WHITSELL: Okay.*

3 *MR. DAVID POOLE: Any other questions for staff on Plaza*  
4 *View?*

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5 *MR. WILL MAUPIN: It looks like, on the original, the area*  
6 *for the well wasn't on a separate lot. It looks like maybe*  
7 *they've included that in the 40 foot access easement to lot 1*  
8 *and lot 3.*

9 *MR. BRAD HAWKINS-CLARK: Actually, Commissioner, it's just*  
10 *outside of that 40 foot, but since it has to be a community well*  
11 *there is an easement going back to that back lot, going down to*  
12 *lot number 1, but the well itself is not actually in the 40*  
13 *foot.*

14 *MR. WILL MAUPIN: But is the well on it's own separate lot?*

15 *MR. BRAD HAWKINS-CLARK: No. It's proposed as just*  
16 *remaining on lot 2 with an easement to the other two lots.*

17 *MR. DON WILKERSON: If you look at the new map we got*  
18 *tonight, it looks like the well is included in the easement of*  
19 *the 40 feet. It's 15 foot deep and 25 foot wide and it's all*  
20 *part of that easement. It looks like they included the well in*  
21 *the easement for the irrigation and access, by the way it's*  
22 *drawn.*

23 *MR. WILL MAUPIN: I guess my concern is, typically, what*  
24 *I've seen is a community well be on a common lot or in a common*  
25 *area.*

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1 *MR. DON WILKERSON: And I think that's what John Henderson*  
2 *requested but I would think it'd be all right as long as it*  
3 *included an easement.*

4 *MR. BRAD HAWKINS-CLARK: The Gem County Ordinance just says*  
5 *you've got to do the community well. It doesn't get that*

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6 *specific. You're right. I think that's probably more common.*

7 *More common lots than easements but --*

8 *MR. WILL MAUPIN: What kind of problems would that create,*  
9 *if we requested that to be made into a common lot?*

10 *MR. BRAD HAWKINS-CLARK: I don't know that it would create*  
11 *any problems as long as it doesn't put them below their minimum*  
12 *acreage.*

13 *MR. WILL MAUPIN: It doesn't appear that it would. It*  
14 *cleans up some other problems that may present themselves in the*  
15 *future.*

16 *MR. BRAD HAWKINS-CLARK: The only other thing that I could*  
17 *think of off the top of my head would be if they did not choose*  
18 *to create a Home Owners Association, who would actually own that*  
19 *common lot. We don't require the association to be formed. I*  
20 *think they probably will. We can take that, if you'd like, to*  
21 *the developer and ask if they would be willing to do that.*

22 *MR. WILL MAUPIN: I would like them to address that. It*  
23 *kind of goes hand in hand with that landscape, buffer zone that*  
24 *they're putting along Plaza Road. If we don't take the extra*  
25 *step to make these people get together and maintain this, then*

□

16

1 *the maintenance of that buffer is up to that land owner that it*  
2 *abuts. If it doesn't get maintained, then it's not doing the*  
3 *people across the street any good. So I would like to see those*  
4 *two separate lots in an association, which is not difficult to*  
5 *do. It does protect the surrounding land owners.*

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

7 **MR. DAVID POOLE:** *Further questions on Plaza Acres for*  
8 *staff?*

9 **MRS. DEBBIE ROUWENHORST:** *Did we get a response from the*  
10 *Fire Department at all as to lot 3, if they have enough room,*  
11 *and if we need anything else? There's nothing from the Fire*  
12 *District in any of the letters.*

13 **MR. BRAD HAWKINS-CLARK:** *Is your question if the Fire*  
14 *District is asking for other improvements?*

15 **MRS. DEBBIE ROUWENHORST:** *Any information. Have we*  
16 *received any e-mails?*

17 **MR. BRAD HAWKINS-CLARK:** *No.*

18 **MRS. DEBBIE ROUWENHORST:** *So they're fine with this?*

19 **MR. BRAD HAWKINS-CLARK:** *We send it to them and if they*  
20 *don't respond, you know --*

21 **MRS. DEBBIE ROUWENHORST:** *Okay, because we've required*  
22 *turn-around's with the length of this driveway and if that's*  
23 *something they're going to require on this.*

24 **MR. BRAD HAWKINS-CLARK:** *They certainly will. I mean, the*  
25 *Fire Code has every 150 feet they're going to have to provide a*

□

17

1 *turn-around unless they do a 20 foot wide strip. Then they can*  
2 *go the full length and do the full turn around at the end.*  
3 *Either way they will have to comply with the Fire Code, even*  
4 *though he hasn't submitted a letter.*

5 **MRS. DEBBIE ROUWENHORST:** *Okay.*

6 **MR. DON WILKERSON:** *If you look under the impact agency*

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7 *review statements, rick has signed off on it, from the Fire*

8 *District.*

9 *MRS. DEBBIE ROUWENHORST: Right, but I didn't know if he*  
10 *required anything else.*

11 *MR. DAVID POOLE: Any further questions from staff on Plaza*  
12 *Acres? Okay. Somebody want to make a motion here?*

13 *MR. WILL MAUPIN: I'll make a motion to continue to have*  
14 *clarification or additional requirements of the buffer zone on*  
15 *Plaza Road become a separate lot and the well be surveyed.*

16 *MR. DAVID POOLE: Second on that motion?*

17 *MRS. DEBBIE ROUWENHORST: Can we add something else on*  
18 *that?*

19 *MR. DAVID POOLE: Unless he wants to add it. You can add*  
20 *it but you'll have to amend the motion after a second.*

21 *MR. DON WILKERSON: I'll second.*

22 *MR. DAVID POOLE: It's been moved and seconded. Discussion*  
23 *on the motion? Now's your opportunity.*

24 *MRS. DEBBIE ROUWENHORST: Okay. I'd like to add on there*  
25 *the Irrigation District, that he's to enter something that will*

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18

1 *appease Emmett Irrigation for the deliverance of water.*

2 *MR. DAVID POOLE: So you want to amend the motion --*

3 *MRS. DEBBIE ROUWENHORST: I will amend the motion.*

4 *MR. DAVID POOLE: -- to get input from Emmett Irrigation.*

5 *MRS. DEBBIE ROUWENHORST: Correct.*

6 *MR. DAVID POOLE: Okay. Second to the amendment?*

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7 **MR. LAWRENCE WHITSELL:** *Second.*

8 **MR. DAVID POOLE:** *It's been seconded. Any discussion on*  
9 *the amendment? If not, those in favor of the amendment signify*  
10 *by saying I. Opposed same sign. Motion carries.*

11

12 *(Motion carries unanimously.)*

13

14 **MR. DAVID POOLE:** *Now the motion as amended would be that*  
15 *we have the common area, that they address that with the Home*  
16 *Owners Association as well as the Irrigation District and the*  
17 *well. Discussion on the motion as amended.*

18 **MR. BRAD HAWKINS-CLARK:** *Can I ask for clarification?*

19 **MR. DAVID POOLE:** *We're continuing this.*

20 **MR. BRAD HAWKINS-CLARK:** *Okay. So the motion was to*  
21 *continue, not to put those as conditions.*

22 **MR. DAVID POOLE:** *Yes. All those in favor signify by*  
23 *saying I. Opposed same sign. Motion carries.*

24

25 *(Motion carries unanimously.)*

□

19

1 **MR. DAVID POOLE:** *It will be continued to the next meeting.*

2 *That should give them enough time, right?*

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

4 **MR. BRAD HAWKINS-CLARK:** *We just need to get a specific*  
5 *date on the record for that item.*

6 **MR. DAVID POOLE:** *When's the next meeting?*

7 **MR. BRAD HAWKINS-CLARK:** *That's going to be January 14th.*

*December 10th meeting*

8 *MR. DAVID POOLE: Now you've got a specific date.*

9

10 *PUBLIC HEARING:*

11 *Item No. 1 - Darnell Lane Estates Minor Subdivision*

12 *DLE LLC*

13

14 *MR. DAVID POOLE: Darnell Lane Estates Minor Subdivision.*

15 *Is the applicant here?*

16 *MR. MARTIN HENDRICKSON: Thank you, Commissioners. My name*

17 *is Martin Hendrickson. I'm an attorney in Boise. I'm here on*

18 *behalf of DLE LLC and Mr. Stratton the developer of Darnell Lane*

19 *Estates. We are at 601 West Bannock Street in Boise, Idaho.*

20 *MR. DAVID POOLE: Did you want to make a presentation on*

21 *this first, Brad?*

22 *MR. BRAD HAWKINS-CLARK: Whichever you want.*

23 *MR. DAVID POOLE: Well, maybe the public needs to hear your*

24 *input on this first. I do apologize, sir. Thank you for being*

25 *patient with us, or me.*

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1 *MR. BRAD HAWKINS-CLARK: Commissioners, as a minor*

2 *subdivision, we typically aren't preparing the power point.*

3 *I'll just refer to the staff report that was submitted in your*

4 *packets.*

5 *This minor subdivision did have a letter of opposition or*

6 *at least a letter of concern filed at the beginning of the*

7 *process. Under our code, that means you hold an administrative*

*December 10th meeting*

8 *hearing, which we did. The first one was continued twice. So*

9 *we had three meetings and then we closed it.*

10 *The main point of disagreement, if you will, at those three*

11 *meetings, came from the property owner to the south,*

12 *Mrs. Dietzman. She has a deed that references a 1924*

13 *right-of-way road that accesses from Darnell, going south to her*

14 *property, that crosses through this applicant's land. Her*

15 *concern was that during the construction of a private road, her*

16 *private lane was moved. There was a lot of concern about*

17 *encroachments, blocking access, etc. After the hearing, it was*

18 *decided by staff that those were really civil matters that those*

19 *two property owners needed to work out. The main issue for the*

20 *county is that the historic right of access be protected. We*

21 *found that yes it was. There is an easement still granted for*

22 *Mrs. Dietzman through the property. So the issue at the*

23 *hearings, which was the primary content, we did not feel was*

24 *relevant to our review. It's a civil matter between those two*

25 *property owners. They need to work it out.*

□

21

1 *There are still several concerns we had in our review of*

2 *the code, which we do have to review and comment on. Probably*

3 *the main issue, if you read the staff report, has to do with*

4 *dedication of a new road and the length of a private road.*

5 *They're proposing, when you get to the east end of Darnell,*

6 *where it crosses Squaw Creek Ditch Company's ditch, they're*

7 *wanting to provide an access to the south. Originally, they*

8 *only proposed that as a private road, which you can do under a*

*December 10th meeting*

9 *minor. Then they realized that was in excess of our 1200 foot*  
10 *length. Our private roads have a maximum length of 1200 feet.*  
11 *So they amended the plat to show a public road, which you can*  
12 *not do under a minor. So the staff report basically refers to*  
13 *the original submittal for a private road. So that is one of*  
14 *the reasons we are recommending denial on this.*

15 *The other four findings have to do with some outstanding*  
16 *issues with the intersection of Darnell and Sweet/Ola Highway.*  
17 *We have a question regarding Frontier Communications and whether*  
18 *they have the ability to service four new houses. We also have*  
19 *a question about the letter from William Collins at Squaw Creek*  
20 *Ditch Company, just making sure that his six items are all*  
21 *addressed. We did not get any confirmation on that. So the*  
22 *report that you have before you does recommend denial because we*  
23 *could not find that they met those five findings. We put the*  
24 *reasons why in there and if they correct those, then we can*  
25 *recommend approval.*

□

22

1 *MR. DAVID POOLE: Questions from the board for staff?*

2 *MR. DON WILKERSON: We've got two plats here and the only*  
3 *one we're looking at is the original? The only one that we're*  
4 *concerned with in our meeting is the original plat?*

5 *MR. DAVID POOLE: The other one does not allow private*  
6 *roads.*

7 *MR. DON WILKERSON: Okay. I get down to lot 3 and it looks*  
8 *like lot 4; is the only access that 20 foot private driveway?*

*December 10th meeting*

9 **MR. BRAD HAWKINS-CLARK:** *That's correct. They're proposing*  
10 *to cross the ditch at that point with a culvert. I guess I*  
11 *should point out that most of that road is built. You can build*  
12 *a private road as long as you file your private road application*  
13 *without doing the plat. So they have made most of the*  
14 *improvements on the ground for this.*

15 **MR. DON WILKERSON:** *But in order to get to that lot 3,*  
16 *shouldn't that private road be at least 40 feet, just like an*  
17 *easement? Once it hits lot 3, to me, they can do anything they*  
18 *want. That's just a question. You don't have to make a*  
19 *decision now. They look like they don't even have access to lot*  
20 *3.*

21 **MR. BRAD HAWKINS-CLARK:** *Well you can serve two lots off of*  
22 *a private driveway, which does not have to have 40. It's just*  
23 *when you hit three lots on the same access road.*

24 **MR. DON WILKERSON:** *Okay.*

25 **MR. BRAD HAWKINS-CLARK:** *So the 40 foot is required when*

□

23

1 *you hit three. So two, you're okay.*

2 **MR. DON WILKERSON:** *Okay. Thank you.*

3 **MR. DAVID POOLE:** *Further questions? Okay. Thank you for*  
4 *your patience.*

5 **MR. MARTIN HENDRICKSON:** *Appreciate the opportunity to*  
6 *speak to the Commissioners today. What we would propose would*  
7 *be an approval with conditions. That's what we would request at*  
8 *this time. I'll go through, briefly, the conditions as we see*  
9 *them, based upon staff recommendations.*

*December 10th meeting*

10 *The first issue of concern raised by the staff has to do*  
11 *with the ditch company and the concerns that the ditch company*  
12 *raised in their prior letter. Those are in the process of being*  
13 *addressed. In fact, of the six different issues, five of those*  
14 *have been addressed. The construction on some head gates, which*  
15 *is the last remaining item, is supposed to be completed this*  
16 *week, depending on the weather. So that should be finished. As*  
17 *soon as that work is finished we anticipate being able to*  
18 *provide a letter from the ditch company indicating that all of*  
19 *those issues have been satisfactorily addressed.*  
20 *As to the issues with Frontier Communications, what we've*  
21 *been told is that is Frontier Communication's standard letter*  
22 *when an inquiry is made about availability of phone lines. The*  
23 *developer understands that phone lines to each lot need to be*  
24 *provided at the developers expense. So we would request that*  
25 *simply be a condition of approval.*

□

24

1 *As far as the access is concerned, to the southern adjacent*  
2 *parcel, which is the parcel owned by Mrs. Dietzman, staff is*  
3 *correct in that we've been working with Mrs. Dietzman counsel to*  
4 *arrive at a resolution of that matter. What we have done, at*  
5 *this point, is to record a declaration of easement relocation.*  
6 *Basically what we've done is to move the 1924 right-of-way over*  
7 *to match the newly constructed gravel road. So it actually*  
8 *improves her access to her property. As far as an additional*  
9 *easement, pursuant to ordinance 12-6-1.F.2F, the developer is*

*December 10th meeting*

10 *willing to convey an additional 40 foot easement across the*  
11 *remainder of his property for future access to the southern*  
12 *parcel. Currently, the 1924 easement exists that was created by*  
13 *the right-of-way deed. We'd be willing to, essentially, widen*  
14 *that to 40 feet to comply with the ordinance.*

15 *MR. DAVID POOLE: Your entire piece of property, right?*

16 *MR. MARTIN HENDRICKSON: Yes.*

17 *Then the final one would be the issue of the length of the*  
18 *private road. There was some confusion regarding how exactly*  
19 *the developer could handle this issue. At this point, our*  
20 *understanding is that the Fire District does not have a problem*  
21 *with the way that it is currently platted or with the length of*  
22 *the drive and then the turn around at the end. The 60 foot road*  
23 *with an adequate turn around. Even though it exceeds the 1200*  
24 *feet, the fire district, and we have not gotten this in writing*  
25 *yet, is that the Fire District will approve that. So what we*

□

25

1 *would ask is that the Commission approve the application with*  
2 *the condition that the developer request the exception to the*  
3 *length and that the request for the exception be supported by an*  
4 *appropriate letter from the Fire District. We would ask that*  
5 *you approve the minor subdivision application with those*  
6 *exceptions, which I believe will satisfy the concerns of the*  
7 *staff that were raised in their report.*

8 *The only additional issue that was raised in the report had*  
9 *to do with the intersection of Darnell Lane and the highway and*  
10 *the potential impact upon that. Apparently the Road and Bridge*

*December 10th meeting*

11 *Department had expressed some concern about future impacts on*  
12 *that intersection. The staff report regarding this minor*  
13 *subdivision stated that the four lot minor subdivision does not*  
14 *justify this applicant making improvements to the intersection.*  
15 *We would agree with that. We understand that there is concern*  
16 *about future development in this area but it would appear that*  
17 *those impacts would be addressed by the mitigation fees for*  
18 *future developments. Thank you.*

19 *MR. DAVID POOLE: Questions for Mr. Hendrickson from the*  
20 *Board?*

21 *MR. DAVID HARGRAVES: I've got a question. Are you*  
22 *requesting an exception under the subdivision ordinance?*

23 *MR. MARTIN HENDRICKSON: We've not done that in writing. I*  
24 *under that the ordinance requires that to be in writing. That's*  
25 *why I phrased it as we're requesting approval from the*

□

26

1 *Commissioners with the condition that there be an appropriate*  
2 *written request for the exception. At this time, we don't have*  
3 *the appropriate letter from the Fire District. So it would seem*  
4 *that an actual request would be premature.*

5 *MR. DAVID HARGRAVES: The ordinance requires that the*  
6 *Commission make certain findings if their going to grant an*  
7 *exception. Have you had a chance to analyze those and persuade*  
8 *the Commission why those findings are met in this case?*

9 *MR. MARTIN HENDRICKSON: As we've not actually done the*  
10 *written request, that would certainly be part of our written*

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11 *request. It's our understanding, based upon the staff report,*  
12 *that the primary concern was the issue of emergency access and*  
13 *therefore that was why the letter from the Fire District was*  
14 *specifically referred to in the report.*

15 *MR. DAVID HARGRAVES: Thank you.*

16 *MR. DAVID POOLE: My feeling is to continue this and put*  
17 *all our ducks in a row.*

18 *MR. MARTIN HENDRICKSON: We certainly would not be opposed*  
19 *to that, as opposed to denial. We would prefer approval with*  
20 *the conditions but certainly would understand if the*  
21 *Commissioners feel a continuance is more appropriate.*

22 *MR. DAVID POOLE: Any other questions for the applicant?*

23 *MR. DON WILKERSON: This is the second plat that we*  
24 *received and I guess this is probably the one that you're*  
25 *proposing.*

□

27

1 *MR. MARTIN HENDRICKSON: I believe that's true, with the*  
2 *clarification that it's not a public road that's being proposed*  
3 *but a private road.*

4 *MR. DON WILKERSON: Okay. Where it says end of road*  
5 *dedication, that is the end of the public road and then it*  
6 *begins private from there.*

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

8 *MR. DON WILKERSON: Okay. What is the total length of the*  
9 *public road down to your cul-de-sac in lot 3? Do you know what*  
10 *that total length is?*

11 *MR. MARTIN HENDRICKSON: I do not have that figure right*

*December 10th meeting*

12 *off the top of my head. I believe it's in the range of 1500*

13 *feet. Brad, does that sound about right?*

14 **MR. BRAD HAWKINS-CLARK:** *Yeah. I believe if you're*

15 *referring to the total length from the existing Darnell all the*

16 *way down --*

17 **MR. DON WILKERSON:** *It's more than 1500 feet.*

18 **MR. BRAD HAWKINS-CLARK:** *Yeah. I think it's more like 1900*

19 *or something but I think if you're talking about just the*

20 *proposed public road, that's more like 1500. This application*

21 *can't dedicate a new public road. So that's really kind of a*

22 *moot point. If you want a public road, they're going to have to*

23 *go with a standard subdivision.*

24 **MR. DON WILKERSON:** *You mentioned that you're going to move*

25 *Mrs. Deatsman's road over to the new road. How far beyond the*

□

28

1 *dedicated public road or before you get to the end of the*

2 *dedicated public road, do you know where her road will take off*

3 *at?*

4 **MR. MARTIN HENDRICKSON:** *From the cul-de-sac that is at the*

5 *southern most portion of the road.*

6 **MR. DON WILKERSON:** *The cul-de-sac is on lot 4. So she's*

7 *got a dedicated easement across lot 4 then; is that correct? If*

8 *she comes off the cul-de-sac here --*

9 **MR. MARTIN HENDRICKSON:** *It actually goes south. Her road*

10 *actually continues on to the south.*

11 **MR. DON WILKERSON:** *So she 's down in here then?*

*December 10th meeting*

12 **MR. MARTIN HENDRICKSON:** *Yes. It simply connects to the*  
13 *existing road.*

14 **MR. DON WILKERSON:** *Is that an easement that should be on*  
15 *lot 4?*

16 **MR. MARTIN HENDRICKSON:** *Yes. It currently is. I mean,*  
17 *she has an existing easement and then what we are proposing*  
18 *would be to expand that existing easement to meet the statutory*  
19 *requirement for future access to that land-locked parcel.*

20 **MR. DON WILKERSON:** *Okay. I guess my question was beyond*  
21 *that south of that point, it doesn't show an easement here. I*  
22 *just wondered where there should be an easement. I saw where*  
23 *there's a canal there.*

24 **MR. MARTIN HENDRICKSON:** *Her existing easement is not shown*  
25 *on the plat but it does exist.*

□

29

1 **MR. LAWRENCE WHITSELL:** *Is there an existing bridge across*  
2 *the canal for her?*

3 **MR. MARTIN HENDRICKSON:** *Her access doesn't cross the*  
4 *canal. Her access stays east of the canal. It actually kind of*  
5 *takes off and goes -- it would be helpful if it was on the plat.*  
6 *It goes south and then it actually jogs to the east.*

7 **MR. LAWRENCE WHITSELL:** *Okay.*

8 **MR. DON WILKERSON:** *It looks like you're proposing to put a*  
9 *bridge across the canal at the corners of lots 1 and 2 to get*  
10 *over to lot 3.*

11 **MR. MARTIN HENDRICKSON:** *I believe that's correct.*

12 **MR. DAVID POOLE:** *Further questions? Thank you.*

*December 10th meeting*

13 *MR. MARTIN HENDRICKSON: Thank you.*

14 *MR. DAVID POOLE: Okay. Public hearing. We got any*

15 *further input? Those that are in favor of this minor*

16 *subdivision. Neutral. Those opposed.*

17 *MR. KENT RIVERS: We've got some concerns. My name is Kent*

18 *Rivers. I work for Bonnie Deatsman and we have some concerns on*

19 *this new subdivision. Prior to the one that they just put in,*

20 *they blocked her access and denied her access to get into her*

21 *place. We have trouble even getting in with just a motorcycle,*

22 *which means there's no access for ambulances, fire trucks, etc.*

23 *What we need is a guarantee that he's not going to do this again*

24 *with this new subdivision that's going in.*

25 *Another thing is he dug over top of her telephone line.*

□

30

1 *The state law requires to get a dig permit and her line is*

2 *buried underneath this new road he put in. We're not sure if he*

3 *disturbed it yet or not. We're going to wait until the weather*

4 *gets a lot more wetter to see if he disturbed it or not.*

5 *We need a guarantee that he's not going to deny her access.*

6 *We were told her road is going to be a construction road and as*

7 *soon as this is done her road's going to be destroyed and we're*

8 *going to have to use that new road. Well, when they do that*

9 *they deny her access. As a matter of fact, the construction*

10 *outfit told her we could not enter. She had a doctor*

11 *appointment to go to and the construction outfit told her no,*

12 *you can not go in there. The road was totally blocked. There*

*December 10th meeting*

13 *was no access for any vehicles to get in there at that time.*

14 *Our concerns are when they put this new one in, make sure*

15 *he doesn't plug up this road or deny emergency vehicle access.*

16 *Thank you.*

17 *MR. DAVID POOLE: Thank you. Any further negative input?*

18 *If not, you want to rebut?*

19 *MR. MARTIN HENDRICKSON: Just very briefly. As far as the*

20 *issues of access are concerned, it's my understanding that there*

21 *was a short period of time where there was some construction*

22 *machinery that was parked on the canal road. The canal road was*

23 *the existing road and that's where her existing easement was*

24 *located. It was your typical dirt, two track road. My*

25 *understanding is there was a short period of time on one of the*

□

31

1 *days when the new road was being constructed that there was some*

2 *construction equipment parked on that canal road and that there*

3 *was a blockage of her access. As soon as that condition was*

4 *discovered or as soon as they realized they were blocking her*

5 *access, they moved the equipment. There are no such issues*

6 *presently. As staff noted earlier, the road has already been*

7 *constructed. So there won't be any further issues with*

8 *construction and now Mrs. Dietzman has the benefit of using that*

9 *new road, which is a nice 60 foot gravel road as opposed to the*

10 *old canal road. So in the developers view, her access has been*

11 *improved significantly. He's certainly willing to commit to no*

12 *further blockages of her legal access, which he recognizes that*

13 *she does in fact have.*

*December 10th meeting*

14 *MR. DAVID POOLE: So you will be able to guarantee.*

15 *MR. MARTIN HENDRICKSON: Well, to the extent that we can,*

16 *yes.*

17 *MR. DAVID POOLE: You will guarantee that she have access*

18 *to this road.*

19 *MR. MARTIN HENDRICKSON: We recognize she has a legal right*

20 *to access her property across the developers property.*

21 *MR. DAVID POOLE: Okay. Thank you. I will bring this from*

22 *the public hearing into the Commissioners, before the Board*

23 *here. Don, discussion.*

24 *MR. DON WILKERSON: Do to the magnitude of the concerns*

25 *that still haven't been addressed completely like with the canal*

□

32

1 *company, looks like maybe they just resolved Mrs. Deteman's*

2 *access, the Fire District, and the length of the public road.*

3 *It sounds like in order for them to deviate from that they need*

4 *to come before us with a variance to do that.*

5 *I'd like to address the Darnel Lane/Highway item. The*

6 *applicant mentioned that four new lots probably wouldn't have a*

7 *big impact but in the staff report it says there's a potential*

8 *of 26 dwelling units on Darnell Road that have the rights for*

9 *building permits today. So that's going to have quite an*

10 *impact. I think that maybe with this development here we ought*

11 *to look at some type of mitigation through the Road District to*

12 *improve that intersection. When we could make site visits out*

13 *there I remember when you come off the Highway it's quite a*

*December 10th meeting*

14 *steep grade to get up to the top of Darnell Road. So I believe*

15 *we need to continue it until the concerns that have been*

16 *expressed by the staff and also addressed by the applicant are*

17 *resolved to satisfy this Commission.*

18 *MR. WILL MAUPIN: Is that your motion, Don?*

19 *MR. DON WILKERSON: No. That's my opinion.*

20 *MR. DAVID POOLE: Commissioner Rouwenhorst.*

21 *MRS. DEBBIE ROUWENHORST: I agree with Don. I think we*

22 *should continue it.*

23 *MR. LAWRENCE WHITSELL: Okay. I make a motion that we*

24 *continue this application on the Darnell Lane Estates*

25 *Subdivision with regards to Irrigation District requirement, the*

□

33

1 *telephone company's requirements, the issue with Mrs. Dietzman*

2 *has been resolved, and also the 1500 foot easement on the*

3 *private lane; what else?*

4 *MR. DAVID POOLE: And the intersection.*

5 *MR. LAWRENCE WHITSELL: And the intersection on Darnell*

6 *Lane and Ola Highway.*

7 *MR. DAVID POOLE: Do I have a second to that motion.*

8 *MR. WILL MAUPIN: I'll second it.*

9 *MR. DAVID POOLE: Discussion. If not, all those in favor*

10 *signify by saying I. Those opposed same sign. We should have*

11 *given a date. Motion carries for continuance.*

12

13 *(Motion carries unanimously.)*

14

*December 10th meeting*

15 *MR. DAVID POOLE: How much time you think you're going to*  
16 *need for this? Next month or --*

17 *MR. MARTIN HENDRICKSON: Yes.*

18 *MR. DAVID POOLE: All right. Then we would do that on*  
19 *January 14th as well.*

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

21 *MR. DAVID POOLE: Thank you very much.*

22

23

24

25

□

34

1 *PUBLIC HEARING:*

2 *Item No. 2 - (Continued) Special Use Permit #SUP-07-007*

3 *King 2070 Mining, LLC*

4

5 *MR. DAVID POOLE: Next item on our agenda is continued*  
6 *special use permit for King 2070 Mining, LLC. I need to remind*  
7 *you that we've only got one item we're discussing here. We*  
8 *wanted some more input from the County Road Department. Maybe*  
9 *the first thing I could do is ask if the County Road*

10 *Commissioner wouldn't mind stepping forward. One of the things*  
11 *that was brought up was a cost per trip. Were you guys able to*  
12 *come up with anything at all on that, Kim?*

13 *MR. KIM REED: Cost per trip?*

14 *MR. DAVID POOLE: Well if this increases by nine trips per*

*December 10th meeting*

15 *day on that road, is there some kind of a magic number we could*  
16 *use?*

17 *MR. KIM REED: Well I used it but it comes out in the*  
18 *millions of dollars. When you take the impact of a ten-wheel*  
19 *dump truck compared to a sedan and the trip is worth about*  
20 *\$3,000 impact on a sedan and times that by 6,000, you've got*  
21 *48,000 cars if they're going to haul eight loads a day --*

22 *MR. DAVID POOLE: So every time a sedan goes down that road*  
23 *they should be writing the County a check for \$3,000.*

24 *MR. KIM REED: Well, no. That's the impact of what I think*  
25 *is on our --*

□

35

1 *MR. DAVID POOLE: Well we're asking additional impact.*  
2 *We've already got impact and the road has it's own problems.*  
3 *What we're trying to do is come up with is additional cost.*

4 *MR. KIM REED: Yeah. I think, probably, the additional*  
5 *cost is going to be \$2,000 a day for every day that we have to*  
6 *maintain Pearl Road.*

7 *MR. DAVID POOLE: So now we've got a number for \$2,000 a*  
8 *day. How many additional days do you think we're going to have*  
9 *with that kind of added traffic?*

10 *MR. KIM REED: That would depend.*

11 *MR. DAVID POOLE: How many days are you doing it now?*

12 *MR. KIM REED: I try not to do it more than once a month.*  
13 *If I can get by with less than that, I do it. If somebody calls*  
14 *me and tells me the road is ruff, we go up and grade it. I know*  
15 *what the road looks like. They don't have to call me, but when*

*December 10th meeting*

16 *they finally get a stomach full of it they'll call me and we'll*

17 *go up and grade it.*

18 *MR. DAVID POOLE: So right now the County's spending about*

19 *\$24,000 a year maintaining that road in the state it's in.*

20 *MR. KIM REED: Yeah. That's pretty close.*

21 *MR. DAVID POOLE: So if we add an additional nine*

22 *ten-wheeler trips --*

23 *MR. KIM REED: Well not really because in the winter time*

24 *we're not up there that often. That depends on the spring and*

25 *the fall. The road's even worse in the summer time but with our*

□

36

1 *ability to haul water that far, we just press it as far as we*

2 *can. So if we spent \$15,000 a year --*

3 *MR. DAVID POOLE: Now using that same time frame then and*

4 *we added eight or nine -- I think eight or nine was the comment*

5 *we made -- trips per day. So that means roughly forty/fifty*

6 *trips a week. If you're doing this on a ten month period or an*

7 *eight month period, what are we doing?*

8 *MR. KIM REED: An eight month. Now that's going to change*

9 *and it's going to get worse as time goes on. This year was the*

10 *first year I've got called to sand Pearl Canyon in 36 years that*

11 *I've worked there and from the same people that have lived up*

12 *there longer than I've been alive. Their kids are starting to*

13 *take over the place. People are just changing. As the*

14 *population grows up there, that's what I expect. I expect to*

15 *have to take better care of it. The old timers are used to*

*December 10th meeting*

16 *driving an old Chevrolet pickup up and they don't say much but*  
17 *as roads improve, people expect the conditions to improve and*  
18 *that's just the way it is. We understand that. It's just going*  
19 *to cost more money all the time.*

20 *MR. DAVID POOLE: So we've got, roughly, 1600 additional*  
21 *trips. We're trying to come up with some numbers. We need*  
22 *something to work with here. So if we've got 1600 of that and*  
23 *not knowing what kind of transportation is going over that right*  
24 *now, do you think we're going to wind up doubling your cost of*  
25 *maintaining that in a year? Then we need to be generating*

□

37

1 *another \$15,000 a year, roughly. I'm just trying to come up*  
2 *with numbers.*

3 *MR. KIM REED: And that's being real conservative. I'm*  
4 *just going by the complaints that I've got now. I'm not saying*  
5 *complaints but that's concerns of people. I kind of wait to*  
6 *grade the road because of the cost and they understand that.*

7 *MR. DAVID POOLE: We're just trying to make this work so*  
8 *that the public does not end up having to pay for the extra*  
9 *expense. That's the reason we asked for the continuance.*

10 *MR. KIM REED: And that's just great. That's just a simple*  
11 *grading job. That's not the impact of ten-wheel dump trucks.*  
12 *Once you start disturbing the base, I'll really have to start*  
13 *hauling material in there. I'm just talking grading it.*

14 *MR. DAVID POOLE: So you haven't done anything but grade it*  
15 *up until now.*

16 *MR. KIM REED: Well, through the years we've put a little*

*December 10th meeting*

17 *on there. We've put very little on there because you really*  
18 *haven't had much of a roller. Our department is improving and*  
19 *we'll be able to put a little more on and do a little better job*  
20 *and probably grade it a little less, but the expense is going to*  
21 *go up. That's our hopes. With the added traffic, I don't know*  
22 *what's going to --*

23 *MR. DAVID POOLE: I'm not trying to press, Kim. If we're*  
24 *going to have a number, whether it's even workable with the*  
25 *applicant or not, the point is we need to know what the impact*

□

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1 *is going to be. It may be way out in left field and it may be*  
2 *wrong but if we get a number to start with the first year, I*  
3 *assume that under our situation here, if the Board wanted to, if*  
4 *they decided they wanted to allow the special use, that they*  
5 *could make some conditions. This amount would be have to be set*  
6 *aside for your use in the event it was needed. In a year we can*  
7 *review that.*

8 *MR. KIM REED: Just right up front, I think we're going to*  
9 *be into \$20,000 added maintenance and then another \$20,000 for*  
10 *the repair of the road.*

11 *MR. DAVID POOLE: So you're looking at a \$40,000 in an*  
12 *annual situation.*

13 *MR. DON WILKERSON: Wouldn't your trips possibly to just*  
14 *blade the road increase due to the heavy increase in truck*  
15 *traffic? So that \$15,000 figure may go to \$25,000 just to blade*  
16 *the thing.*

*December 10th meeting*

17 *MR. KIM REED: Right.*

18 *MR. DON WILKERSON: So that could increase that figure some*  
19 *more.*

20 *MR. KIM REED: Yes.*

21 *MR. DAVID POOLE: Any more questions for Kim? Thank you,*  
22 *Kim.*

23 *I didn't mean to step in before you but I think this is*  
24 *information we needed. Now if you would like to come up and*  
25 *make any comments, would be acceptable.*

□

39

1 *MR. BRET GARRIGAN: I'm Bret Garrigan at 1450 Artesian Road*  
2 *in Eagle. I'm the owner of King 2070 Mining. We had the staff*  
3 *approval last month and thought we were going to get through, no*  
4 *people objecting. We had numerous letters supporting our*  
5 *application.*

6 *This idea of road maintenance came out of the Committee as*  
7 *being a good idea. We weren't able to participate with*  
8 *Parametrix and the staff's process of determining what impacts*  
9 *we would have as we do a gravel pit expansion up there. The*  
10 *road is not a real pretty road. It's not anything that anybody*  
11 *needs to be proud of. So hurting it is not really the idea.*  
12 *It's improving it. I'm all for the idea. Let's do what we need*  
13 *to do to improve the infrastructure here.*

14 *I look forward to being able to sell gravel to Kim and*  
15 *Boise County to improve the roads there. I'm in the process of*  
16 *buying a road grader. So if I can get permission, insurance,*  
17 *bonding, whatever needs to be done and get certified, we could*

*December 10th meeting*

18 *probably help do some maintenance on the road structure up there*  
19 *if that's allowable.*

20 *MR. DAVID POOLE: Maybe a situation can work out if*  
21 *everything is in lieu of if everything is acceptable.*

22 *MR. BRET GARRIGAN: But since we didn't get the information*  
23 *until late in the day on the 4th of December, I haven't had a*  
24 *chance to have my attorney review it in any detail. He was sort*  
25 *of shocked at the \$100,000 number that was put out. We haven't*

□

40

1 *been able to determine if this is the first time that's been*  
2 *proposed in Gem County or in the state of Idaho. So what I'd*  
3 *like to do is work with staff, Kim, and Parametrix to understand*  
4 *what our marginal impact is going to be. If we can sell gravel*  
5 *to Kim, eight trucks a day, what that number comes out to be and*  
6 *work together to try to meet a win/win situation for everybody.*  
7 *We want economic development. We want to be able to be a*  
8 *positive partner.*

9 *MR. DAVID POOLE: Sounds like you need a little more time.*

10 *MR. BRET GARRIGAN: I do need some more time. I'd just*  
11 *like to allow Mike to come up. I need to go for next month*  
12 *because we're not ready to move forward on that.*

13 *MR. DAVID POOLE: Thank you. We are still in the public*  
14 *hearing. Is there anybody else in favor of this? Opposed to*  
15 *this application. If not, I'm certain you don't need to rebut*  
16 *at this point. We'll bring it before the Bord to make a*  
17 *determination. Commissioners, anybody want to put this in the*

*December 10th meeting*

18 *form of a motion for continuance or you want to act on it right*

19 *now?*

20 *MR. WILL MAUPIN: I don't think it would be fair to act on*

21 *it right now. If I could make a motion that motion would be to*

22 *continue it.*

23 *MR. DAVID POOLE: Next month. Okay. Move it to the 14th.*

24 *Been moved and seconded. Discussion on the motion. This next*

25 *month meetings getting big.*

□

41

1 *MR. DON WILKERSON: I guess we need to express the reasons*

2 *for the continuance.*

3 *MR. DAVID POOLE: Back to the same information I think we*

4 *had previously. Is that right? It's just the impact on the*

5 *road for the cost per trips. Is that right? Is that acceptable*

6 *to you? Staff?*

7 *MRS. KANDI HALL: Yes.*

8 *MR. DAVID POOLE: All those in favor signify by saying I.*

9 *Opposed same sign.*

10 *MR. DON WILKERSON: In the last meeting what we asked for*

11 *is the County Road Superintendent and the County Road Engineer*

12 *to come up with a figure of what it would take to protect the*

13 *County on this road. I don't understand bonding but if you have*

14 *a \$100,000 bond, what's it cost you for a \$100,000 bond? Is it*

15 *10%? So the applicants putting up \$10,000. How can the County*

16 *get access to that money? It says in this letter that the bond*

17 *would only be cashed if the applicant failed to comply with*

18 *conditions of approval. So if Kim is out another \$25,000 to*

*December 10th meeting*

19 *maintain that road due to the truck traffic, how does he get*  
20 *that money?*

21 *MR. DAVID POOLE: That's the reason for the continuance. I*  
22 *don't think we feel that's the best method.*

23 *MR. DON WILKERSON: So I think we need to give the staff*  
24 *and the applicant some thoughts. Are we looking at a check put*  
25 *in trust that the County can draw from? How do you do that?*

□

42

1 *MR. DAVID POOLE: I think what we asked for originally is*  
2 *the cost per trip. They did not supply us with that. So we're*  
3 *back to our original question. We have a situation where with*  
4 *the performance bond, he may not be able to do it. So, as a*  
5 *Board Member, I feel we haven't got the correct answer from our*  
6 *County yet.*

7 *MR. DON WILKERSON: So we're asking to come back with the*  
8 *cost per trip that is payable to the County for maintenance of*  
9 *the roads.*

10 *MR. DAVID POOLE: That gives us something to plug into*  
11 *this. Now, do we have a second on this motion?*

12 *MR. LAWRENCE WHITSELL: I already seconded it.*

13 *MR. DAVID POOLE: I'm sorry. All those in favor signify by*  
14 *saying I. Opposed same sign. Motion carries. This is*  
15 *continued until next month.*

16

17 **PUBLIC HEARING:**

18 *Item No. 3 - (Continued) Special Use Permit #SUP-07-009*

19 *Carol MacGregor*

20

21 *MR. DAVID POOLE: Okay. Number 3 is continued on the*  
22 *special use permit for Carol MacGregor. Do you want to change*  
23 *any of those numbers for them? It's a situation that's a little*  
24 *different than Pearl. So as a result, do you feel that you*  
25 *could give us any enlightenment on what the cost per trip would*

□

43

1 *be for the MacGregor gravel pit?*

2 *MR. KIM REED: I don't know if I can. Mike's called me on*  
3 *it and asked me about what kind of improvements I was going to*  
4 *ask for. This is really kind of new to me. He's the person*  
5 *that's going to cause the impact to the road. It's more safety*  
6 *issues than anything. I feel like the road needs to be widened*  
7 *out here and there. It is different. Mrs. MacGregor owns all*  
8 *the land on both sides of the road through the gravel section,*  
9 *which has some problems and can be widened. I think there's*  
10 *some issues there about some right-of-way, widening some*  
11 *corners. Her dad built that road to build that Picket Corral*  
12 *Subdivision. It's fairly wide compared to what it was at one*  
13 *time. There's a large Idaho Power line that goes through there.*  
14 *The top of the slope is at those power lines. So I don't know*  
15 *what kind of money you're talking about to have those moved*  
16 *because that's what you'd have to do to widen that road out. In*  
17 *that section, I don't think she owns the bottom side, the fill*  
18 *side. If she owns the top side, there would have to be a cut*  
19 *made and those power lines would have to be moved. I just have*

*December 10th meeting*

20 *to figure what kind of money a person would be in to.*

21 *MR. DAVID POOLE: Back to the impact issue. From what I*  
22 *think I heard before, Kim, is that we're going to be somewhere*  
23 *close to the same amount of trips per day. I know you've got a*  
24 *safety issue you're concerned with as far as the width of the*  
25 *road right there. So you think, without changing that, we don't*

□

44

1 *want to be adding anymore truck traffic to that road; is that*  
2 *what you're saying?*

3 *MR. KIM REED: Without changes I would be afraid of adding*  
4 *more truck traffic to the road.*

5 *MR. DAVID POOLE: So you think the County would have a*  
6 *liability if we didn't change that.*

7 *MR. KIM REED: Well, I feel my obligation to say something*  
8 *about it. There's been plenty of trucks go in and out of there*  
9 *but I didn't have anything to say about it. Now that I do have*  
10 *something to say about it, I don't want to have somebody killed*  
11 *because I said I thought it was just fine and dandy to go ahead*  
12 *and have somebody do that. That is my problem with it. I know*  
13 *there's some bad corners coming out with a ten-wheel dump truck*  
14 *and pup behind it, you're coming out on the center of the road a*  
15 *little further trying to make your round-the-corners. There's*  
16 *just some easy fixes on that road and then there's a tough one.*  
17 *Who's going to do it? The county probably shouldn't do it. I'd*  
18 *hate to ask Mike to do it but they're the ones wanting to haul*  
19 *the rock. So when it comes down to it, something needs to be*

*December 10th meeting*

20 *done with it, in my opinion.*

21 *Cost per trip, if they're going to run eight trucks a day,*

22 *I don't know just what that comes out to for a week. Just for*

23 *me to maintain the thing is a couple thousand dollars. That one*

24 *won't be that much. It's not near the road that Pearl is. It*

25 *won't take us probably 3 hours to maintain that section of road,*

□

45

1 *but then you're into a lot of paved road, heavy impact on it,*

2 *and you're talking \$850,000 a mile to rebuild something like*

3 *that. There's just a lot of figures to work with. It could end*

4 *up being a lot of money.*

5 *There aren't really any safety issues on the straight area*

6 *of Frozen Dog but up on the hill there's several thousand*

7 *dollars of improvements that need to be done to the road. That*

8 *road isn't as solid of a road as the Pearl Road is.*

9 *With Mike's pit there it would make it less expensive to*

10 *rebuild that road then it would if you had to haul material*

11 *clear from Emmett to Pearl. It's the hauling. It's not really*

12 *the material. I could haul forty loads in just a little while*

13 *on that section out from his pit and it would take me a week and*

14 *a half to haul that many to Pearl.*

15 *MR. DAVID POOLE: We're trying to get some numbers to try*

16 *to make this work for the public and Mike as well. I think that*

17 *as it stands right now, we don't feel that the bonding side of*

18 *that is really going to work.*

19 *MR. KIM REED: Right. I'd like to see a continuance on it*

20 *and work out some of these issues with Mrs. MacGregor and Mike.*

*December 10th meeting*

21 *MR. DAVID POOLE: Do you think you would be able to come up*  
22 *with a number if we give you a little more time on that, just so*  
23 *we can make our decision? Unfortunately the decision on this*  
24 *special use permit ends here. It doesn't go to the County after*  
25 *that. Under those circumstances, we need as much input as we*

□

46

1 *can to make a good decision.*

2 *MR. KIM REED: I guess I didn't realize that mike was going*  
3 *to haul the same amount. It wouldn't be a problem getting a*  
4 *number.*

5 *MR. DAVID POOLE: Well if we had that kind of a number, I*  
6 *think we could move forward. Do you think with a little more*  
7 *time you could do that for us?*

8 *MR. KIM REED: Oh yeah. The cost is going to be less on*  
9 *Shaleroak per load then it is on Pearl Road just because of the*  
10 *distances.*

11 *MR. DAVID POOLE: Any questions for Kim?*

12 *MR. DON WILKERSON: Do you have some input on the \$100,000*  
13 *bond?*

14 *MR. KIM REED: The number that comes out with the state*  
15 *figures I think is a million, four hundred thousand. I told*  
16 *Brad there wasn't any way on earth that Bret Garrigan was going*  
17 *to cause that kind of damage on the road; neither one of these*  
18 *people. I thought that if he came up with \$100,000 bond, there*  
19 *isn't any way I couldn't fix anything he tore up on that*  
20 *particular road because it's not much of a road to start with.*

*December 10th meeting*

21 *The kind of materials that are on it are not that good. I'd*  
22 *have to say the \$25,000 would probably cover just what he would*  
23 *tear up. The added cost of grading it is going to depend on the*  
24 *kind of complaints I get. I'm not just going to run up there*  
25 *and say we're going to grade this thing every two weeks and*

□

47

1 *that's all there is to it.*

2 *MR. WILL MAUPIN: Are we talking about Pearl Road or are we*  
3 *talking about Frozen Dog?*

4 *MR. KIM REED: Well, I'm kind of going back and forth I*  
5 *guess.*

6 *MR. DAVID POOLE: Yeah. Frozen Dog is the one we've got*  
7 *right now.*

8 *MR. KIM REED: Frozen Dog isn't going to be that expensive.*  
9 *It's not going to cost the County that much to maintain it.*

10 *It's just a short piece of gravel road. The oil's never really*  
11 *been real good. Triangle Construction built that road and the*  
12 *County sealed coated it. It's been patched and seal coated.*  
13 *It's a constant maintenance job anyway. I've put 2 feet of rock*  
14 *on the bottom side of it. The ground has a tendency to settle.*  
15 *It drops about 6 inches every year. It's a big fill. The added*  
16 *impact of heavy trucks on it isn't going to help it.*

17 *MR. DAVID POOLE: Well those are the numbers we need, Kim.*

18 *MR. KIM REED: Right.*

19 *MR. DAVID POOLE: So if we have some sort of idea where*  
20 *that's at, it gives us a way to move forward with trying to*  
21 *avoid the taxpayer trying to pick up the extra impact.*

*December 10th meeting*

22 *MR. KIM REED: I didn't realize how many loads Mike was*  
23 *going to haul out of there. I didn't know if it was going to be*  
24 *year-round or through the summer.*

25 *MR. DAVID POOLE: Well those are operational things we need*

□

48

1 *to be aware of. So maybe can we can get to that final*  
2 *information.*

3 *MR. KIM REED: Okay.*

4 *MR. DAVID POOLE: Thank you, Kim. Any further questions?*  
5 *Thank you. Shall we move to the applicant first? Are you*  
6 *speaking tonight, Mike?*

7 *MR. MIKE BRIGHT: Carol's out of the country. Mike Bright,*  
8 *11630 West Tempe in Star. We plan on fully maintaining the*  
9 *gravel road from the pit to the oil; grading and watering. We*  
10 *bought a water tanker Friday. We've got the grader up there on*  
11 *the hill. The only thing that I don't have any way of doing*  
12 *anything with is the paved part. So that would be a County deal*  
13 *but the rest of it we can take care of.*

14 *MR. DAVID POOLE: Okay. Questions for Mike?*

15 *MR. LAWRENCE WHITSELL: There's some turns on that road*  
16 *that seem to be in question according to Kim.*

17 *MR. MIKE BRIGHT: On the paved part; yes.*

18 *MR. LAWRENCE WHITSELL: Just the paved part, not the gravel*  
19 *portion?*

20 *MR. DAVID POOLE: Yeah. What he's talking about is the*  
21 *paved par. There really isn't that much gravel.*

*December 10th meeting*

22 **MR. MIKE BRIGHT:** *It's about 7/8th's of a mile. We don't*

23 *plan on hauling during nasty weather.*

24 **MR. DAVID POOLE:** *For Kim's information, how many loads a*

25 *month, a week, a year? What do are you proposing?*

□

49

1 **MR. MIKE BRIGHT:** *We'll haul nine months pretty heavy. I*

2 *wouldn't want to say that we don't haul in December, January or*

3 *February. We would if it was froze good and we were low in*

4 *supply, which would be a rare thing. We usually stock up. We*

5 *haul it to the pit down below where it gets crushed. There's no*

6 *need to haul everyday. We'll haul heavy for maybe two weeks and*

7 *you might not see us for two weeks.*

8 **MR. DAVID POOLE:** *Okay. So on a monthly basis....*

9 **MR. MIKE BRIGHT:** *On a monthly basis you might get fourteen*

10 *trips a day for two weeks solid.*

11 **MR. DAVID POOLE:** *So around two hundred a month.*

12 **MR. MIKE BRIGHT:** *Yeah. That would be a close figure.*

13 **MR. DAVID POOLE:** *You'll stock pile.*

14 **MR. MIKE BRIGHT:** *Correct.*

15 **MR. DAVID POOLE:** *Okay. Thank you very much.*

16 **MR. DON WILKERSON:** *You mentioned that it's the County's*

17 *responsibility on the asphalt portion, which is Frozen Dog.*

18 **MR. MIKE BRIGHT:** *Well, when you license a truck -- when*

19 *you go down and license your car it's \$38. When I go license a*

20 *truck it's \$2500. So that money goes to the state of Idaho,*

21 *which goes back to the Counties. Say you've got a truck that's*

22 *licensed for 60,000 pounds, you pay \$1500. If you've got a*

*December 10th meeting*

23 *truck licensed for 106, you pay \$2500 and it's pro-rated. So we*  
24 *are already kind of paying our way but with that county road*  
25 *being a dirt road, we feel it would be fair to keep it graded*

□

50

1 *and keep it watered.*

2 *MR. DON WILKERSON: I'm just going by the comment in there.*

3 *It says the applicant will be required to improve two sections*

4 *of Frozen Dog Road for turning radius purposes. Are you in*

5 *agreement with that?*

6 *MR. MIKE BRIGHT: I talked to Kim about that. I think*

7 *there was a little miscommunication there.*

8 *MR. DON WILKERSON: Okay. So you see that as the County's*

9 *responsibility.*

10 *MR. MIKE BRIGHT: Yeah. It would probably be beyond my*

11 *means.*

12 *MR. DAVID POOLE: Beyond your capability is what you're*

13 *saying.*

14 *MR. MIKE BRIGHT: Yeah. I could help but --*

15 *MR. LAWRENCE WHITSELL: Mike, if you had a frost*

16 *restriction, would that be okay if you weren't able to haul for*

17 *four or five weeks?*

18 *MR. MIKE BRIGHT: Absolutely.*

19 *MR. LAWRENCE WHITSELL: You'd work around that.*

20 *MR. MIKE BRIGHT: Yeah.*

21 *MR. LAWRENCE WHITSELL: Okay.*

22 *MR. DAVID POOLE: Any other questions? Any public input in*

23 *favor of this special use permit? Neutral. Opposed.*

24 *MR. KIM REED: I just want to clarify that part on the*

25 *gravel road. I feel like that needs to be widened out.*

□

51

1 *MR. DAVID POOLE: I think you can probably work that out*

2 *with Mike.*

3 *MR. KIM REED: Well that's what I feel about it.*

4 *MR. DAVID POOLE: Maybe you better step up and explain*

5 *those three corners for public record.*

6 *MR. KIM REED: I feel like there's three narrow or sharp*

7 *corners on Shaleroock Road on the gravel section.*

8 *MR. DAVID POOLE: On that 7/8th of a mile?*

9 *MR. KIM REED: Well I can't pin point. In fact, I don't*

10 *know how far that exactly is. I didn't take a mileage on it. I*

11 *was counting corners and problems in the area where we don't*

12 *have any right-of-way and I couldn't widen them out if I wanted*

13 *to. I thought that may be where Mrs. MacGregor would come in.*

14 *She might possibly move the fences so we got about a 10 foot*

15 *cut.*

16 *MR. DAVID POOLE: So this is MacGregor land you're talking*

17 *about. You feel the problem could be corrected.*

18 *MR. KIM REED: Yeah, with some negotiation. That should be*

19 *part of it just for public safety.*

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

21 *Kim? Thank you. So if you have no further rebut, Mike, because*

22 *there was more input, do you have any further rebut?*

23 *MR. MIKE BRIGHT: No.*

*December 10th meeting*

24 *MR. DAVID POOLE: Okay. We'll close the public portion of*  
25 *this and, Commissioners, questions? I think you had one.*

□

52

1 *MRS. DEBBIE ROUWENHORST: I have a question for Dave. Kim*  
2 *made a comment about public safety and the liability of the*  
3 *County. So if there were to be an accident because of something*  
4 *Kim hadn't addressed, is the County liable for that?*

5 *MR. DAVID HARGRAVES: Well, it depends on the situation. I*  
6 *don't think that by you granting a special use permit and*  
7 *accidents happening up there necessarily means the County's*  
8 *going to be liable for that accident.*

9 *MR. DAVID POOLE: Somebody want to bring this in the form*  
10 *of a motion?*

11 *MR. LAWRENCE WHITSELL: I make a motion that we continue*  
12 *this to the 14th of January for the applicants and Kim to get*  
13 *some numbers together for us. Then we can have more input to*  
14 *make a decision.*

15 *MR. DAVID POOLE: Okay. Is there a second to the motion?*

16 *MR. DON WILKERSON: I second.*

17 *MR. DAVID POOLE: Discussion. All those in favor signify*  
18 *by saying I. Opposed same sign. Motion carries.*

19

20 *(Motion carries unanimously.)*

21

22

23

24

25

□

53

**1 PUBLIC HEARING:**

**2 Item No. 4 - Special Use Permit #SUP-07-010**

**3 Sherrie Burkett**

**4**

**5 MR. DAVID POOLE: Okay. Let's go to item 4 on the agenda.**

**6 Kandi, is that yours?**

**7 MRS. KANDI HALL: Yes it is. The applicant, Sherrie**

**8 Burkett, is requesting a special use permit to operate a small**

**9 kennel business from her property. The site is zoned A-2 rural**

**10 transitional agriculture and is used as a single family**

**11 residence with a detached shop, which you're seeing here on the**

**12 monitor. The shop is currently a grooming facility and she**

**13 wants to expand to a kennel. So therefore it requires a special**

**14 use permit. She's been running the pet grooming as a home**

**15 occupation. So she didn't need a permit to run that but for the**

**16 kennel she does.**

**17 The property has direct access to Highway 52 from Star**

**18 Lane. The property is completely fenced with a large gravel**

**19 area in the front with a gate. There's well enough parking for**

**20 loading and unloading of the animals. There's two separate dog**

**21 runs as you can tell. On the west side of the shop includes an**

**22 additional 4 foot chain link side yard. She has two separate**

**23 dog runs. One is for small dogs and one is for large dogs. The**

**24 large dog run has a 6 foot chain link around it with grass. For**

*December 10th meeting*

25 *the small dogs she has a 4 foot chain link. The whole property*

□

54

1 *is surrounded with a 6 foot chain link fence.*

2 *Currently, there is a sign out front on the shop. It*

3 *doesn't show that now but I have gone out and made another site*

4 *visit, which it does have a sign there. It's not lit. It's*

5 *just basically wood and it's right about where that box is up*

6 *front.*

7 *MR. DAVID POOLE: What's the dimensions of the sign? Do*

8 *you know Kandi?*

9 *MRS. KANDI HALL: I sure do. It's 3X5.*

10 *MR. DAVID POOLE: 15 square feet.*

11 *MRS. KANDI HALL: Yes.*

12 *MR. DON WILKERSON: What does the sign say on it?*

13 *MRS. KANDI HALL: That I don't think I have. Actually, the*

14 *applicant will probably be able to answer that for you. That's*

15 *all I have.*

16 *MR. DAVID POOLE: Okay. Questions for staff on this case.*

17 *If not, if the applicant would step forward please and state*

18 *your name and address.*

19 *MS. SHERRIE BURKETT: Sherrie Burkett. I live at 1615 Star*

20 *Lane.*

21 *MR. DAVID POOLE: And is it the way Kandi proposed it?*

22 *MS. SHERRIE BURKETT: Yes.*

23 *MR. DAVID POOLE: Hours of operation, all that sort of*

24 *thing, we have all that information?*

25 MS. SHERRIE BURKETT: Yes. I'm not a talker.

□

55

1 MRS. DEBBIE ROUWENHORST: In your original application --

2 well, on the staff report it said 7 to 7 but in the letter of

3 intent you said you'd be open earlier or later. Is that

4 something you'll be doing on a continual basis or just --

5 MS. SHERRIE BURKETT: Not a lot. There's just some people

6 that leave earlier or they get in late and they want their dogs.

7 So I just let them take their dogs.

8 MR. DAVID POOLE: And you are going to do this 12 hours a

9 day, 7 days a week.

10 MS. SHERRIE BURKETT: Well, no. I basically do whatever

11 they need to be done to accommodate them.

12 MR. DON WILKERSON: What if we limit it to 5 days of

13 operation? What does that do to you?

14 MS. SHERRIE BURKETT: Messes up my weekends.

15 MR. DAVID POOLE: Yeah. Kennels do weekends a lot of the

16 time. People are going away and they want some place to house

17 them.

18 MS. SHERRIE BURKETT: Yeah.

19 MRS. DEBBIE ROUWENHORST: People are spontaneous with

20 travel.

21 MS. SHERRIE BURKETT: Right.

22 MR. DAVID POOLE: Any other questions for the applicant?

23 MR. DON WILKERSON: During this 24/7 operation are you

24 going to have somebody on site at all times?

25 MS. SHERRIE BURKETT: Yeah. Me and my sister both live

1 *there.*

2 *MR. DON WILKERSON: You don't go on vacation.*

3 *MS. SHERRIE BURKETT: Not when you have ten dogs.*

4 *MR. DON WILKERSON: Thank you.*

5 *MR. LAWRENCE WHITSELL: You don't see the ten dog limit*  
6 *being a problem.*

7 *MS. SHERRIE BURKETT: No because I really don't want more*  
8 *than that. If I decide to expand later down the road then...*

9 *MR. DAVID POOLE: Then you just have to spend more money to*  
10 *come back and talk some more.*

11 *MR. DON WILKERSON: Ten dogs in addition to your own;*  
12 *right?*

13 *MS. SHERRIE BURKETT: Yeah. Mine don't count in that.*

14 *MR. DAVID POOLE: Okay. Any further questions for the*  
15 *applicant? Thank you very much. Any other public input in*  
16 *favor of this.*

17 *MR. H D BURR: My name is H D Burr. I live at 1455 Star*  
18 *Lane, which is about 150 feet north of her place and her*  
19 *operation there. I've been there about 2 years. I should tell*  
20 *you that about the last 36 years have been in law enforcement*  
21 *and private investigation in this area. When I moved here about*  
22 *2 years ago everything was pretty good. I've had a unique*  
23 *experience here with her as opposed to some of our neighbors.*  
24 *On the south side of us there is a person who has about 30 dogs*  
25 *or at least it sounds like it. On the north side of us, some*

1 *people moved in and they wanted a puppy mill for German*  
2 *shepherds. According to the Deputy that went down there, they*  
3 *had fourteen adult German Shepard's and two litters of pups.*  
4 *Their dogs came up to my place and chased my calves. We got*  
5 *into a shooting situation. The sheriff's been out there about*  
6 *four times. They took my horse down. We're still finishing up*  
7 *the horse. The horse got torn up pretty bad by these dogs.*

8 *So I have a unique experience to compare her operation to*  
9 *these other people. The first thing she did when she came in*  
10 *was to chain link fence that whole compound. She came in about*  
11 *midsummer. I have no complaints. She's done a wonderful job.*  
12 *Her patrons come and go.*

13 *MR. DAVID POOLE: Good neighbor.*

14 *MR. H D BURR: Very good neighbor and a very good*  
15 *operation.*

16 *MR. DAVID POOLE: Thank you. Further positive input for*  
17 *this special use permit. Is there any neutral input? Did you*  
18 *want to rebut?*

19 *MS. SHERRIE BURKETT: No.*

20 *MR. DAVID POOLE: Okay. Then I'll close the public hearing*  
21 *portion and bring it before the Board. Commissioners, you have*  
22 *some comments on this.*

23 *MR. WILL MAUPIN: I had some things I wanted to say that*  
24 *staff had recommended for conditions of approval. It says the*  
25 *permit is nontransferable to any other property. I guess that's*

□

1 fine but if a new owner came in, that would require a new  
2 special use permit. That's the only clarification I wanted to  
3 make.

4 MR. DAVID POOLE: I think that's pretty standard in a  
5 special use unless we make it otherwise. Any other comments,  
6 Commissioners?

7 MRS. DEBBIE ROUWENHORST: I have a question for staff. Are  
8 we not classifying this as a home business or are we classifying  
9 this as commercial because it's outside the actual residence?

10 MR. DAVID POOLE: Because it's a kennel.

11 MRS. DEBBIE ROUWENHORST: Okay. I was looking at the  
12 landscape ordinance with commercial versus a home based  
13 business. So how are you classifying this?

14 MR. BRAD HAWKINS-CLARK: I think we decided that since the  
15 principal use of the property is still residential, it's  
16 home-based.

17 MRS. DEBBIE ROUWENHORST: Okay. Then the landscape  
18 ordinance does not apply to the home-based business. Okay. I  
19 just wanted to double check. Thank you.

20 MR. DAVID POOLE: Does anybody want to bring this before  
21 the Board in the form of a motion?

22 MR. DON WILKERSON: I make a recommendation that we as a  
23 Commission approve special use permit 07-010 for Sherrie Burkett  
24 per the required findings on paragraph 7 of staff report,  
25 findings A through I, also include the seven specific site

□

*December 10th meeting*

1 *conditions for approval with no changes.*

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

3 *MRS. DEBBIE ROUWENHORST: I second.*

4 *MR. DAVID POOLE: Okay. Seconded by Commissioner*

5 *Rouwenhorst. Discussion on the motion. If not, all those in*

6 *favor signify by saying I. Opposed same sign. Motion carries.*

7

8 *(Motion carries unanimously.)*

9

10 *MR. DAVID POOLE: They'll notify you with the written. It*

11 *does come up for an annual review too. Thank you very much.*

12

13 *PUBLIC HEARING:*

14 *Item No. 5 - Rezone #RZ-07-018 - Margaret Williams*

15

16 *MR. DAVID POOLE: Next item on the agenda is a rezone from*

17 *Margaret Williams.*

18 *MRS. KANDI HALL: The property owners, Margaret and Robert*

19 *Williams, are requesting a rezone of their property located at*

20 *3414 Wills Road. They're requesting it to rezone from an A-2*

21 *rural agriculture, which is a 5 acre minimum lot size to an R-2*

22 *residential transitional with a 1 acre lot size. It is within*

23 *the Priority Growth Area 1 of the County Residential Impact Area*

24 *on the 2007 Gem County Future Land Use Map. Applicant is*

25 *requesting to rezone to facilitate a minor subdivision plat to*

□

*December 10th meeting*

1 *allow the existing parcel to be subdivided into four lots.*

2 *The site is approximately 4.7 acres. It's relatively flat,*  
3 *irrigated pasture land with a single family resident and out*  
4 *buildings.*

5 *This picture is from Wills Road looking south. We have one*  
6 *that's a view east of the house. This is the driveway south*  
7 *side of the house.*

8 *MR. ROBERT WILLIAMS: North side.*

9 *MRS. KANDI HALL: Sorry. North side. The parcel located*  
10 *to the north and across Wills Road was approved for a rezone*  
11 *from A-2 to R-2 on November 19th, 2007. That would be the*  
12 *Weston project.*

13 *The R-2 zone allows 1 acre parcels with a community or*  
14 *central well and individual septic systems. The portion of the*  
15 *subjects site to be rezoned is 4.7 acres. Therefore the*  
16 *property is large enough to be developed to the 1 acre minimum*  
17 *lot size. That's all I have.*

18 *MR. DAVID POOLE: Questions for staff. If not, we can get*  
19 *the applicant to step forward please. State your name and*  
20 *address in the microphone.*

21 *MR. ROBERT WILLIAMS: My name is Robert Williams. I live*  
22 *at 3414 Wills Road. With me I have my wife Margaret. I also*  
23 *have Ryan Harris with me who is going to help me develop it if*  
24 *you have any questions that need to be answered. My neighbor,*  
25 *Donald Wyatt, to the immediate south is not in opposition to the*

□

*December 10th meeting*

*1 proposal but is here to ask for something that might be added*

*2 onto the project.*

*3 MR. DAVID POOLE: You got any statement to make other than*

*4 what's been spoken or you need to add to it?*

*5 MR. ROBERT WILLIAMS: Okay. What we are proposing are*

*6 three 1 1/4 acre lots going from west to east. In the slide*

*7 that you had previous to this, the shot of the street, you can*

*8 see that you're looking at a retainer wall just past the mailbox*

*9 there. That's a driveway I put in. It was done with permits*

*10 when Bob Williams trucking was an active business. I believe*

*11 it's a 40 foot entrance and it has a culvert. We plan to move*

*12 that down to the south boundary of the property as a private*

*13 road to the back of the lots. So it would go west to east on*

*14 the south boundary of our property, providing access to the lots*

*15 going west to east back to back of the property. I'm not real*

*16 sure if we're going to have to have a cul-de-sac on that. I*

*17 believe the distance from the road back to the back property is*

*18 502 feet. That would terminate at the front of the back lot, on*

*19 the south west corner of the back lot. These would all be*

*20 single family dwellings.*

*21 MR. WILL MAUPIN: In sake of time for the hearing, this is*

*22 all good information but we're just going for the rezone.*

*23 MR. ROBERT WILLIAMS: It's my first time.*

*24 MR. WILL MAUPIN: I know.*

*25 MR. DAVID POOLE: Okay. As far as the rezone goes, what*

□

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*1 you're willing to do is break it up into three pieces is what*

*December 10th meeting*

2 *you're telling us.*

3 *MR. ROBERT WILLIAMS: Yes.*

4 *MR. DAVID POOLE: Okay. So the rezone is required to do*  
5 *that. So that's basically why we're here. Any questions for*  
6 *the applicant?*

7 *MR. DON WILKERSON: One of those three parcels would be*  
8 *your existing home, right?*

9 *MR. ROBERT WILLIAMS: Yeah. The remainder would be the*  
10 *front parcel.*

11 *MR. DON WILKERSON: And it's going to be retained.*

12 *MR. ROBERT WILLIAMS: Yes.*

13 *MR. DON WILKERSON: Okay. Thank you. So you're looking at*  
14 *two new lots.*

15 *MR. ROBERT WILLIAMS: Three.*

16 *MR. DAVID POOLE: So it's four pieces total.*

17 *MR. ROBERT WILLIAMS: Total is four pieces. We will retain*  
18 *the front parcel, which would be 1 acre.*

19 *MR. DAVID POOLE: So there will be three new lots.*

20 *MR. ROBERT WILLIAMS: Correct.*

21 *MR. DON WILKERSON: Well that will be determined when you*  
22 *come in to subdivide.*

23 *MR. DAVID POOLE: Understood but that's your plan, right?*

24 *MR. ROBERT WILLIAMS: Correct.*

25 *MR. DON WILKERSON: You're aware you're going to have to*

□

1 *give up some of the frontage for additional road right-of-way.*

*December 10th meeting*

2 **MR. ROBERT WILLIAMS:** *Yes. We were made aware of that.*

3 **MR. DAVID POOLE:** *Okay. Any other questions for*

4 *Mr. Williams? Is there any further public input in favor of the*

5 *rezone? Is there any public input neutral on the rezone?*

6 *Opposition. Looks like you don't need to rebut, at this point.*

7 *So we'll bring it from the public hearing to before the Board.*

8 *Commissioners, on this rezone RZ-07-018, comments? Don, you*

9 *want to start us off?*

10 **MR. DON WILKERSON:** *I have no opposition to this rezone and*

11 *no questions.*

12 **MR. DAVID POOLE:** *Okay. Commissioner Maupin?*

13 **MR. WILL MAUPIN:** *No comments.*

14 **MR. DAVID POOLE:** *Commissioner Rouwenhorst?*

15 **MRS. DEBBIE ROUWENHORST:** *No comments.*

16 **MR. LAWRENCE WHITSELL:** *I make a motion that we recommend*

17 *to Gem County Board of Commissioners acceptance of Rezone*

18 *RZ-07-018 as it's presented.*

19 **MR. DAVID POOLE:** *Do we need any findings of facts on this*

20 *or not?*

21 **MR. DAVID HARGRAVES:** *If you're just approving, then just*

22 *state you're accepting the staff analysis.*

23 **MR. LAWRENCE WHITSELL:** *By accepting staff analysis.*

24 **MR. DAVID POOLE:** *Is there a second to this motion?*

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

□

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1 **MR. DAVID POOLE:** *Discussion. Having heard none, all those*

2 *in favor of recommending the rezone to the board of County*

*December 10th meeting*

3 *Commissioners signify by saying I. Opposed same sign. Motion*  
4 *carries. Thank you very much.*

5

6 *(Motion carries unanimously.)*

7

8 ***PUBLIC HEARING:***

9 *Item No. 6 - Variance #VAR-07-006 - Donald Ovitt*

10

11 *MR. DAVID POOLE: Okay. Item 6 on our agenda is the*  
12 *Variance 07-006. You want to give us a lead in here?*

13 *MR. BRAD HAWKINS-CLARK: Commissioners, this application is*  
14 *for a variance for a reduced access easement to allow a 20 foot*  
15 *access easement instead of a 40 foot easement. I think a couple*  
16 *of you were on the Board when this came originally before you in*  
17 *April. This is the same access that is being proposed for a*  
18 *variance. The applicant has changed and the property owner has*  
19 *changed. The introductory paragraph in the staff report kind of*  
20 *gives you a little bit of background on that. In summary,*  
21 *Mr. Carlson, who had the original application that came before*  
22 *you, did request the same variance. After dealing with staff*  
23 *and obtaining some other property they decided to withdraw that*  
24 *application. So this is now a new application being filed.*

25 *To summarize for you again, this is Highway 52, Black*

□

65

1 *Canyon Highway. As you come down off of the bench area Honey*  
2 *Lane is located about in this area, which has an access directly*

*December 10th meeting*

*3 to Highway 52. Honey Lane then continues straight east. The  
4 property that Mr. Ovitt has is actually both of these parcels.  
5 They're shown on this map as two separate ones but he's in  
6 ownership of both and really this application is requesting one  
7 new single family building permit, which would be applicable to  
8 both. There is a shop already existing on the smaller one.  
9 There is no dwelling back here on this larger parcel.  
10 That's what is triggering this application is he would like to  
11 apply for a single family building permit.*

*12 They do have easements across three properties. This is  
13 the section line here. As you continue back to the west there  
14 is easements on the north side. That is 20 feet and a 21 and a  
15 half foot easement. There is no easement on the south. As you  
16 may recall from the last hearing, that was part of the issue.  
17 While there is a 20 foot, there is no physical room on the  
18 property to go any further to the north. It would have to go to  
19 the south. However, there are telephone poles and a ditch on  
20 the south side. So that has been identified as a potential  
21 barrier in terms of constructing and widening. We're just  
22 talking about a 40 foot easement, not a 40 foot wide road. The  
23 ordinance says that for a land-lock you have to have a 40 foot  
24 easement.*

*25 The reason for the withdraw was Mr. Carlson decided to*

□

66

*1 purchase this property here, which is flag parcel, which extends  
2 due north to Black Canyon Highway and there is a 40 foot  
3 easement on that parcel. He granted that easement at the time*

*December 10th meeting*

*4 of purchase to what is now the Ovitt parcel. So the Ovitt  
5 parcel does have a 40 foot easement to the Highway. It has to  
6 be a usable easement. That 40 foot is usable.*

*7 This is Honey Lane. This is looking to the south. This is  
8 that shop I mentioned on that small 1 acre. So if you come back  
9 towards the Highway, this access you can see off of Honey Lane.  
10 There is a gate or at least a clearing now that you can get from  
11 Honey Lane and start to go north. You can see it has been  
12 improved. There was a shop there that was removed so that they  
13 could continue on to the north.*

*14 What I don't have for you is the actual connection to the  
15 Black Canyon Highway and that is where the issue stands today.  
16 As you get up here to the actual Highway, there is not a  
17 driveway from the Highway, to the driveway, onto that flag.*

*18 The applicant did go to the Idaho Transportation Department  
19 to try and obtain an approach permit to get that driveway to  
20 connect to the Black Canyon Highway. That was denied. Part of  
21 the reason for the denial, if you read the ITD letter in the  
22 packet, there is a driveway already on this parcel here to the  
23 west, and there is a driveway on this parcel to the east. So  
24 this would have been the third driveway, which ITD did not want.  
25 The driveway today, that has been there for years, does go up*

□

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*1 this flag and then moves to the east on this adjacent parcel,  
2 identified as number 7. That parcel has granted an easement to  
3 this flag parcel to access the Highway. However, that easement*

*December 10th meeting*

*4 is not in place for the Ovitt parcel. So there has been some  
5 changes since last time. That's the main change since the last  
6 time you heard this application, is the attempt to acquire that  
7 and to get an access to 52 to the north side, which has been  
8 denied.*

*9 If you go east, it's the Payette River. So the only  
10 egress/ingress out of this parcel would require a bridge across  
11 the Payette. If you continued to the south and moved out to  
12 Black Canyon Highway this way, it's probably a half mile or more  
13 before you could get a reasonable access.*

*14 The other thing I wanted to point out is that the  
15 applicant's letter does state that we met. I did issue a letter  
16 after our meeting. That letter stated that based on what they  
17 presented to me, I felt this proposal to get that 40 foot  
18 easement on the north side would be adequate to get a single  
19 family building permit. That letter was written probably a  
20 little prematurely but I did write it.*

*21 I didn't realize that they did not have a full connection  
22 to Black Canyon Highway at the time. They did proceed on the  
23 basis of that letter. I do feel like I have some responsibility  
24 in that. That should be on the record. It was our  
25 understanding at that meeting that they would be able to proceed*

□

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*1 based on what we talked about. That would solve their problem  
2 but in fact it didn't. So here they are back to trying to  
3 attempt to get this 40 foot easement again.*

*4 The property today, as I pointed out at the beginning,*

*December 10th meeting*

5 *actually does have an ingress/egress easement to use Honey Lane.*

6 *That's for 20 feet. That's what they have the rights to or 20*

7 *and a half feet on another portion. So in point of fact, the*

8 *property has the ability to use Honey Lane. What they don't*

9 *have is a 40 foot recorded easement to grant the single family*

10 *permit.*

11 *So there's more history there in the staff report.*

12 *Basically, there's four required findings that you have to make.*

13 *Staff feels that three of the four findings are quite clear and*

14 *we feel that they meet those findings. The fourth finding has*

15 *probably less clarity and should probably be discussed here at*

16 *this meeting. That is finding B, which says a literal*

17 *interpretation of the provisions of this title would deprive the*

18 *applicant of rights commonly enjoyed by other properties in the*

19 *same zoning district.*

20 *Unless you've got questions of staff, I think that's all.*

21 *MR. DON WILKERSON: You're saying the easement to access*

22 *that flag lot from tax nine up there is written to where it's*

23 *only for that flag lot.*

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

25 *MR. DON WILKERSON: Has that property owner been approached*

□

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1 *to change the description of that easement?*

2 *MR. BRAD HAWKINS-CLARK: I believe they have but I'll leave*

3 *that up to the applicant.*

4 *MR. DON WILKERSON: Is that easement in the proper width of*

*December 10th meeting*

5 *40 feet in order to still get access from the flag lot to the*

6 *existing driveway?*

7 *MR. BRAD HAWKINS-CLARK: Are you saying is it 40 feet on*

8 *tax seven?*

9 *MR. DON WILKERSON: Right.*

10 *MR. BRAD HAWKINS-CLARK: I can check. I think we have the*

11 *deeds.*

12 *MR. DON WILKERSON: Is there a jog in the state*

13 *right-of-way right there? I see a jog up there at the top of*

14 *that flag lot. It doesn't line up with the Highway but that's*

15 *probably a rough drawing; isn't it?*

16 *MR. BRAD HAWKINS-CLARK: Yeah. I don't think there is.*

17 *MR. DON WILKERSON: Okay.*

18 *MR. BRAD HAWKINS-CLARK: The driveway here, which I think*

19 *is Johnson, they are fairly close. This driveway and the*

20 *driveway here on number 7. One option that was looked at was*

21 *could they widen the driveway that's already there to extend*

22 *onto the flag. So then you're not actually creating three*

23 *driveways. It's still two but one of them is wider. I think*

24 *I'll ask them.*

25 *I wasn't at the on-site meeting with ITD. I just saw their*

□

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1 *letter from the Committee, which denied it. It's their*

2 *jurisdiction. They have to make those calls. That seemed like*

3 *a workable solution. I'm not sure that it was all terribly*

4 *clear by ITD in terms of what was actually being requested.*

5 *MR. DON WILKERSON: I noticed your letter stating that you*

*December 10th meeting*

6 *thought the building permit would be approved is addressed to*  
7 *Mr. Carlson, not this applicant. Does that have any bearing on*  
8 *it?*

9 *MR. BRAD HAWKINS-CLARK: I don't believe so. It's the same*  
10 *realtors throughout the process.*

11 *MR. DAVID POOLE: Okay. Other questions for staff? The*  
12 *applicant or spokesperson can step forward.*

13 *MS. TEENA TURNER: Teena Turner, Evans Realty. I live at*  
14 *501 North Star Road, Idaho. I'm hear as a spokesperson for*  
15 *Mr. Ovitt. I've been familiar with this transaction. We have*  
16 *the agents that were involved in the transaction here. I'm*  
17 *going to give you a little pre Mr. Carlson/Mr. Ovitt*  
18 *information so we can clarify some things.*

19 *Mr. Carlson owned this property since 1988. He had 25*  
20 *approximate acres. Back in 1988, he had letter from P&Z that*  
21 *said he would be able to get a building permit. At that time,*  
22 *the ordinance stated it could be 20 foot. The ordinance changed*  
23 *in 1995 to 40 foot and that's where part of our dilemma is. He*  
24 *did go in and apply for a building permit in 1988 but he didn't*  
25 *do anything with it. He just put a well and septic on it.*

□

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1 *So what we have is Honey Lane. There are five different*  
2 *properties that share access on Honey Lane. Four of them have*  
3 *residences on here. This one is our fifth parcel. There's no*  
4 *residence. That's what we're looking for.*

5 *It has gone through a title insurance claim. We found out*

*December 10th meeting*

6 *there was no legal easement. There were three different*  
7 *property owners that were actually paid settlement to get us*  
8 *legal easement. So Mr. Carlson did own 20 foot legal access.*  
9 *He has been using it for shop access and legal acces. He's had*  
10 *a well and septic. Now he just wanted a building permit before*  
11 *Mr. Ovitt purchased, with the 20 foot.*  
12 *We've had some public hearings. During the process of a*  
13 *couple public hearings there were a couple canceled. There were*  
14 *a couple scheduled. Mr. Carlson actually did some negotiations*  
15 *with the adjoining property owner to the south. There was*  
16 *proposal made by the property owner to the south of \$60,000 and*  
17 *that all improvements be made by Mr. Carlson. He felt it was*  
18 *unreasonable. He went back, prior to another public hearing,*  
19 *and made an offer of \$25,000 cash, which is the same settlement*  
20 *from the property to the north that was given within the last*  
21 *year. We understand that there was nothing being determined.*  
22 *Mr. Carlson's attorney called the property owners to see at that*  
23 *point we put every thing on hold to find out how that property*  
24 *owner was responding on the next period, which was your next*  
25 *public hearing. At that point, we put everything on hold to*

□

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1 *find out what that property owner choose to do, whether he*  
2 *wanted to stay at the \$60,000 or whether he wanted to negotiate*  
3 *the \$20,000. At that time, the flag lot, Mr. Simms property*  
4 *came on the market. Then there were discussions that maybe that*  
5 *would help resolve the problem.*

6 *In your public hearing there was a lot of discussion that*

*December 10th meeting*

7 *they didn't want the road used. They wanted their privacy and*  
8 *seclusion. So we went forward and met with Planning and Zoning,*  
9 *the Simms, Mr. Carlson. There was a lot of meetings.*

10 *I wish we actually had the picture that came off of Highway*  
11 *52. That was a well improved 20 foot strip all the way down*  
12 *except for the connection on Highway 52.*

13 *We have a letter from Planning and Zoning stating they*  
14 *would provide legal access. It would allow us a 40 foot*  
15 *easement that would allow us access to get a building permit*  
16 *even though they were probably were still going to use their 20*  
17 *foot legal access on Honey Lane because that's what they've*  
18 *always used. So we went under that approach.*

19 *We had a list of all the conditions that were given to us*  
20 *on a letter dated May 22nd. It talked about the minimum 40 foot*  
21 *recorded access, the gravel driveway, the driveway to run*  
22 *between the fences. Mr. Carlson bought that property with a*  
23 *letter that stated these are the things we need to do. We did*  
24 *all of them.*

25 *We removed a \$25,000 shop off the Simms property so it*

□

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1 *wouldn't be in our easement. We paid over \$6,000 to put*  
2 *culverts and roads in with a letter that said we'd get a*  
3 *building permit. We did all of those things.*

4 *We closed on the transaction with a confirmation from*  
5 *Planning and Zoning that we could get a building permit based on*  
6 *that 40 foot. Within a very short time after closing, another*

*December 10th meeting*

*7 neighbor to the north of our 40 foot easement stated he didn't  
8 want his driveway used. He decided that even though we had 49  
9 foot access onto Highway 52 from the property we just purchased  
10 for \$215,000, that the property owner that owned the actual  
11 road, did not want it shared past one property owner. So we are  
12 back here again.*

*13 We went back to the Idaho Department of Transportation.  
14 They came back with one of our letters and said if you would  
15 consolidate the road here and take our strip and we ask that it  
16 be consolidated into a 40 foot road; 20 foot on one side and 20  
17 foot on the other side. They said that wouldn't be allowed. So  
18 we thought we'd do two 20's right next to each other. Then we  
19 got another visit back in July. We had a site visit on October  
20 25th. We actually brought the Idaho Department of  
21 Transportation and said what else can we do. They wanted the  
22 road to come in as it was, split off as a leg over to the  
23 property owner that owns the land that owns the road now, split  
24 off to our piece, and then they wanted the property to the  
25 south, which is a piece we've never discussed, which is T-1, to*

□

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*1 be incorporated in our new flag lot. So they actually wanted  
2 not only T-1, the Johnson piece, the Simms piece, the access  
3 that goes over to the Ovitt piece, and the Radford property all  
4 on one easement. Well that wasn't feasible because we had a 49  
5 strip and we couldn't even get over to the Johnson piece to make  
6 a flag lot there.*

*7 We relied on a letter. We relied on confirmations. We*

*December 10th meeting*

8 *would never had sold this piece of property. We would have*  
9 *never closed this piece of property. We would have kept the*  
10 *negotiations open with the Marston's if in fact we didn't have a*  
11 *letter confirming had a building permit if we did what we were*  
12 *told to do.*

13 *MR. DON WILKERSON: In the letter you got from the*  
14 *Department of Transportation on October 25th of '07, did your*  
15 *applicant apply for a variance through the Idaho Department of*  
16 *Transportation?*

17 *MS. TEENA TURNER: No we didn't. We started here. We*  
18 *didn't. We came back here.*

19 *MR. DON WILKERSON: In your business, are you aware that*  
20 *you probably have to go through the Idaho Transportation*  
21 *Department because it's probably a controlled access road to get*  
22 *approval for access?*

23 *MS. TEENA TURNER: Actually, because we were working off of*  
24 *the same permit, the same process and confirmation from Planning*  
25 *and Zoning that we were using the same access. We were not*

□

75

1 *adding an access.*

2 *MR. DON WILKERSON: But my thought's due diligence to*  
3 *verify that you can get access even before Mr. Carlson bought*  
4 *there flag lot.*

5 *MS. TEENA TURNER: We had a letter prior to closing.*

6 *MR. DON WILKERSON: How come the applicant never went back*  
7 *for a variance with the Idaho Department of Transportation?*

*December 10th meeting*

8 *MS. TEENA TURNER: Because we came back here. One of the*  
9 *reasons is because that was one of our choices. We could go to*  
10 *Idaho Transportation Department and try to go back in and rework*  
11 *it but we had to worry about the other piece, that T-1, that*  
12 *they wanted thrown back in. They asked us for a variance. We*  
13 *did a site visit and they added more conditions. They added*  
14 *another parcel to be added to come down and split. The parties*  
15 *didn't feel it was feasible over being able to start now going*  
16 *back to other property owners. We haven't been able to get*  
17 *anything through the existing property owners. We came back to*  
18 *the original start of where we were.*

19 *MR. DON WILKERSON: Would a variance maybe have changed*  
20 *their mind and gave you direct access to Highway 52 or do you*  
21 *know?*

22 *MS. TEENA TURNER: Would the variance have given us direct*  
23 *access? No. My understanding is that the meeting that was held*  
24 *was that we could get not get two 20 foot accesses. We've got*  
25 *the property. We could not get two 20 foot accesses together.*

□

76

1 *It would be too wide. That's my understanding.*

2 *MR. DON WILKERSON: Thank you.*

3 *MR. DAVID POOLE: Questions?*

4 *MR. LAWRENCE WHITSELL: Teena, had you contacted Johnson's?*

5 *Is that a stumbling block?*

6 *MS. TEENA TURNER: We can talk with the agents on that. I*

7 *don't know if there was any discussion because the Simms*

8 *property comes through there. The actual road that sits on the*

*December 10th meeting*

9 Highway is --

10 MR. LAWRENCE WHITSELL: *That little sliver is owned by*  
11 *Radford.*

12 MS. TEENA TURNER: *The sliver is owned by Radford and then*  
13 *there is a 49 foot strip.*

14 MR. LAWRENCE WHITSELL: *Between the Johnson's and the*  
15 *easement there is a sliver of property owned by Radford between*  
16 *the 40 foot easement and Johnson's property.*

17 MS. TEENA TURNER: *There's 49 foot and that's Simms*  
18 *property. That's the piece that was purchased.*

19 MR. LAWRENCE WHITSELL: *I see that, but there's a little*  
20 *sliver here. I'm a little confused. The State is requiring*  
21 *that you consolidate some driveways. Why don't you consolidate*  
22 *with the Johnson's?*

23 MS. TEENA TURNER: *They wanted all three of them*  
24 *consolidated into one with one leg. They wanted one road to*  
25 *come in and then to have new roads built at least 20 foot down*

□

77

1 *and carry over to each one of the parcels. It was just more*  
2 *cost.*

3 *We kind of relied on a letter here that put us in a*  
4 *position. The assumption part is we get confirmation on these*  
5 *things and we tried to fix it and apparently it didn't get*  
6 *fixed.*

7 MR. DAVID POOLE: *Any further questions for Teena?*  
8 *Anything more that you wanted to add here, Teena?*

*December 10th meeting*

9 *MS. TEENA TURNER: No.*

10 *MR. DAVID POOLE: Okay. Thank you. Further public input*  
11 *in favor of this application for a variance. Public input in*  
12 *opposition of this application for a variance.*

13 *MS. PAULA FISCHER: My name is Paula Fischer. I live at*  
14 *2900 Honey Lane. Our main concern is Honey Lane goes through*  
15 *our property. Like Teena said, we enjoy our seclusion and*  
16 *privacy. We like to keep it as little of traffic as possible on*  
17 *the road. I feel like since they had the 40 foot easement*  
18 *deded to them, they probably didn't need the variance.*

19 *Another possibility to explore would be through 013. That*  
20 *property owner has, I believe, a 60 foot easement onto Highway*  
21 *52. I don't know if that has been explored. That is our main*  
22 *concern. I don't believe any other negotiations have been*  
23 *reinstated with Marston's.*

24 *MR. DON WILKERSON: You just said Marston's. Is that the*  
25 *people to the south of Honey Lane?*

□

78

1 *MS. PAULA FISCHER: Yes.*

2 *MR. DAVID POOLE: Further public input in opposition.*

3 *MRS. MELISSA MCBEEMARSTON: My name is Melissa*  
4 *McBeeMarston. We own 2601 East Black Canyon. We reside on the*  
5 *opposite side of the property all along Honey Lane. Just to*  
6 *clarify something that Teena stated, in negotiations with*  
7 *Carlson, we actually didn't drop any ball when that came about.*  
8 *They actually dropped the ball because of buying Simms property.*  
9 *We did request more time to consult a lawyer, two real estate*

*December 10th meeting*

10 *agents, an appraiser that only deals with easements, and the*  
11 *Real Estate Commission.*

12 *We are opposing this. It's nothing personal but we do not*  
13 *feel that Honey Lane is adequate. We, as home builders, also*  
14 *follow the Planning and Zoning rules. We also dealt with ITD.*  
15 *We came in to the same situation. We worked through it with*  
16 *them. We built our own driveway to their standards.*

17 *While they have a 20 foot easment on Honey Lane and in*  
18 *places 21, the actual road surface is not 20 foot in some*  
19 *places. There is a concern for safety. We have talked with*  
20 *numerous people dealing with easements. This happens everyday.*  
21 *From what I understand, this isn't anything unusual. We're*  
22 *empathetic towards them but every home owner in that surrounding*  
23 *area knew when Carlson bought Simms residence, Simms himself,*  
24 *the seller, also knew that entrance to Black Canyon Highway was*  
25 *for a single family dwelling. I think that's it.*

□

79

1 *MR. DON WILKERSON: Are you the people that's building a*  
2 *new home out there?*

3 *MRS. MELISSA MCBEEMARSTON: Yes we are.*

4 *MR. DON WILKERSON: Have you had any problems getting your*  
5 *driveway from the State Department of Transportation.*

6 *MRS. MELISSA MCBEEMARSTON: Yeah there was. We had to go*  
7 *before a Board. They had to make special circumstances for us.*  
8 *It took either two or three months but we were able to acquire*  
9 *it because we went by what they told us to do.*

*December 10th meeting*

10 **MR. DON WILKERSON:** *But there were certain specifications*

11 *you had to follow.*

12 **MRS. MELISSA MCBEEMARSTON:** *Yeah. Definitely.*

13 **MR. DAVID POOLE:** *Thank you. Further input in opposition*

14 *of this variance.*

15 **MR. FRANK MCBEE:** *My name is Frank McBee and I'm at 2569*

16 *East Black Canyon Highway. Maybe I can clarify that 40 foot*

17 *easement. All three of those driveways come together and ITD*

18 *wanted them to put all three of them together and they would*

19 *give them a permit.*

20 *Otherwise, I don't think Honey Lane should have anymore*

21 *traffic on it at the moment. We've got a problem with*

22 *irrigation water up there and it even seeps during the summer.*

23 *This summer I wouldn't put a truck on it. I don't approve of*

24 *your variance.*

25 **MR. DAVID POOLE:** *Any questions?*

□

80

1 **MR. DON WILKERSON:** *Where do you have the knowledge that*

2 *they could put all three driveways together?*

3 **MR. FRANK MCBEE:** *ITD.*

4 **MR. DON WILKERSON:** *Did you actually speak with them.*

5 **MR. FRANK MCBEE:** *I was talking to the guy when we were*

6 *trying to get ours in.*

7 **MR. DON WILKERSON:** *How long ago has this been?*

8 **MR. FRANK MCBEE:** *I don't know.*

9 **MR. DON WILKERSON:** *Several years.*

10 **MR. FRANK MCBEE:** *No. It was after they bought Simms out.*

*December 10th meeting*

11 *They don't have 40 foot to the Highway. They never did.*

12 *MR. DAVID POOLE: Thank you. Further public input in*  
13 *opposition. Okay. Would you like to rebut?*

14 *MS. TEENA TURNER: For clarification it wasn't the*  
15 *Marston's that stopped the negotiations. Carlson did that*  
16 *because the Simms property had come on the market.*

17 *Our property does show, on the Simms piece, 49 foot. Then*  
18 *the other road is on the other side. So we do a 49 foot of*  
19 *access that we would have loved to just extended enough to have*  
20 *the road. That's why we had the site visit. It wasn't so much*  
21 *being able to consolidate those two, but then to consolidate the*  
22 *Johnson's too, and trying to bring them all around in that*  
23 *different avenue. August 30th was when we sent the first letter*  
24 *over to ITD. It said consolidate it and make it into legs with*  
25 *the four homes, sites no closer than 20 foot from the Highway.*

□

81

1 *So we would have had to come down and make new roads all the way*  
2 *across to get back over. Then on the site visit, when they came*  
3 *over, they stated that one of our options would be it would be*  
4 *acceptable to ITD that an additional access to Highway 52 be*  
5 *granted if we decided to go through a variance in Gem County.*  
6 *So they gave us our two options of either trying to go back in*  
7 *and renegotiate with three different property owners, a brand*  
8 *new cost of the road, or allowing us the access off of the*  
9 *Highway to go back onto Honey Lane, which is what our legal*  
10 *access is. It's what this property has always used. It's just*

*December 10th meeting*

11 *stopping us from a building permit. This property owner's still*

12 *using this road. He's still using the shop Mr. Carlson did.*

13 *All it's doing is stopping a house. It's not stopping any of*

14 *the legal access. Thank you.*

15 *MR. DAVID HARGRAVES: On the letter you're referring to*

16 *that Brad wrote, is that dated May 22nd? Is that the letter*

17 *you're referring to?*

18 *MS. TEENA TURNER: Yes. Then there is an e-mail on file*

19 *that is addressed from Brad to Jennifer that addressed the*

20 *specific conditions that needed to make sure it was in the file*

21 *when we went in to get the building permit.*

22 *MR. DAVID HARGRAVES: We don't have that e-mail, do we?*

23 *MS. TEENA TURNER: I don't know. I do. It's dated May*

24 *22nd. It's from Jennifer to Patty, references Carlson building*

25 *permit. Then it went from Brad to Dena, CC to Jennifer, Dena*

□

82

1 *please make a note, either hard copy or electronic, for any*

2 *future building permit on the William/Carlson parcel that the*

3 *attached letter was issued. We will allow the following for*

4 *access from Black Canyon Highway to the Carlson property. A*

5 *minimum 40 foot wide recorded easement through the Simms*

6 *property, gravel driveway extending from Black Canyon Highway*

7 *south all the way to the Carlson parcel that runs along the west*

8 *boundary. The driveway may be allowed to run between the fence*

9 *on the west property line and the existing shop but only if we*

10 *have proof, copy of escrow agreement, that the shop will be*

11 *relocated outside of the 40 foot easement. The existing fence*

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*December 10th meeting*

12 *along the north side of the lane and along the Simms boundary*  
13 *must either be removed or have a gate installed to allow*  
14 *access.' We went so far as when the 40 foot road was extended*  
15 *Brad asked for pictures. When the shop was removed Brad asked*  
16 *for pictures. All those things were given to him and reassured*  
17 *that it met all conditions.*

18 **MR. DAVID HARGRAVES:** *In the letter there's two conditions*  
19 *that the 40 foot wide easement cross the parcel. You met that*  
20 *condition right? You got the 40 foot easement.*

21 **MS. TEENA TURNER:** *Yes.*

22 **MR. DAVID HARGRAVES:** *Then the second condition in the*  
23 *letter was to improve the existing driveway that connects to*  
24 *east Black Canyon. Has that condition been met?*

25 **MS. TEENA TURNER:** *That I'm not sure. That's where the*

□

83

1 *problem is right here. We have pictures that Patty and Eddie*  
2 *met with Brad and also met with one of the other attorneys and*  
3 *they had showed that everybody understood that he had access of*  
4 *49 foot over and that there was a property of the Radford's we*  
5 *would be able to use. There was a statement made at that*  
6 *meeting, "all we're looking for is a paper easement, he'll use*  
7 *this legal easement on Honey Lane."*

8 **MR. DAVID HARGRAVES:** *Where was that statement made?*

9 **MS. TEENA TURNER:** *In one of the meetings. It was done*  
10 *when the letter was drafted.*

11 **MR. DAVID POOLE:** *Any further questions for the applicant?*

*December 10th meeting*

12 **MR. LAWRENCE WHITSELL:** *You're really going to access off*  
13 *of Honey Lane then.*

14 **MS. TEENA TURNER:** *We definitely were accessing off of*  
15 *Honey Lane because it's been the legal access through but we*  
16 *wanted to make the improvements that Brad requested us to do for*  
17 *the other easement for the building permit.*

18 **MR. LAWRENCE WHITSELL:** *And the application for that was*  
19 *denied because the State wants you to combine three into two --*

20 **MS. TEENA TURNER:** *Three into one.*

21 **MR. LAWRENCE WHITSELL:** *And what is the reason behind that?*  
22 *Did they give you an explanation as to why you want to decrease*  
23 *driveways?*

24 **MR. MATT HEATH:** *They didn't want to --*

25 **MR. LAWRENCE WHITSELL:** *I can understand them not wanting*

□

84

1 *to increase driveways but why do they want you to decrease them?*

2 **MR. MATT HEATH:** *Matt Heath, 332 South Forman Lake Way in*  
3 *Star. When we met with ITD, the Johnson's driveway is here and*  
4 *then here's the Radford driveway and what they wanted to do,*  
5 *when we got our letters back, they just wanted one main 40 foot*  
6 *driveway with legs coming down to the Radford property, one*  
7 *going to the Simms, and one going to the Johnson's. It was more*  
8 *of a safety issue that the Idaho Transportation Department was*  
9 *worried about.*

10 **MR. DAVID POOLE:** *Any other questions, Commissioners?*

11 **MR. DON WILKERSON:** *Where it says in the letter, Brad, to*  
12 *improve the existing driveway that connects to Black Canyon,*

*December 10th meeting*

13 *that was probably the driveway on T-9, which is Johnson's.*

14 *MS. TEENA TURNER: No. T-7; right?*

15 *MR. DAVID HARGRAVES: 007.*

16 *MR. DON WILKERSON: Did you look at that easement to see if*  
17 *there was a restriction for the Simms property?*

18 *MR. MATT HEATH: I was not at that meeting.*

19 *MR. DON WILKERSON: I don't know what information you*  
20 *provided to Planning and Zoning but it says based on the*  
21 *information you provided to me today, it appears that the*  
22 *proposal satisfies the requirement and a building permit "could"*  
23 *be issued. Not would but could be issued. So I think there's a*  
24 *little leeway there. I just wanted to mention that.*

25 *MR. DAVID POOLE: Any further questions? Thank you very*

□

85

1 *much.*

2 *MS. TEENA TURNER: Maybe we could ask the Planning and*  
3 *Zoning Administrator what happened at some of these meetings.*

4 *You're asking us to start defending a letter that 'could' or*  
5 *'would'. He was aware that we were closing on this transaction.*

6 *That letter should have allowed us to close on that piece of*  
7 *property based on that and the conditions that he gave us.*

8 *That's what we get continuously, transaction after transaction.*

9 *Not to walk in and get one before closing but have a letter in*  
10 *writing warranting that we could get a building permit based on*  
11 *those conditions. We trust that information.*

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

*December 10th meeting*

13 *hearing portion of this variance and bring it before the*

14 *Commission. Commissioners, comments?*

15 *MR. WILL MAUPIN: This is a tough situation. I looked at*

16 *the staffs recommendations and I read what staff has done here*

17 *in their finding B in particular, a literal interpretation I*

18 *think does deny rights to this property and in light of what the*

19 *land owner has done, whether they were successful or not, I*

20 *think they went to great lengths to try and solve this*

21 *situation. It's my opinion that if we don't solve it here, it*

22 *probably won't be solved. If I had to make a recommendation, I*

23 *would approve the variance on this situation.*

24 *MRS. DEBBIE ROUWENHORST: It is a tough situation. We*

25 *require a zoning ordinance of 40 foot wide ingress/egress. A*

□

86

1 *concern that because in the new Comprehensive Plan it is in the*

2 *growth area of plan number 3, which is potential of 5 acre*

3 *splits. So in the future, we're looking at four more houses*

4 *that could possibly use Honey Lane. Yes, if we don't settle*

5 *this here, it's going to come back in front of us again. The*

6 *property owner has done a lot of work but we still have to deal*

7 *with the 40 foot ingress/egress and that's where I look at there*

8 *has to be a different alternative.*

9 *MR. WILL MAUPIN: They're asking for one building permit.*

10 *They're not asking for a subdivision.*

11 *MRS. DEBBIE ROUWENHORST: Right, but looking in the future,*

12 *because it has changed out of an A-1 agricultural area, we have*

13 *this potential. Therefore, we have to look at the fact that we*

*December 10th meeting*

14 *are going to have this issue again if that property were to be*  
15 *split.*

16 *MR. WILL MAUPIN: But I think that's not a fair assessment*  
17 *because you can't determine what the future use of that property*  
18 *is going to be or what the home owner is going to do. Right*  
19 *now, they're talking about a single piece of property.*

20 *MR. DAVID HARGRAVES: I want to make sure you have all the*  
21 *tools available to you. One of the tools available to you is to*  
22 *place conditions on the variance. You could insure that this*  
23 *variance was only authorized for one building permit and that*  
24 *may help alleviate some of the concerns.*

25 *MR. LAWRENCE WHITSELL: Wouldn't that imply though because*

□

87

1 *the next people that apply for a building permit would have to*  
2 *satisfy that 40 foot easement even though this one didn't?*

3 *MR. DAVID HARGRAVES: I think that's right, but we'll do a*  
4 *little belt and suspenders work here.*

5 *MR. LAWRENCE WHITSELL: Under the circumstances, I think*  
6 *that once you write a letter, and I'm not going to get real nit*  
7 *picky about this, it had implied that you had given them the go*  
8 *ahead. Maybe they should have contacted Idaho Department of*  
9 *Transportation but once you get that letter, it seems like*  
10 *things are looking good. I think as County, as staff, and as a*  
11 *Commission we sort of obligated ourselves, to a certain degree.*  
12 *I would be inclined to give a variance based on that. I think*  
13 *that technically it should be denied, but we have done some*

*December 10th meeting*

14 *things here that have been misleading. Not intentionally of*  
15 *course. I understand that Brad had the best intentions. He*  
16 *didn't know to ask all kinds of questions about what was going*  
17 *on for sure and they assumed and next thing you know we're in a*  
18 *mess.*

19 *MR. DON WILKERSON: We've had several of this before us*  
20 *before. Even where we had landlocked parcels of ground and they*  
21 *had been denied. I feel the same that Debbie does. We do have*  
22 *the ordinance. It's 40 foot. We need to stick with it. It's*  
23 *going to come down to us, maybe not in our time on this*  
24 *Commission, that this property will probably be split up. It's*  
25 *in a 5 acre zone. Sure we can put a condition on it. I*

□

88

1 *understand that but if we grant it and there's nothing that says*  
2 *the owner, because it is in a 5 acre zone, after he builds his*  
3 *house, he can split it up and build more.*

4 *I feel that with the two conditions that were placed in the*  
5 *letter from Brad, I don't know if that second condition was*  
6 *really met. I feel for the applicant. I feel for Brad and what*  
7 *he's appeared to have done in probably his desire to make it*  
8 *right but I still think we should follow the ordinance.*

9 *MR. DAVID POOLE: Okay. Does anybody want to put this in*  
10 *the form of a motion?*

11 *MR. WILL MAUPIN: I make a motion that we approve the*  
12 *variance under the required findings of staff and their analysis*  
13 *and my interpretation of item B in that analysis, that a literal*  
14 *interpretation of the analysis would deprive them of their land*

*December 10th meeting*

15 *use and easements. I just believe they went out of their way to*  
16 *try to solve this problem for us. So I make a motion that we*  
17 *approve.*

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

19 *MR. LAWRENCE WHITSELL: I second it.*

20 *MR. DAVID POOLE: Any further discussion on this motion?*

21 *MR. LAWRENCE WHITSELL: I feel that there's special*  
22 *conditions in this variance that I don't think would be carried*  
23 *over into any other application for a variance. So I don't*  
24 *think we're really setting precedence. I think this is very*  
25 *unique.*

□

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1 *MR. WILL MAUPIN: I'd like to add for one building permit*  
2 *only. For any other building permits they would have to get a*  
3 *building permit for those.*

4 *MR. LAWRENCE WHITSELL: I second that.*

5 *MR. DAVID POOLE: All right. Further discussion. All*  
6 *those in favor signify by saying I.*

7

8 *(Commissioner Maupin and Commissioner Whitsell voted in*  
9 *favor of the motion.)*

10

11 *MR. DAVID POOLE: Opposed same sign.*

12

13 *(Commissioner Rouwenhorst and Commissioner Wilkerson voted*  
14 *against the motion.)*

*December 10th meeting*

15

16 *MR. DAVID POOLE: So that puts me in the position to vote.*

17 *I'm going to vote for the motion. So the motion carries for the*

18 *variance.*

19

20 *(Motion carried with 3 in favor votes and 2 against.)*

21

22 **REGULAR MEETING:**

23 *Item No. 1 - Items from the Public*

24

25 *MR. DAVID POOLE: On to our regular meeting. We have items*

□

90

1 *from the public before we lose them all. Thanks for coming*

2 *folks. We need the public input.*

3

4 **REGULAR MEETING:**

5 *Item No. 2 - Items from the Planning Director/Administrator*

6

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

8 *Director/Administrator.*

9 *MR. BRAD HAWKINS-CLARK: Commissioners, I don't really have*

10 *anything other than to say I would definitely not write such a*

11 *letter again.*

12 *MR. LAWRENCE WHITSELL: We'd appreciate that.*

13 *MRS. DEBBIE ROUWENHORST: That was not easy.*

14 *MR. DAVID POOLE: I think something about experience gives*

15 *a person an awful lot of hindsight.*

*December 10th meeting*

16 **MR. BRAD HAWKINS-CLARK:** *Yeah. We meet with a lot of*  
17 *people and --*

18 **MR. DAVID POOLE:** *That's the opportunity for many recks.*

19 **MR. BRAD HAWKINS-CLARK:** *I thought your analysis and*  
20 *conversation on that item was very good. I know it was tough*  
21 *and I apologize for putting you in a situation where you have to*  
22 *make those kind of calls.*

23 *We have four interviews this week for a code enforcement*  
24 *officer. So hopefully next meeting we will be able to say who*  
25 *that is and they'll be around for a while.*

□

91

1

2 **REGULAR MEETING:**

3 *Item No. 3 - Items from the Deputy District Attorney*

4

5 **MR. DAVID POOLE:** *Items from the Deputy District Attorney.*

6 **MR. DAVID HARGRAVES:** *I have nothing.*

7 **MR. DAVID POOLE:** *Nothing at all?*

8 **MR. DAVID HARGRAVES:** *There was good discussion going on.*

9

10 **REGULAR MEETING:**

11 *Item No. 4 - Items from the Planning and Zoning Commission*

12

13 **MR. DAVID POOLE:** *Okay. Any items from us here?*

14 **MR. DON WILKERSON:** *At one of our previous meetings I*  
15 *talked about mitigation fees to help support the schools. At*

*December 10th meeting*

16 *that time, Brad gave me a copy of development agreements for*  
17 *mitigation for public schools that were developed by Boise*  
18 *County and it was suggested that I take it to the County*  
19 *Commissioners. It really starts pretty well with the School*  
20 *Districts. It's an agreement between the School District and*  
21 *the developer. So I did talk to Maria Salazar, the School Board*  
22 *Chairman. So they're going to try to look at it.*

23 *MR. DAVID POOLE: Brad, what's our agenda looking like next*  
24 *month?*

25 *MR. BRAD HAWKINS-CLARK: Well, you've got a couple*

92

1 *continued items from tonight. I think the biggest item on the*  
2 *agenda for January is a standard subdivision. Bryce Walker has*  
3 *applied for Phase 2 of Linda Vista.*

4 *MR. DAVID POOLE: I really think that we do need to figure*  
5 *out a way to address this impact. The bond I think is just*  
6 *opening another can of worms. David, do you feel that we can*  
7 *come up with some kind of verbage on an agreement with these*  
8 *people that would work out if we had a cast an annual cost to*  
9 *divide out?*

10 *MR. DAVID HARGRAVES: It would take some work to come up*  
11 *with. You've got to have good data, good numbers.*

12 *MR. DAVID POOLE: We want to make sure that we can leave*  
13 *this open for adjustment annually.*

14 *MR. DAVID HARGRAVES: Yeah.*

15 *MR. WILL MAUPIN: We really have to have a schedule of*  
16 *values. I wouldn't post a bond without a schedule of values.*

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17 *That's just where we're at I think.*

18 *MR. DAVID HARGRAVES: The tricky part is when does default*  
19 *happen to where the County get's access to the money? How do we*  
20 *come up with the verbage of when do you trigger it so we can get*  
21 *the money if necessary?*

22 *MR. LAWRENCE WHITSELL: Would we want to consider bringing*  
23 *in another party to help determine these values other than the*  
24 *County Road Department?*

25 *MR. DAVID HARGRAVES: I don't know who else does that.*

□

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1 *MR. LAWRENCE WHITSELL: Do we have anybody we could source?*

2 *MR. DAVID POOLE: We've already had one come in and do some*  
3 *sourcing for us. I think it's kind of taking some of those*  
4 *numbers and extrapolating something we think is going to work.*

5 *MR. LAWRENCE WHITSELL: But I was thinking more specific to*  
6 *this particular situation.*

7 *MR. DAVID HARGRAVES: I think, ideally, if you can get the*  
8 *County and the applicant to sit down together and come up with a*  
9 *number that everybody thinks is good, but usually you get one*  
10 *number over here and one number over here and you've got to come*  
11 *to the middle. If you can't do that, then you have to get all*  
12 *the information on the record and you guys have to decide. It*  
13 *has to be reasonable. It has to be based on good information.*

14 *MRS. DEBBIE ROUWENHORST: In the minutes that I read from*  
15 *the last meeting, both Mike and Bret were very congenial and*  
16 *most-generous in wanting to help, but how far does that go?*

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17 **MR. DAVID HARGRAVES:** *But help is two different things when*  
18 *you're talking about the checkbook versus getting your equipment*  
19 *out there and doing it. That's something we'd have to look*  
20 *into. Do we want other people working on our roads?*

21 **MR. WILL MAUPIN:** *One persons definition of help only goes*  
22 *so far. You need to define scope of work.*

23 **MRS. DEBBIE ROUWENHORST:** *It my understanding that in order*  
24 *to do any kind of State or County work they have to have a*  
25 *license.*

□

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1 **MR. DAVID HARGRAVES:** *Yeah. That opens up a lot of other*  
2 *issues. I'd be interested to know what our insurance carrier*  
3 *says about that.*

4 **MRS. DEBBIE ROUWENHORST:** *Public works license is what*  
5 *they'd have to have.*

6 **MR. LAWRENCE WHITSELL:** *One of the things that I think we*  
7 *shouldn't lose sight of is that the County bears some of the*  
8 *cost of this of course. We can't push it all off on these*  
9 *people that want to develop these gravel pits. We have to*  
10 *assume some of that responsibility to the County level because*  
11 *it's benefiting the County.*

12 **MR. DAVID HARGRAVES:** *Another good point that was raised*  
13 *tonight was the registration fees. I don't know what they go*  
14 *towards but they're pretty hefty registration fees.*

15 **MR. DAVID POOLE:** *They pay dearly but at the same time the*  
16 *taxpayer shouldn't have to pay for all the up keep on that road*  
17 *because you have more trucks on it. So it's back to what is the*

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18 *fair amount.*

19 *MRS. DEBBIE ROUWENHORST: Fair market value.*

20 *MR. DON WILKERSON: From your discussion, are you thinking*  
21 *a that \$100,000 was to high or to low?*

22 *MR. DAVID POOLE: I'm thinking the whole bond idea was*  
23 *really a failure. I think the dollar amount for what they're*  
24 *talking about, for what extra maintenance is going to be, I*  
25 *think that's high. I think they need to boil that down to a*

□

95

1 *trip cost because if there's a failure in the industry and he*  
2 *only moves 10% of that gravel, why should he be penalized for*  
3 *the whole load?*

4 *MR. WILL MAUPIN: Something else we didn't consider yet is*  
5 *he said he'd be willing to supply materials.*

6 *MR. DAVID POOLE: And again, that needs to come up to a*  
7 *certain specification.*

8 *MR. DON WILKERSON: Well can he even supply materials to*  
9 *the County without the Board of County Commissioners approving*  
10 *it? I'm sure he's not going to give it to the County.*

11 *MR. DAVID POOLE: I suggest that he could do it in lieu.*  
12 *As we already heard, they're not hauling it as far. So as a*  
13 *result, it's saving the County money.*

14 *MR. DON WILKERSON: I think the real hard thing about it is*  
15 *whether it's \$100,000 or \$25,000, you throw it in the pot and*  
16 *how much can the County draw out of that pot and still justify?*

17 *MR. DAVID POOLE: If they're going to have some added*

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18 *maintenance, you pull it from that pot.*

19 *MR. DON WILKERSON: That opens the door for argument*  
20 *between the County and the applicant.*

21 *MR. DAVID POOLE: If they use it all or it comes up short*  
22 *next year, we'll just say we've got to do more.*

23 *MR. DAVID HARGRAVES: I think you could build something*  
24 *like that into the conditions. In one year you're going to come*  
25 *back before the Board and we're going to evaluate.*

□

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1 *MR. WILL MAUPIN: The County should have some record of*  
2 *equipment time utilized and materials placed on that road for*  
3 *the last few years.*

4 *MR. DAVID POOLE: Those were the numbers I was trying to*  
5 *get at.*

6

7 *REGULAR MEETING:*

8 *Item No. 5 - Adjourn*

9

10 *MR. DAVID POOLE: Okay. Well what about the last item on*  
11 *the agenda?*

12 *MRS. DEBBIE ROUWENHORST: To adjourn.*

13 *MR. DAVID POOLE: Right. Been moved and seconded by Debbie*  
14 *and passes unanimously.*

15

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