

January meeting 08

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2 GEM COUNTY PLANNING AND ZONING PUBLIC HEARING

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6 Date: January 14, 2008

7 Time: 7:03pm - 9:48pm

8 Place: Gem County Courthouse

9

10 MEMBERS PRESENT:

11 David Poole, Will Maupin, and Lawrence Whitsell.

12

13 MEMBERS ABSENT WITH PRIOR NOTICE:

14 Debbie Rouwenhorst and Don Wilkerson.

15

16 OTHERS PRESENT:

17 Brad Hawkins-Clark - Planning Director/Administrator, Kandi

18 Hall - Planner 1, and David Hargraves - Deputy Prosecuting

19 Attorney.

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

25 Transcription done by Amanda Shaw.

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ITEMS REFERENCE PAGE

CONSENT AGENDA:

Item No. 1 - Minor Subdivision Review:

- A. (Continued) Plaza View Minor Subdivision**
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- B. Garcia #2 Minor Subdivision**Page 5
- C. Sunset Estates Minor Subdivision**Page 5
- D. Star Lane Estates Minor Subdivision**Page 5
- E. The Bluff Minor Subdivision**Page 5

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PUBLIC HEARING:

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Item No. 1 (Continued) Darnell Lane Estates Minor

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Subdivision - DLE LLCPage 20

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

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King 2070 Mining, LLCPage 26

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

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Item No. 4 Variance #VAR-07-005 - Bryce Walker

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Item No. 2 Items from the Planning Director/Administrator:

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A. Will and Jerry Show, Saturday, February 2

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Item No. 5 AdjournPage 74

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PROCEEDINGS

3

City of Emmett, Gem County, January 14, 2008

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5 *Consent Agenda:*

6 *Item No. 1A - (Continued) Plaza View Minor Subdivision*

7 *Item No. 1B - Garcia #2 Minor Subdivision*

8 *Item No. 1C - Sunset Estates Minor Subdivision*

9 *Item No. 1D - Star Lane Estates Minor Subdivision*

10 *Item No. 1E - The Bluff Minor Subdivision*

11

12 *MR. DAVID POOLE: The first items on the agenda are the*
13 *minor subdivision review. Commissioners, would you like to pull*
14 *any of these off the consent agenda for review? If not, the*
15 *Chair would entertain a motion for the consent agenda.*

16 *MR. LAWRENCE WHITSELL: I move that we move from the*
17 *consent agenda all the minor subdivisions: Garcia #2, Sunset*
18 *Estates, Star Lane Estates, and The Bluff.*

19 *MR. DAVID POOLE: So B, C, D, and E you want to remove.*

20 *MR. LAWRENCE WHITSELL: Yes.*

21 *MR. WILL MAUPIN: I'll second that.*

22 *MR. DAVID POOLE: And we don't need a vote because it's*
23 *been moved and seconded. We have a majority vote. So we'll*
24 *remove B, C, D, and E from the consent to the regular agenda.*

25 *So Item A, Plaza View Subdivision is continued. Do we want to*

□

1 make a disposition on that, Commissioners?

2 MR. LAWRENCE WHITSELL: I'm not clear as to why it's not in
3 the public hearing portion because it was continued just like
4 Darnell Estates.

5 MR. BRAD HAWKINS-CLARK: You moved it last time to items
6 moved from consent agenda. We probably should have just left it
7 there.

8 MR. DAVID POOLE: So, in other words, all of the items are
9 moved down from the consent agenda. Okay.

10

11 Consent Agenda:

12 Item No. 2 - Approval of the Minutes of December 10, 2007

13

14 MR. DAVID POOLE: The next item on the agenda is the
15 approval of the minutes. Is there any admissions or corrections
16 to the minutes of the December 10th meeting. If not, would
17 someone like to make a motion to approve the minutes as
18 submitted.

19 MR. WILL MAUPIN: I make a motion to approve the minutes as
20 submitted.

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

22 MR. DAVID POOLE: All those in favor of the motion signify
23 by saying I. Motion carries.

24

25 (Motion carries unanimously.)

□

2 *Items Moved from the Consent Agenda:*

3 *Item No. 1A - (Continued) Plaza View Minor Subdivision*

4

5 *MR. DAVID POOLE: So we'll move on to the continued Plaza*
6 *View Minor Subdivision. The reason we continued that was --*
7 *refresh my memory please.*

8 *MR. WILL MAUPIN: According to the minutes, we were*
9 *continuing because of the 25 foot buffer zone on Plaza.*

10 *MR. DAVID POOLE: Has it been resubmitted at 25 feet? I*
11 *guess, at this point, the applicant can step forward and make*
12 *comments.*

13 *MR. LAWRENCE WHITSELL: Excuse me, Mr. Chairman. It was*
14 *also continued because of an issue with the Irrigation District*
15 *but there has been a letter submitted and that's been satisfied;*
16 *is that correct?*

17 *MR. BRAD HAWKINS-CLARK: I think we should still have it on*
18 *the record.*

19 *MR. DAVID POOLE: Okay. The applicant can come up and*
20 *state his name and address.*

21 *MR. MATHEW JOHNSTON: My name is Mathew Johnston and I live*
22 *at 13164 North Town Ridge in Boise.*

23 *MR. DAVID POOLE: Has there been a change made to the --*

24 *MR. MATHEW JOHNSTON: Yeah, 25 feet isn't a problem.*

25 *MR. DAVID POOLE: Okay. So that's going to be changed. As*

□

1 *far as the Emmett Irrigation District, have you complied with*

2 *their requests?*

3 *MR. MATHEW JOHNSTON: Yeah. I have spoken with them*
4 *numerous times. A while back, we gave them a plan that they*
5 *said would be fine.*

6 *MR. DAVID POOLE: So it's been accepted by them.*

7 *MR. MATHEW JOHNSTON: I believe so. Each lot has water*
8 *right in front of it and he had said that would be the best*
9 *thing to do would be for each person to have their own*
10 *individual pump rather than doing any kind of a common pump.*

11 *MR. DAVID POOLE: So, do we have a letter to that effect?*

12 *MR. WILL MAUPIN: We have one right here. We have a letter*
13 *from November 8th from the Irrigation District. It says Mr.*
14 *Johnston has discussed the possibility for lot 1, to place a*
15 *pump in the open ditch. If there's a buffer, perhaps a berm,*
16 *how would the water be available? What kind of pipe or*
17 *structure will actually guarantee the delivery?*

18 *MR. MATHEW JOHNSTON: I don't think we're going to do a*
19 *berm of any kind. I think there's an option to pay into a fund*
20 *and not do that. It is a rural country area. It would make no*
21 *sense to do a Boise style berm development when we only have*
22 *three country lots. I don't think we had determined whether we*
23 *were going to go ahead and do the required landscaping or find*
24 *out what it would cost to do the mitigation or whatever you call*
25 *it.*

□

1 *We'll probably go ahead and put the trees in because I*
2 *think it's a benefit to us to do that rather than paying money*

3 for nothing.

4 MR. WILL MAUPIN: So have you seen this letter from the
5 Irrigation District? It's something you're going to have to
6 comply with anyway.

7 MR. MATHEW JOHNSTON: I don't have a problem with that.
8 I've talked with them several times and I'll work with them on
9 whatever they require.

10 MR. WILL MAUPIN: They're also going to request that
11 there's a formation of a Water User Association.

12 MR. MATHEW JOHNSTON: That's fine.

13 MR. DAVID POOLE: So it would be acceptable to you if we
14 recommended this to the County Commissioners to be passed with
15 those stipulations?

16 MR. MATHEW JOHNSTON: Yes.

17 MR. WILL MAUPIN: My next question has to do with finding
18 of fact by staff. Since you are a common community well, I'd
19 like to see that we put in that there is a Well User's
20 Agreement.

21 MR. MATHEW JOHNSTON: Yeah. I understood that to be a
22 requirement.

23 MR. DAVID POOLE: Any further questions for the applicant?

24 MR. WILL MAUPIN: I have one. The 25 foot buffer, if that
25 was to be a common lot, would that significantly impact lot 2?

□

10

1 MR. MATHEW JOHNSTON: I think it would. I met with the
2 engineer after I got the responses last time. I think that

3 would make it less than the 1 acre that is required. It would
4 be real close.

5 MR. WILL MAUPIN: The Ordinance calls for a common lot.

6 MR. MATHEW JOHNSTON: I wasn't aware of that. I'm sorry.

7 MR. WILL MAUPIN: It's in the Ordinance under Chapter 11
8 6-6B in the definitions. I think we're going a little far for 3
9 lots, but it is in the ordinance. So I, personally, kind of
10 backed off from that on this particular case.

11 MR. DAVID POOLE: I read the same Ordinance. You have to
12 follow the law, I would assume; right, David? If it's in the
13 Ordinance, we have to comply.

14 MR. DAVID HARGRAVES: Yeah. I think you should. What did
15 staff recommend on that?

16 MR. DAVID POOLE: The 25 feet, but as far as the common
17 lot, it is in the Ordinance.

18 MR. BRAD HAWKINS-CLARK: It is in the Ordinance and as
19 Commissioner Will Maupin stated, there's also a later section of
20 the Ordinance that says certain waivers can be granted under one
21 of five conditions. We found that one of those could be met.
22 So I think you could make a waiver.

23 MR. DAVID POOLE: Any further questions for Mr. Johnston?
24 Thank you very much. Is there public input on these items in
25 favor? Opposed. I assume you don't want to rebut, right?

□

11

1 MR. MATHEW JOHNSTON: Probably not.

2 MR. DAVID POOLE: I will close the public portion of this
3 and we will move on to try to make a determination. Gentlemen,

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4 *do one of you want to put this in the form of a motion?*

5 *MR. WILL MAUPIN: I'll make a motion that we pass on to the*
6 *Board of County Commissioners for approval on findings of fact*
7 *and he's in compliance with the agencies that responded.*

8 *MR. LAWRENCE WHITSELL: I'll second that.*

9 *MR. DAVID POOLE: All those in favor signify by saying I.*
10 *Opposed same sign. Motion carries.*

11

12 *(Motion carries unanimously.)*

13

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

15

16 *Items Moved from Consent Agenda:*

17 *Item No. 1B - Garcia #2 Minor Subdivision*

18

19 *MR. DAVID POOLE: Garcia #2 Minor Subdivision. Since this*
20 *is a minor, does the applicant want to step forward?*

21 *MS. CARRIE CRISP: I'm Carrie Crisp. I represent the*
22 *applicants.*

23 *MR. DAVID POOLE: Your address for the record.*

24 *MS. CARRIE CRISP: 2221 Bishop Road.*

25 *MR. DAVID POOLE: Gentlemen, do you have any questions for*

□

12

1 *Ms. Crisp?*

2 *MR. WILL MAUPIN: The only question I had was a little*
3 *clarification or do we have documentation about the garage being*

4 *inside of an easement?*

5 *MS. CARRIE CREST: That's already been clarified to the*
6 *satisfaction of the Planning and Zoning Department. The*
7 *surveyor went back out and took the measurements and it was*
8 *prepared to make that adjustment but I was told that we needed*
9 *to make no adjustments to the survey maps prior to meeting with*
10 *you. It's been measured and it's within the setback*
11 *qualifications that are needed.*

12 *MR. WILL MAUPIN: For the utilities? So Idaho Power,*
13 *Quest, and Intermountain Gas don't need it.*

14 *MS. CARRIE CREST: No. On the north and the south of those*
15 *lots they do not. The front runs along Lower Bluff directly and*
16 *all the lots are on Lower Bluff. There's no depth to the*
17 *subdivision.*

18 *MR. WILL MAUPIN: Usually there's a requirement for*
19 *interior lot easements.*

20 *MR. DAVID POOLE: What it boils down to is there's a*
21 *setback that covers most of that. The setback is 8 feet.*
22 *Therefore, you got 16 foot area for these utilities to be*
23 *installed.*

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

25 *MR. DAVID POOLE: Any other questions? I guess not.*

□

1 *MS. CARRIE CRISP: Thank you.*

2 *MR. DAVID POOLE: Any comment from the public on the Garcia*
3 *Minor Subdivision? If not, we'll close the public hearing*
4 *portion and make a determination on this one.*

January meeting 08

5 *MR. LAWRENCE WHITSELL: I make a motion that we make a*
6 *recommend to the Gem County Board of Commissioners approval of*
7 *this as amended or as conditions apply from staff. If they're*
8 *all met, then I think it should be a go.*

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

10 *MR. DAVID POOLE: All those in favor signify by saying I.*
11 *Opposed same sign. Motion carries.*

12

13 *(Motion carries unanimously.)*

14

15 *Items Moved from the Consent Agenda:*

16 *Item No. 1C - Sunset Estates Minor Subdivision*

17

18 *MR. DAVID POOLE: Sunset Estates Minor Subdivision.*

19 *Applicant on that one, will you step forward please?*

20 *MR. BRAD HAWKINS-CLARK: While she's coming up, Mr.*

21 *Chairman, we didn't notice any of these minors as hearings. So*

22 *it is more just for your communication with the applicant.*

23 *MR. DAVID POOLE: So we don't have to go through the whole*

24 *public hearing?*

25 *MR. BRAD HAWKINS-CLARK: Nope.*

□

14

1 *MR. DAVID POOLE: Okay.*

2 *MS. MARY LEVITT: I'm Mary Levitt at 300 Haw Creek*

3 *Boulevard.*

4 *MR. DAVID POOLE: Questions, Commissioners?*

5 MR. LAWRENCE WHITSELL: Are you planning on doing the

6 landscape buffer or --

7 MS. MARY LEVITT: Yes.

8 MR. LAWRENCE WHITSELL: -- are you going to opt out and pay

9 the fee.

10 MS. MARY LEVITT: Yes.

11 MR. LAWRENCE WHITSELL: You're going to do the buffering.

12 MS. MARY LEVITT: On the north side.

13 MR. LAWRENCE WHITSELL: And you are going to form a Home

14 Owners Association.

15 MS. MARY LEVITT: Yes we are.

16 MR. LAWRENCE WHITSELL: And you're going to do the proper

17 setbacks on the bluff because of the steepness on that. You're

18 going to come back 25 feet from the rim.

19 MS. MARY LEVITT: Yes and also Haw Creek.

20 MR. LAWRENCE WHITSELL: Because of the flooding.

21 MS. MARY LEVITT: Yes.

22 MR. WILL MAUPIN: I'm looking for a letter here, you're

23 probably aware of it, about the formation of the Water User's

24 Association and your irrigation delivery.

25 MS. MARY LEVITT: Yes. That will be in the Subdivision

□

15

1 Clause.

2 MR. WILL MAUPIN: I vote that we send this for approval to

3 the Board under the findings of fact from staff and the request

4 and response of the agencies.

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

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

7 Opposed same sign. Motion carries.

8

9 (Motion carries unanimously.)

10

11 Items Moved from Consent Agenda:

12 Item No. 1D - Star Lane Estates Minor Subdivision

13

14 MR. DAVID POOLE: Star Lane Estates Minor Subdivision.

15 Does the applicant want to step forward, please?

16 MR. DOUG POEDY: My name's Doug Poedy, 2405 Star Lane in

17 Emmett.

18 MR. DAVID POOLE: Commissioners, do you have any questions?

19 MR. LAWRENCE WHITSELL: On lot 1, if you take out all the

20 easements and everything do you still maintain a 5 acre minimum?

21 MR. DOUG POEDY: Yes.

22 MR. LAWRENCE WHITSELL: What's on your south boundary?

23 What's across the boundary?

24 MR. DOUG POEDY: That's where we're putting a road to the

25 back lot. There there's one small house that looks like it's on

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16

1 about a half acre lot and then there's about a 60 acre lot

2 that's vacant. I do have one small drainage ditch that runs

3 along my side of the property. It's on my property. It's going

4 to be right next to the road going back to lot 3.

5 MR. LAWRENCE WHITSELL: And lots 1 and 3 will share the

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6 *cul-de-sac driveway.*

7 *MR. DOUG POEDY: Lots 1 and 2 will share the driveway.*

8 *MR. LAWRENCE WHITSELL: And then lot 3 will come off Star*

9 *Lane.*

10 *MR. DOUG POEDY: Yeah. They've already got their own*

11 *driveway.*

12 *MR. WILL MAUPIN: I don't have any questions on this one.*

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

14 *to the Gem County Board of Commissioners that we approve this*

15 *application with all the stipulations from staff.*

16 *MR. WILL MAUPIN: I'll second that motion.*

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

18 *Opposed same sign. Motion carries.*

19

20 *(Motion carries unanimously.)*

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2 *Items Moved from Consent Agenda:*

3 *Item No. 1E - The Bluff Minor Subdivision*

4

5 *MR. DAVID POOLE: The Bluff Minor Subdivision.*

6 *MR. MATHEW JOHNSTON: Mathew Johnston. I live at 13164*

January meeting 08

7 *North Town Ridge in Boise.*

8 *MR. DAVID POOLE: Commissioners, do you have questions for*
9 *Mr. Johnston?*

10 *MR. LAWRENCE WHITSELL: Mr. Johnston, I understand that*
11 *there is some discrepancy about where the irrigation sits, who*
12 *owns it, and whose responsibility it is.*

13 *MR. MATHEW JOHNSTON: On the corner, right at the stop*
14 *sign, there is an irrigation box. I don't believe that has the*
15 *water that comes to our property.*

16 *MR. LAWRENCE WHITSELL: Do you know where it goes?*

17 *MR. MATHEW JOHNSTON: Not really. It goes across the*
18 *street somehow.*

19 *MR. LAWRENCE WHITSELL: Do you know where your water comes*
20 *from?*

21 *MR. MATHEW JOHNSTON: Yes. It comes from across Idaho. It*
22 *flows through our property and goes out on Lower Bluff.*

23 *MR. LAWRENCE WHITSELL: I believe that in your*
24 *correspondence you stated that you didn't really want to move*
25 *the fences or did I misunderstand you?*

□

18

1 *MR. MATHEW JOHNSTON: There is one section of fence along*
2 *Idaho that has been used and it's almost temporary in nature. I*
3 *could pull it out at any time. Is it necessary to move that now*
4 *or when they widen the street? To move it would be a pain in*
5 *the neck but to pull it out permanently wouldn't be a big deal.*

6 *MR. LAWRENCE WHITSELL: We're required to ask that of you*

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7 *you. This is Ordinance.*

8 *MR. MATHEW JOHNSTON: It's not a big deal.*

9 *MR. LAWRENCE WHITSELL: And you've got a delivery system in*
10 *place that has been approved.*

11 *MR. MATHEW JOHNSTON: We just put a pump in on the new lot.*
12 *There is a house there already that's fully functional and*
13 *livable.*

14 *MR. LAWRENCE WHITSELL: You already have another well on*
15 *one of those lots. So in that 5 acre corner there's two wells*
16 *right there.*

17 *MR. MATHEW JOHNSTON: No. There's one.*

18 *MR. LAWRENCE WHITSELL: Oh, it's the well that goes with*
19 *the current residence.*

20 *MR. MATHEW JOHNSTON: Correct. There is a residence there*
21 *now and it has a well that's fully functional. So we would do*
22 *one new well for the new house.*

23 *MR. LAWRENCE WHITSELL: I was looking at your list of*
24 *proposed materials and labor and everything. I need some input*
25 *from staff on this. Is that going to satisfy what we require?*

□

19

1 *MR. MATHEW JOHNSTON: I've done a lot of landscaping on my*
2 *own property. I'd do a lot of that myself. I did my own house*
3 *this summer.*

4 *MR. LAWRENCE WHITSELL: So you feel this is a fairly*
5 *realistic number?*

6 *MR. MATHEW JOHNSTON: In fact, I called and verified that.*

7 *MR. WILL MAUPIN: I have a question for Brad. If they take*

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8 *that option, isn't it the assessor that sets that value for the*
9 *improvements of the landscape buffer?*

10 *MR. BRAD HAWKINS-CLARK: If they take the option to not do*
11 *landscaping and just contribute to the fund, you're right.*

12 *MR. MATHEW JOHNSTON: I'll probably do a little better than*
13 *what the minimum is.*

14 *MR. LAWRENCE WHITSELL: But it's compliance.*

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

16 *MR. DAVID POOLE: Any more questions? Thank you.*

17 *MR. LAWRENCE WHITSELL: I make a motion that we recommend*
18 *to the Board of County Commissioners approval of this*
19 *application with all staff recommendations.*

20 *MR. WILL MAUPIN: I'll second that.*

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

23

24 *(Motion carries unanimously.)*

25

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1

2 *Public Hearing:*

3 *Item No. 1 - (Continued) Darnell Lane Estates Minor Subdivision*

4 *DLE LLC*

5

6 *MR. DAVID POOLE: Next item is the Darnell Lane Estates*
7 *Minor Subdivision. Have you got anything to add to this before*

8 we bring the applicant up?

9 MR. BRAD HAWKINS-CLARK: I really don't have anything to
10 add besides the 2 page memo in response to the applicants
11 attorney, Martin Hendrickson, who had written a couple of
12 letters. We gave those to you. I submitted that 2 page memo in
13 response. I think that everything is there from my standpoint.

14 MR. DAVID POOLE: So we're continuing this hearing in
15 regards to --

16 MR. BRAD HAWKINS-CLARK: Those 5 items that are listed in
17 that January 8th memo. There's finding 3, finding 5, finding
18 6B, finding 6D-1, and finding 6D-2. Those were the reason that
19 it was continued.

20 MR. LAWRENCE WHITSELL: I've got a question for staff.
21 Dave, on the one about the substandard intersection that we
22 discussed in great detail, there seems to be some issue on
23 whether we can legally require them to address that issue. It's
24 a mile away from the subdivision. There's some questions about
25 this as to whether it can even be included as a requirement or a

□

1 condition.

2 MR. DAVID HARGRAVES: What you can require is mitigation of
3 the impacts of the subdivision. What are the impacts of this 3
4 or 4 lot subdivision going to be on that intersection? So you
5 have to rely on what's in the record and you can't require
6 mitigation that exceeds the actual impact. You just have to
7 evaluate the information you have in the record, decide what the
8 impact is and whether this subdivision justifies upgrading that

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9 intersection and if that expense should be born by the

10 subdivider. The answer is probably not.

11 MR. DAVID POOLE: Any further questions for staff before we

12 proceed? Okay. Darnell Lane Estates Minor Subdivision.

13 MR. MARTIN HENDRICKSON: Martin Hendrickson, representative
14 of the applicant, 601 West Bannock in Boise.

15 MR. DAVID POOLE: You got any comments on these 5 items?

16 MR. MARTIN HENDRICKSON: I'll just briefly go through them.

17 I believe the applicant has made as much progress as he can with

18 regard to each one of these issues. With regard to the ditch

19 company, he's completed as much as the construction as he can

20 given the weather. All indications are is the ditch company is

21 satisfied with that work and simply awaiting completion of the

22 remaining construction.

23 MR. LAWRENCE WHITSELL: Then what you're saying is that

24 they're willing to comply with the six concerns that they had.

25 MR. MARTIN HENDRICKSON: I believe that the applicant

□

22

1 already has complied with nearly all of those.

2 MR. LAWRENCE WHITSELL: -- that he can because of the

3 weather constraints. He will take care of all those issues.

4 MR. MARTIN HENDRICKSON: That's accurate. Yes.

5 With regard to issue number 2, concerning the impact on the

6 intersection, I think the original conclusion from staff is that

7 the 4 lot minor subdivision did not merit any additional

8 mitigation other than the cost recovery fee of \$1800 per lot.

9 *We agree with staff on that point.*

10 *With regards to issue number 3, which is Frontier*

11 *Communications, the applicant has had additional conversations*

12 *with Frontier and has been assured that there are facilities in*

13 *the area and that the telephone company is willing to install*

14 *whatever additional facilities are necessary up to the edge of*

15 *the minor subdivision.*

16 *MR. DAVID POOLE: Do we have a letter to that effect?*

17 *MR. MARTIN HENDRICKSON: We have not been able to obtain a*

18 *letter.*

19 *MR. KYLE STRATTON: They won't give me a letter but I was*

20 *corresponding with brad.*

21 *MR. DAVID POOLE: For us to forward on, it's one of those*

22 *situations where we need to understand that it's going be*

23 *complied with.*

24 *MR. MARTIN HENDRICKSON: I believe in my letter there is a*

25 *commitment to comply with that.*

□

23

1 *MR. BRAD HAWKINS-CLARK: I did try to get a hold of*

2 *Frontier myself and I was only able to leave two voicemails.*

3 *This is a smaller provider. My initial concern has always been,*

4 *in dealing with smaller providers, making sure we're not setting*

5 *up the developer or any future lot owner for failure because*

6 *it's cost so much money to upgrade the phone lines that it's not*

7 *going to happen.*

8 *MR. DAVID POOLE: In the Ola area, it's actually happened.*

9 *So it's a real fear. That's why it would be nice to have some*

10 type of a comment from Frontier.

11 MR. WILL MAUPIN: We have a June 27th letter but it's not
12 convincing at all.

13 MR. MARTIN HENDRICKSON: What the applicant's been informed
14 is that there are sufficient facilities in the area and that all
15 the developer is going to be responsible to install are the
16 facilities within the subdivision itself, which should not be
17 cost prohibitive.

18 Moving on to issue number 4, which is the easement for a
19 future road to the south boundary. We had understood that the
20 applicable portion of the Gem County Code would require a 40
21 foot wide easement. Subsequently, staff has clarified that in
22 their view, a 60 foot wide easement is necessary to provide for
23 potential development of that southern property. The applicant
24 does not have any objection to amending the plat to include a 60
25 foot wide easement.

□

24

1 MR. WILL MAUPIN: I think you were referring to a Zoning
2 Ordinance where this would fall under a Subdivision. That's
3 where the difference comes in.

4 MR. MARTIN HENDRICKSON: The final issue is the Fire
5 Department. The applicant has spoken with a representative of
6 the Fire Department. His understanding is they do not have any
7 objection to the granting of the exception. The reason that we
8 have not been able to obtain a commitment from them is that they
9 have not finalized their standards as to cul-de-sacs. As soon

10 as they clarify what standard they're going to adopt, then the

11 applicant is willing to comply with that.

12 MR. DAVID POOLE: So the length of the road is fine. What

13 we're talking about here is the width and the cul-de-sac is the

14 only problem; right?

15 MR. MARTIN HENDRICKSON: The problem is actually the length

16 of the road. The length is above what is specified in the code

17 and therefore requires a request for an exception. We've

18 requested the exception. The standards that we have seen from

19 the Fire Department indicate that the road far exceeds their

20 width requirement. I believe their width was 16.

21 MR. KYLE STRATTON: Kyle Stratton, 808 East South Slope

22 Road. I spoke to Jim Hikes, which is the new Fire Chief up

23 there, and he indicated that District 1 and District 2 are

24 trying to finalize guidelines. So they weren't willing to give

25 me a letter indicating what the requirement would be. My

□

25

1 agreement with him was I would comply with whatever that

2 requirement is.

3 MR. DAVID POOLE: So if we ask to pass this minor

4 subdivision as long as you comply with the Gem County Fire

5 Department, you have no problem; right?

6 MR. KYLE STRATTON: Something less than 5 acres. I hate to

7 go clear out on a limb but yes, I would.

8 MR. DAVID POOLE: Any other questions, gentlemen? Has this

9 answered all your concerns? Okay. Thank you very much.

10 Any other input from the public? Obviously no rebut.

11 *We'll close the public portion of this hearing and bring it*
12 *before the Board.*

13 *MR. WILL MAUPIN: I'd like to make a motion that we ask for*
14 *approval from the Board of Commissioners with the findings of*
15 *fact that staff has provided and that we make sure and get*
16 *written input from the two agencies, one is the phone and the*
17 *other is the Fire Department, fire specifically, when they*
18 *determine what their new standards are, that the developer will*
19 *comply with that.*

20 *MR. LAWRENCE WHITSELL: I second it.*

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

23

24 *(Motion carries unanimously.)*

25

□

26

1

2 *Public Hearing:*

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

4 *King 2070 Mining, LLC*

5

6 *MR. DAVID POOLE: Now we're on SUP-07-007 King Mining, LLC.*

7 *The applicant can step forward. I think the public hearing*

8 *portion of this is just in regards to what we're doing as far as*

9 *the road goes. You received the letter, I assume, from Keller.*

10 *MR. BRET GARRIGAN: I received it at 1 o'clock today.*

11 MR. DAVID POOLE: All right. Any comments on that letter?

12 MR. BRET GARRIGAN: I believe the letter is inaccurate.

13 When we first started this, we had the comment from Kim that a

14 truck caused 60,000 times more damage --

15 MR. DAVID POOLE: 6,000, I think, is the number he used.

16 MR. BRET GARRIGAN: I heard 60,000. Today we find out that

17 it's 6 times or 18 times the difference. I don't have the

18 letter right here in front of me. What I feel we're doing here

19 is that we have some good intentions and we want to make sure --

20 MR. DAVID POOLE: It's actually 8 times in the letter but

21 that's okay.

22 MR. BRET GARRIGAN: We're putting the cart before the

23 horse. The attempt to get a feeling for how we're going to help

24 development pay for itself is a good intention but we're getting

25 the cart before the horse. We don't have the resources. They

□

27

1 talk about some limited maintenance cost information. You can't

2 run your business on those types of terms. The real problem

3 with this is, other than the basis of it, is that they're going

4 on the assumption that that's from day 1. That's not the

5 incremental cost. That's from me paying from day 1, zero cost.

6 MR. DAVID POOLE: So you've talked to Keller and Associates

7 on this.

8 MR. BRET GARRIGAN: I briefly talked with him and he

9 indicated that he was in agreement that the logic in these

10 numbers are questionable. It's not talking about marginal

11 impact to the roads. It's talking about impact to the roads

12 from day 1. I'm already paying taxes. I pay my fuel taxes and
13 my registration.

14 MR. DAVID POOLE: My discussion with Paul, because he
15 called me about this, is that this is the additional impact.

16 MR. BRET GARRIGAN: I don't think this represents that.
17 This is a big type of decision. To get staff approval that says
18 here's their determination of what the requirements are in Gem
19 County, when we came in on the day we put \$300 down to expand
20 our operation to become a gravel pit, it didn't show any of this
21 type of added cost to go forward. It wasn't part of the Capital
22 Improvement Program. It was made very clear to me by these
23 folks that they just simply have this checklist and no where on
24 this checklist did it say anything about me coming up with a
25 bond for \$100,000 or \$67,000. I pay my taxes. I want to

□

28

1 compete just like everybody else competes.

2 I'm interested in going back and asking you to give me the
3 approval that staff brought forward that very first night we
4 came. That was what I believe was the most accurate legislative
5 process to do with us.

6 This willy-nilly planning process is driving me crazy. Ask
7 the attorney or the staff to create a brand new ordinance.
8 Think it through. Take it to the Attorney General and say is
9 this legal, because my folks at J&B Engineering tell me they've
10 seen the same thing in Boise County and what they're trying to
11 do is not accurate. They used a lot of colorful language but I

12 won't use it here.

13 So what I am asking you to do is give me the approval that
14 staff originally came through here with and then go back and
15 work with us. Work with the other people in the County and
16 draft up a correct ordinance based on process. Don't come in
17 here and simply say I think we ought to do something better
18 about road cost on new Special Use Permit's and throw us, throw
19 Kim Reed and me into a tailspin with \$67,000. I can't afford
20 it. I won't be able to afford it.

21 I also just simply want to go on the record stating this
22 looks like an illegal impact fee. I say illegal because the
23 County seems to be proposing an impact fee on my use without
24 first having followed the statutory process for the adoption of
25 such fees. It appears to me that the imposition of this fee is

□

29

1 subject to attack for violating the requirements of equal
2 protection and that it imposes a fee on one type of user but not
3 on all similarly situated users. In other words, how does the
4 County justify charging the fees for trucks carrying rocks and
5 gravel but not carrying those industrial and agricultural
6 products or supplies of any other cargo. I think this should be
7 pointed out as problems to the County.

8 MR. DAVID POOLE: So you're suggesting that even though
9 it's agriculturally zoned property, that that's already
10 calculated in there. You're asking for a special use on this
11 property. So we're making an exception to the agricultural side
12 of that. So therefore you feel that your neighbors are not

13 going to get any additional impact because you're running trucks
14 up and down the road. The reason we're doing this is to avoid
15 that impact on other tax payers. So that's the reason for this
16 discussion. You need to pay your due cost. We're just trying
17 to come up with what that cost is.

18 MR. WILL MAUPIN: I sympathize with the numbers.

19 MR. LAWRENCE WHITSELL: We're trying to get some sort of
20 resolution.

21 MR. WILL MAUPIN: I think if you look in required findings
22 on item F, it says staff finds that the proposed use will not
23 significantly increase demands on public facilities or services
24 unless the Road Department concerns are not addressed
25 adequately. We talked to Kim Reed and he had concerns. That's

□

1 kind of where the whole thing got started. We're not trying to
2 impose something ridiculous on you. We don't want to do that.

3 MR. BRET GARRIGAN: I believe Kim Reed, in his letter to
4 us, did not indicate the necessary imposition of additional
5 fees.

6 MR. LAWRENCE WHITSELL: We do support this whole concept.
7 We want to have gravel in the County. We want it to work for
8 you.

9 MR. BRET GARRIGAN: That's the reason I came forward with
10 my \$300 to do this.

11 MR. LAWRENCE WHITSELL: The thing is we're going into areas
12 where you can't answer questions and we don't know what's really

13 going to happen. We're going into some uncharted waters here.

14 All we're trying to accomplish is that somebody doesn't get

15 stuck with something that's unreasonable, you and the County

16 both. We want this to be a reasonable equitable relationship

17 between the two parties. You can come out with a profit and the

18 County doesn't have to invest untold amounts of money

19 maintaining a road that may fall apart.

20 MR. BRET GARRIGAN: And there's an annual review that I'm

21 subject to.

22 MR. LAWRENCE WHITSELL: That might be a very long time if

23 that doesn't work. Would you be willing to agree to a shorter

24 period of review so we can see how this thing's going to go and

25 just kind of test it and see if it's going to work?

□

31

1 MR. BRET GARRIGAN: What I'm asking for in my application

2 is simply that I can expand my business to be a gravel pit. I'm

3 willing to work with staff for a review process that fits within

4 current ordinances and statutes. I would encourage that if we

5 don't have the current ordinances and statutes in place today,

6 that we go ahead and start the process in Gem County to put them

7 in.

8 MR. DAVID POOLE: We may need to deny to avoid impact.

9 MR. BRET GARRIGAN: And if that's the case, then go ahead.

10 MR. DAVID POOLE: And that's our option. We're trying to

11 come up with a workable agreement.

12 MR. BRET GARRIGAN: And once again, I'm just saying that

13 staff came up with their positive staff approval based on what

14 they knew to be the requirements at that time. We complied,
15 they agreed, and we came forward. So this is where we get the
16 cart before the horse.

17 MR. DAVID POOLE: The reason for the public hearing is that
18 there's input from the public that explains to us their concerns
19 and the road is one of their concerns.

20 MR. BRET GARRIGAN: I believe that if you go back and
21 talked to the two parties that were neutral on it, they would
22 say that Mr. Garrigan is doing a very good job of maintaining
23 his word not to have negative impact on the roads there.

24 MR. DAVID HARGRAVES: I'd just like to interject a comment
25 here. Our Ordinance does require an assessment of what the cost

□

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1 to the public would be. One of the findings is that the special
2 use would not create excessive additional requirements of public
3 cost for public facilities and services and will not be
4 detrimental to the economic welfare of the community. As Mr.
5 Chairman said, this is where that all came up. We want to make
6 sure that there's not additional costs imposed on the taxpayers.
7 So I think the Commission has been trying to measure what the
8 additional impact of running trucks along this gravel road is
9 and what is a fair way to make sure that you pay that cost
10 instead of the taxpayers paying that cost. So what do you
11 propose to pay that additional cost? Are you saying there's no
12 impact from your trucks running up and down the road?

13 MR. BRET GARRIGAN: I'm saying that when I spoke with Kim,

January meeting 08

14 *he said my trucks actually improve the rads when they're loaded.*
15 *When they're not loaded, they have the same negative impact as a*
16 *car or a pick-up truck does. Like I said, everybody impacts a*
17 *road. I pay my taxes to the state of Idaho. The state of Idaho*
18 *reimburses Gem County for the maintenance of their public roads*
19 *and everybody pays into one system.*
20 *If you want to put conditions on me to be a gravel pit and*
21 *say I can't be a gravel pit from sundown on Saturday night to*
22 *sunrise on Sunday morning, that's a condition that is*
23 *appropriate, but to phase it into a road maintenance fee, I*
24 *don't believe you have the ordinance in effect that allows you*
25 *to assess that maintenance fee.*

□

33

1 *MR. DAVID POOLE: Let's ask our attorney. Do you feel that*
2 *we have the opportunity, under a special use permit, to ask for*
3 *reimbursement?*

4 *MR. DAVID HARGRAVES: I would like to research that and*
5 *give you an opinion on that.*

6 *MR. DAVID POOLE: He's stating we don't have that ability*
7 *and you're our attorney, so we need to know if we do.*

8 *MR. LAWRENCE WHITSELL: Mr. Garrigan, in your opinion, it's*
9 *really a non-issue because you're willing to step up to the*
10 *plate and take care of anything that is not right.*

11 *MR. BRET GARRIGAN: I'm willing to provide improvement on*
12 *that road. I would think if you went back and talked to Mr.*
13 *Bean today and Mr. Michael, they would say that what I've said I*
14 *would do, I have done.*

January meeting 08

15 *Go up pearl road today. You won't see any truck ruts in*
16 *there because we haven't run in the last two and a half weeks.*
17 *We will probably run our trucks on Thursday and Friday because*
18 *the weather report says it's going to be cold there and there's*
19 *not going to be any snow on the road. So we have good traction*
20 *and I can safely run my trucks.*

21 *I believe that this is a big item. I think it should be*
22 *more of a specific ordinance. If you're going to have these*
23 *types of fees, they should be addressed in a more direct manner.*

24 *MR. LAWRENCE WHITSELL: More black and white.*

25 *MR. BRET GARRIGAN: Staff said that based on their*

□

34

1 *interpretation of the checklist and my interpretation of the*
2 *checklist, we were in compliance. We had a positive*
3 *recommendation. It's costing us money because I would like to*
4 *be able to sell to Boise County.*

5 *MR. DAVID POOLE: Do you feel that what we need to do is*
6 *have some legal counsel here? I actual feel that's the case.*
7 *My concern with this is that I would like to continue it and get*
8 *legal counsel before we step any further.*

9 *MR. DAVID HARGRAVES: The only questionable part to me is*
10 *whether we can charge a fee. I have no doubt that we can*
11 *require some type of mitigation of the impact. What we're*
12 *struggling with is what the impact is. I know you mentioned*
13 *that Kim Reed said that the impact is x and we get a letter from*
14 *the Engineer that says it's y. So we need to know what the*

15 *impact is and what you're willing to do to mitigate that impact*

16 *so that it doesn't cost the taxpayers.*

17 **MR. BRET GARRIGAN:** *And I'm willing to do road turnouts and*

18 *--*

19 **MR. DAVID POOLE:** *As far as you building road for the*

20 *County, it's a liability issue and we really can't do that.*

21 **MR. BRET GARRIGAN:** *Or you can set a condition on me that*

22 *says you can't, the condition that comes to my mind, you can't*

23 *operate after sundown.*

24 **MR. DAVID POOLE:** *Yeah but that doesn't help with the road.*

25 **MR. BRET GARRIGAN:** *And I believe that Idaho state law says*

□

35

1 *the State is responsible for collecting the fees to maintain*

2 *public roads.*

3 **MR. DAVID POOLE:** *So if we feel that those fees that you're*

4 *talking about, after we survey all of this information, if we*

5 *feel those fees are not going to cover it so that taxpayers are*

6 *not going to be imposed upon, what you're saying is if we can't*

7 *mitigate that situation and our only option is to deny and we're*

8 *trying to avoid that if, in fact, that can be done, I think*

9 *we're all going the same direction. We just need to get enough*

10 *information to make the right decision.*

11 **MR. BRET GARRIGAN:** *And thank you for your time.*

12 **MR. DAVID POOLE:** *Is there any public input. If not, then*

13 *I will close the public portion of this and bring it before the*

14 *Board.*

15 **MR. LAWRENCE WHITSELL:** *I think that we're all trying to do*

16 *the same thing here. This is just such an unusual area that*
17 *nobody knows what's going to happen. You can't expect staff to*
18 *know and you can't expect anybody to know. Somebody's going to*
19 *have to take some responsibility here and I suppose it should be*
20 *a partnership as to whose going to be responsible for what.*

21 *MR. DAVID POOLE: And if we start off at a certain level,*
22 *we need to leave room to adjust that if that's not working.*
23 *From past experience from working in a gravel pit and knowing*
24 *what happens the trucks do cause damage. I think we need to*
25 *find out if, legally, we have the opportunity to come up with*

□

36

1 *some sort of a fee structure. Then we can try to find a fee*
2 *that will work both ways.*

3 *MR. LAWRENCE WHITSELL: The easy part would be to just deny*
4 *it, but we're trying to make this work.*

5 *MR. WILL MAUPIN: We still don't have a schedule of values*
6 *for that particular stretch of road. It's going to be different*
7 *then any stretch of road in any other part of the County. What*
8 *if we went into an agreement between the mining company and the*
9 *County to share costs on a study for that road?*

10 *MR. DAVID HARGRAVES: I can give you a legal opinion on*
11 *whether a fee is appropriate. There is some concern about the*
12 *Impact Fee Statute. That statute is very detailed and I don't*
13 *think the County's intent was to ever impose an impact fee.*
14 *It's just that money can be an alternative to doing the*
15 *mitigation work. I think a good way to proceed would be to have*

16 *me, the staff, the applicant, and the applicant's representative*

17 *figure out a way that we're going to address this.*

18 *MR. DAVID POOLE: You can negotiate the situation.*

19 *MR. DAVID HARGRAVES: Yeah.*

20 *MR. DAVID POOLE: Okay. So how would we go about getting*

21 *that done?*

22 *MR. DAVID HARGRAVES: Continue for 30 days and we'll meet*

23 *with the applicant.*

24 *MR. LAWRENCE WHITSELL: I make a motion that we continue*

25 *this application until February 11th.*

□

37

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

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

3 *Opposed same sign. Motion carries. Thank you.*

4

5 *Public Hearing:*

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

7 *Carol MacGregor*

8

9 *MR. DAVID POOLE: Next item on the agenda is the special*

10 *use permit for Carol MacGregor. I guess that Mike is the*

11 *spokesman.*

12 *MR. MIKE BRIGHT: Mike Bright, 11360 Tempe Lane in Star.*

13 *I'm kind of in a different situation as Mr. Garrigan. He can go*

14 *on with operation as normal and I can't. I've already lost one*

15 *of my biggest customers. So I'm going to be down 75% from what*

16 *I was before. They just can't wait for the gravel. Another*

17 month will just can me. I'm willing to work with the County.

18 If you want to do it by a month to month basis and say I'm doing

19 this much damage to the road, I'll either buck up the money or

20 do whatever I got to do.

21 MR. DAVID POOLE: If this was a worse case scenario, could

22 you still comply with that?

23 MR. MIKE BRIGHT: If that's the worst case scenario, I

24 could still deal with that.

25 MR. LAWRENCE WHITSELL: \$7503 a year.

□

38

1 MR. MIKE BRIGHT: It's an expensive deal but --

2 MR. DAVID POOLE: We're really trying to be fair about it

3 and I would hate to make that imposition if we come up with some

4 other information that makes it more reasonable.

5 MR. MIKE BRIGHT: This is a decorative rock. If I miss the

6 February rush, then I miss the boat totally.

7 MR. DAVID POOLE: Okay. Any questions, Commissioners?

8 MR. WILL MAUPIN: My concern, in this particular case,

9 isn't so much the gravel road. There isn't a lot of it. My

10 concern is the hill on Frozen Dog. Kim Reed had some concerns

11 about the cut and power poles, being able to make the corner

12 with the pup, and no gaurdrails. The road's sloughing already.

13 That's just health and safety issues.

14 MR. MIKE BRIGHT: I have personally went up there with one

15 of my trucks and the longest pup that I have. I can stay on my

16 side of the road. The back axle on the trucks turn.

17 **MR. WILL MAUPIN:** *Would a no pup restriction just totally*

18 *ruin you?*

19 **MR. MIKE BRIGHT:** *It would. I would have no problem with*

20 *just a 10 mile an hour speed limit or whatever it took just to*

21 *get it off the hill would still be better than going without a*

22 *pup.*

23 **MR. LAWRENCE WHITSELL:** *If we negotiate something with our*

24 *talks with the attorneys and it comes up to benefit you, then we*

25 *would make it apply to you as well. What's fair is fair.*

□

1 **MR. WILL MAUPIN:** *Most of those people come off that hill*

2 *at between 7 or 7:30 in the morning. The kids are down at the*

3 *bottom waiting for the bus. There's two buses that stop right*

4 *at the bottom of the hill. If we didn't operate during that*

5 *hour window, as far as hauling, and the same thing in the*

6 *afternoon when the kids come home at 3:30 - 4 o'clock.*

7 **MR. MIKE BRIGHT:** *The morning would be easy. I could do*

8 *that. The afternoon would be a little tough. The morning I*

9 *could do. The afternoon would be light. The kids get out at*

10 *3:30. So that would not really be an issue. I would say that*

11 *the safety concern would be in the morning. I would be willing*

12 *to do that.*

13 **MR. WILL MAUPIN:** *Now there's an inside corner on that road*

14 *that has been frozen from when it started snowing until about*

15 *two days ago. Do you think you can negotiate that corner the*

16 *way it was?*

17 **MR. MIKE BRIGHT:** *Yes.*

January meeting 08

18 *MR. WILL MAUPIN: Those are just the only concerns I had*
19 *about the whole thing. I want you to get up there and start*
20 *making money.*

21 *MR. MIKE BRIGHT: I can't afford an incident.*

22 *MR. LAWRENCE WHITSELL: How many drivers do you have?*

23 *MR. MIKE BRIGHT: Right now everybody is laid off. It's*
24 *just me.*

25 *MR. LAWRENCE WHITSELL: What would be the most you have*

□

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1 *working?*

2 *MR. MIKE BRIGHT: The economy is pretty bad right now. I'm*
3 *thinking probably two trucks, two days running and one day off.*

4 *MR. DAVID POOLE: Crushing on the off days.*

5 *MR. MIKE BRIGHT: Right.*

6 *MR. WILL MAUPIN: This would be just a week day operation.*

7 *MR. MIKE BRIGHT: Yeah. Probably three days out of the*
8 *five days a week with two trucks.*

9 *MR. DAVID POOLE: Any other questions? Thank you, Mike.*

10 *Any public input? If not, then we'll close the public portion*
11 *and bring it before the Board.*

12 *MR. WILL MAUPIN: We've got some staff recommendations and*
13 *in there we have Monday through Saturday. That's going to have*
14 *to be amended.*

15 *MR. DAVID POOLE: You can amend it in your motion.*

16 *MR. DAVID HARGRAVES: About your conditions, the more*
17 *specific you can be the better. It becomes more difficult to*

18 enforce if it's vague.

19 MR. DAVID POOLE: From the staff, when it comes down to the
20 dollar side of this, not knowing exactly where we can go at this
21 point, can we just refer that to you so that you can word that
22 in a manner that we probably couldn't do?

23 MR. DAVID HARGRAVES: For the condition?

24 MR. DAVID POOLE: The condition as far as setting up some
25 kind of fee recovery or cost recovery. From what I'm hearing

□

41

1 from the applicant, he's willing to do this as a worst case
2 scenario. Hopefully we come up with a better numbers and a
3 better way to manage this situation.

4 MR. DAVID HARGRAVES: So you're not sure what the number
5 should be.

6 MR. DAVID POOLE: No. We're going to say this \$7900.40 is
7 the worst case scenario. That's per truck.

8 MR. DAVID HARGRAVES: So impose a condition of mitigation
9 fee that would be up to that amount. I think that's acceptable.

10 MR. DAVID POOLE: So from that point, it can be worded.
11 Did we get the trip numbers right in here? Are you going to do
12 more than nine trips a day?

13 MR. MIKE BRIGHT: No. Actually that number will probably
14 be cut in half now that I've lost my big customer.

15 MR. DAVID POOLE: We've got 18 trips per day and you're
16 going to be at three quarters of that is what you're saying.

17 MR. MIKE BRIGHT: Right.

18 MR. DAVID POOLE: So we can just use this number times .75.

19 **MR. MIKE BRIGHT:** *And you're welcome to check my records.*

20 *If you want to go on a per mile basis and you want to check my*

21 *records on loads, we keep accurate records on our loads.*

22 **MR. WILL MAUPIN:** *We have another issue in here from the*

23 *findings from the staff. It says they received comment back*

24 *from the Road and Bridge Department stating that it is his*

25 *opinion that any substantial commercial development on Shale*

□

1 *Rock Road or the upper end of Frozen Dog Road will create safety*

2 *hazards for the public and major road based failure could occur.*

3 *I'm going to make that a condition of our motion. That with*

4 *what we've discussed tonight, he's informed of that and can make*

5 *comment or do we need to just continue and have him revisit what*

6 *we've discussed tonight?*

7 **MR. DAVID POOLE:** *Kim is who you're talking about and we've*

8 *had Kim before us, I think, twice. He's made those comments.*

9 *From this point, I think we could probably make our*

10 *determination. What you're still concerned about is the safety*

11 *issue.*

12 **MR. WILL MAUPIN:** *Well here's our road professional and*

13 *he's made that statement. Who am I to tell him he's wrong?*

14 **MR. DAVID POOLE:** *And I think the calculations that are*

15 *here from that are taking into consideration that extra impact.*

16 *He's getting into the paved area as well as the gravel area.*

17 **MR. WILL MAUPIN:** *So the mitigation portion of his*

18 *statement we can reasonably assume is being addressed.*

19 MR. DAVID POOLE: *It's been addressed by Keller and*

20 *Associates.*

21 MR. WILL MAUPIN: *There's another side to that discussion*

22 *and that was how we can address some of the safety issues that*

23 *Kim had concerns about. Does he know that you had been up there*

24 *and drove the road?*

25 MR. MIKE BRIGHT: *Yeah.*

□

1 MR. DAVID POOLE: *I think we can make it a condition that*

2 *Kim sign off on.*

3 MR. WILL MAUPIN: *Okay. I just want to be on record that*

4 *we have discussed this.*

5 MR. DAVID POOLE: *I think the real issue is that safety*

6 *issue and I think if we can get Kim to sign off on that as part*

7 *of the conditions, I think we can probably resolve that issue.*

8 *So we need to put a motion together that will work.*

9 MR. LAWRENCE WHITSELL: *The only thing would be restricting*

10 *the times of travel.*

11 MR. WILL MAUPIN: *We've changed the hours of hauling to be*

12 *Monday through Friday 8 a.m. to 7 p.m. and we're going to leave*

13 *your crushing 7 a.m. to 7 p.m.*

14 MR. MIKE BRIGHT: *Usually we're off the road by 4:30 in the*

15 *afternoon.*

16 MR. WILL MAUPIN: *Unless you have a long haul or special*

17 *delivery.*

18 MR. WILL MAUPIN: *I'll make the motion that we approve this*

19 *SUP siting the site specific conditions that staff has addressed*

20 with changes made to Item 6, which will change the hours of
21 hauling gravel to Monday through Friday 8 a.m. to 7 p.m. Rock
22 crushing permitted only during hours of operation or 7 a.m. to 7
23 p.m. Monday through Friday. On Item H, findings of fact
24 pertaining to safety issues of Frozen Dog Road, that Kim Reed
25 will make a statement and you will comply with his safety terms.

MR. LAWRENCE WHITSELL: I'll second the motion.

□

44

1 MR. DAVID POOLE: Any discussion on the motion? If not,
2 all those in favor of passing this special use permit signify by
3 saying I. Opposed same sign. Motion carries.

4

5 (Motion carries unanimously.)

6

7 MR. DAVID POOLE: So we'll use three quarters of that
8 number. It's going to be 75% less of that \$7900 because he's not
9 going to be hauling as much.

10 MR. MIKE BRIGHT: Actually it would be 25% of that number.

11 MR. DAVID POOLE: I guess we really do need to boil this
12 down to trips because let's suggest that you get a customer back
13 and trips increase, then we need to leave room for that
14 flexibility.

15 MR. MIKE BRIGHT: And you can check the records.

16 MR. DAVID POOLE: An amendment to the former motion to change now it's 25% of this number and
17 we'll use the cost per trip method.

18 MR. MIKE BRIGHT: Thank you.

19 **MR. WILL MAUPIN:** *I'll second that amendment to the motion.*

20 **MR. DAVID POOLE:** *It's been seconded and agreed upon for an*
21 *amendment to the motion.*

22

23

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2 **Public Hearing:**

3 **Item No. 4 - Variance #VAR-07-005 - Bryce Walker**

4

5 **MR. DAVID POOLE:** *Next item on our agenda is variance*
6 *07-005 for Bryce Walker. Do you want to bring us up to speed on*
7 *this, Brad?*

8 **MR. BRAD HAWKINS-CLARK:** *This application is related to*
9 *your next item on the agenda. I recommended that you open this*
10 *hearing because it will have impact on the next item if you*
11 *choose to deny this.*

12 *The reason for the application relates to the difference*
13 *between a private driveway and a private road. Under Gem County*
14 *Code, you can actually do a 14 foot wide bridge but for a*
15 *private driveway, which is serving one or two houses. As soon*
16 *as you serve more than two, it becomes a private road. A*
17 *private road has a 24 foot requirement for width. It doesn't*
18 *really address the fact that there's a bridge on that private*
19 *road, which is what we have in this situation. So the variance*

20 request is to Gem County Code 1163K-2B. That's the technical
21 section. Maybe this will help with the next application as
22 well. The Linda Vista No. 1 Subdivision is over here on the
23 left part of the screen and this is to the west. The top of the
24 screen is looking north. So where this road picks up right here
25 is where a cul-de-sac is paved and exists today for Walker Trail

□

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1 and that public road ends right there. So the applicant is
2 proposing to take off from that cul-de-sac and build a new
3 private road that would head north and then turn east. Here's
4 the black canyon canal that runs north/south in this section.
5 So the bridge that we're talking about in this section is
6 proposed to be 60 feet long across Black Canyon Canal to the top
7 of the bridge to the base, to the liner of the canal. That is
8 the section that they're asking to be basically 14 foot wide.
9 Once you get to the other side, it would continue on with a
10 private road, which is 24 feet. That's the only reason for this
11 application.

12 Our staff report was submitted. It has the findings there.
13 You can actually put a condition on a variance under Gem County
14 Code. So you could say here's the conditions and why we think
15 this should go. All of the findings are laid out there.

16 The biggest issue that the staff had with was finding A,
17 are special conditions or circumstances present, which are not
18 applicable to other lands, structures, or buildings in the same
19 district.

20 *Clearly the topography of this area is somewhat unique.*
21 *Where the bridge is at, it's probably a little less unique*
22 *because there are many places in Gem County where you have to*
23 *use a bridge. So the fact that you have to have a bridge to*
24 *cross to get to your project is not necessarily unique for Gem*
25 *County.*

□

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1 *I think the question on finding A for the Commission to*
2 *decide is if there's enough justification, because of this area*
3 *and the topography, to warrant allowing a narrower bridge to*
4 *serve this area. One option that we put down at the very bottom*
5 *was maybe looking at something in between 14 and 24.*

6 *We did ask for Gem County Fire District No. 1 to comment*
7 *and Rick wasn't able to get something in writing but he did come*
8 *tonight. We want to make sure that you hear their comments*
9 *because at the end of the day, that's really what we're*
10 *concerned about is emergency access.*

11 *There is a gate proposed on this road. At this point, Mr.*
12 *Walker can clarify, I think he's proposing it on the east side*
13 *of the bridge. So that would be after you cross. That's all I*
14 *have.*

15 *MR. DAVID POOLE: Any questions for staff? No questions*
16 *for staff. Mr. Walker, you can step forward and state your name*
17 *and address.*

18 *MR. BRYCE WALKER: Bryce Walker, 3920 South Mill Road in*
19 *Emmett. I think the staff analysis was well done, as far as I'm*
20 *concerned. I have to emphasize the character of the property.*

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21 *It's got a small amount of gentle terrain and then the property*
22 *steeply goes up to the south and east. There's really no way*
23 *that a road of any kind can go past that change in terrain.*
24 *There's only two parcels of land that are privately owned.*
25 *Everything on the south side is BLM.*

□

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1 *The second parcel could possibly use my road. They do have*
2 *their own right-of-way. I've told them that if they want to*
3 *join my bridge, they could. If they did that, it would add two*
4 *more users to the bridge. So we might have up to eight users on*
5 *the bridge.*

6 *As far as the gate is concerned, we planned to have the*
7 *gate on the east end of the bridge just so that it's not quite*
8 *so easy for kids to play with it. I think it will be a lot less*
9 *of a maintenance headache.*

10 *MR. DAVID POOLE: Is there questions for Mr. Walker?*

11 *MR. LAWRENCE WHITSELL: It would seem to me that you would*
12 *want the gate next to the road to keep people off the bridge*
13 *that weren't using it.*

14 *MR. BRYCE WALKER: I thought about that. My fear is that I*
15 *know how kids like to mess with stuff and if it's sitting right*
16 *next to the road, I'm affraid they will. I don't know that it's*
17 *a terribly big difference which end we put it on. We did want*
18 *to make sure we had the bridge at the canal rather than down by*
19 *the end of Linda Vista Court because people could go onto it off*
20 *of the canal bank otherwise. So it has to be at one end or the*

21 other of the bridge.

22 MR. DAVID POOLE: So the reason for the variance is instead
23 of a 24 foot bridge, a smaller width. What's the reason?

24 MR. BRYCE WALKER: Well, it would certainly be a better
25 functioning gate if I don't try to make it a 24 foot gate. The

□

1 point is that we have very limited traffic that would be using
2 this road. It's really a common driveway for these lots.

3 MR. DAVID POOLE: The ordinance states we need a 24 foot
4 road bed and you want to go to 14. So you're asking us to
5 reduce that by 10. What is the reason for that?

6 MR. BRYCE WALKER: Because it just doesn't make sense to
7 have a 24 foot avenue going into a little subdivision like this.
8 That's the common sense of it. If you go to a 24 foot bridge
9 from a 14, you've just about doubled the cost of the bridge.

10 That makes the project become infeasible when you double the
11 cost of it like that.

12 MR. DAVID POOLE: So there's an economic reason for going
13 14 instead of 24.

14 MR. BRYCE WALKER: Yes. It's a matter of feasibility of
15 being able to use the property or not.

16 MR. LAWRENCE WHITSELL: What is the cost? Do you have a
17 cost figured for the bridge?

18 MR. BRYCE WALKER: I think it's going to be about a
19 \$135,000 for a 14 foot bridge.

20 MR. DAVID POOLE: So you would be opposed to making this a
21 20 foot bridge because you're going to have no shoulders anyway.

22 *So it still gives you room for two-way traffic.*

23 *MR. BRYCE WALKER: Yeah. I think there really is no need*

24 *for two-way traffic. If you look at that one at the end of*

25 *Johns Avenue over at the Black Canyon Canal. That bridge has*

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1 *the same basic design as mine except it's six feet longer. It's*

2 *the same type of bridge. There's eight parcels on that bridge.*

3 *I've been up there many times and I've never yet met a car on*

4 *the bridge. When you start thinking about trips per day and how*

5 *likely it is that two people are going to meet on the bridge,*

6 *it's a very unlikely event.*

7 *MR. LAWRENCE WHITSELL: Is that a gated bridge?*

8 *MR. BRYCE WALKER: No it's not a gated bridge.*

9 *MR. DAVID POOLE: So the total number served in this one,*

10 *as far as you're concerned, would be six.*

11 *MR. BRYCE WALKER: It's six and then if my neighbor decides*

12 *to share in the cost of the bridge with me, then it might be*

13 *eight.*

14 *MR. DAVID POOLE: So we need to be thinking eight.*

15 *MR. LAWRENCE WHITSELL: And because of the topography it*

16 *sounds like you're not going to be able to get more than eight*

17 *in there.*

18 *MR. BRYCE WALKER: I can't get more than six on mine for*

19 *the same reason they can't get more than two on theirs and BLM,*

20 *there's nobody else that would use it. They told me that they*

21 *didn't want to have an access there.*

22 MR. DAVID POOLE: Any further questions, gentlemen? This

23 is a public hearing so we need some public input if it's here.

24 MR. RICK WELCH: Rick Welch, Gem County Fire District

25 No. 1. First of all, I want to clarify that he is not in the

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1 Fire District up on the upper end. So we don't really have

2 justification to tell him what to do on that end for the Fire

3 District. The Fire District boundaries end right at the canal.

4 If he wishes to bring his new houses into the Fire District,

5 then he would have to comply to our standards. I'll tell you

6 what we would like to see and he can go from that point.

7 As far as the bridge goes, we would like to see a minimum

8 of 20 foot on the bridge. That would comply with the road width

9 that comes up to the bridge on both sides of it. As far as the

10 gate goes, we'd like to see that on the canal side so it doesn't

11 give people the opportunity to get out of their cars and leave

12 them like kids will do if they're playing around and wanting to

13 jump off the bridge and stuff. At least if the gate is on the

14 canal side, they have to climb over a gate to get on the bridge

15 and play. Like he said, kids will play. That's one of our

16 concerns. Also, on the upper end of the road that he has

17 designed, no more than 7% grade is what we would require on the

18 road.

19 We just want him to be aware of what we would require so if

20 he chooses to annex into the Fire District, he'll know. Thank

21 you.

22 MR. DAVID POOLE: Any further public input?

23 MR. LAWRENCE WHITSELL: Can I ask Rick a question? Why 20
24 feet rather than 14? What is your concern?

25 MR. RICK WELCH: The concern is on that side of the slope,
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1 at this time of year when we have ice and snow, it gives a slick
2 surface on that bridge area. As he stated, the one that goes
3 into the other subdivision on Johns, at 14 foot, when we drive
4 our tankers and stuff over, it's pretty narrow. Safety of our
5 trucks going over the bridge and stuff is what we'd be concerned
6 about.

7 MR. LAWRENCE WHITSELL: This will have guard rails though;
8 correct?

9 MR. BRYCE WALKER: That's what the engineer says.

10 MR. DAVID POOLE: Bryce, you want to make any comments on
11 what Rick has stated?

12 MR. BRYCE WALKER: I don't really see the need for 20 feet
13 to get across a bridge. If he's going to require me to do that
14 to join the District, then I guess I don't have much choice in
15 the matter. I think it's an unnecessary condition.

16 MR. DAVID POOLE: So is joining the District something that
17 you plan to do?

18 MR. BRYCE WALKER: Yes. We plan to do that.

19 MR. DAVID POOLE: All right. We'll bring this off of the
20 public hearing portion and bring it before the Board.

21 MR. LAWRENCE WHITSELL: I think having the gate on the
22 canal side is probably the best place for it. I support Rick's

23 suggestion. I think that would probably be better as far as
24 keeping it secure from having trespassers. If you did have to
25 go to a 20 foot bridge, you could do a double swing gate. They

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1 can be electric and operated by remote control.

2 The width, I think you could probably get across with a 14
3 foot but the Fire District requires 20. It sounds like it
4 that's pretty much what it's going to be.

5 MR. WILL MAUPIN: I think Mr. Walker's recommending that as
6 well.

7 MR. DAVID POOLE: Well if he wants to join the Fire
8 District, he's got to comply with Gem County Fire District
9 No. 1. Any other discussion? You want to put this variance in
10 the form of a motion then?

11 MR. LAWRENCE WHITSELL: I make a motion to the Gem County
12 Board of Commissioners that we recommend that they widen the
13 bridge to 20 feet to satisfy the Fire District's recommendation
14 and move the gate to the down hill side and satisfy all the
15 other conditions by staff.

16 MR. BRAD HAWKINS-CLARK: There are none.

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

18 MR. DAVID POOLE: Discussion I assume we've already had.

19 All those in favor signify by saying I. Opposed same sign.

20 Motion carries for the variance.

21

22 (Motion carries unanimously.)

23

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□

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2 **Public Hearing:**

3 **Item No. 5 - Preliminary Plat Lynda Vista #2 #PP-07-007**

4 **Bryce Walker**

5

6 **MR. DAVID POOLE:** *Do you want to make any comments on this*
7 *before we get started?*

8 **MR. BRAD HAWKINS-CLARK:** *I'll add just a couple of*
9 *comments. This is the actual plat application. They're*
10 *proposing six building lots. It is also a hillside subdivision,*
11 *which falls under Chapter 7 of the Subdivision Ordinance. So it*
12 *has a whole new set of standards since it is a hill side*
13 *project. It is approximately 43 total acres.*

14 *This is a fairly busy drawing. You should have a paper*
15 *copy in your plat. The zoning today is A-3, which has 5 acre*
16 *minimum lot sizes and no zoning change is being proposed. The*
17 *Comprehensive Plan designates this area as Ag natural resources.*
18 *The north side of the canal is actually the break off point and*
19 *that's County residential impact area.*

20 *The property immediately to the west is the Lynda Vista*
21 *Subdivision, which is already built. That has R-3 zoning, which*
22 *is 2 acre minimum lot sizes. This property on the other side of*
23 *the canal is the 5 acre.*

24 They are proposing individual wells and septic. They are
25 proposing a private road to serve the area. I did ask Kim Reed

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1 for his comments about that. I think he ended up submitting
2 something very late. You might not have gotten it. Basically,
3 he doesn't believe that this is an appropriate place for a
4 public road. He would rather not have public money being spent
5 to improve and keep a road in this area, for eight lots,
6 maintained. So the Road Department is in favor of the private
7 road.

8 Here's a couple of site photos. This is at the end of the
9 cul-de-sac that I mentioned earlier, Walker Trail. You can see
10 the asphalt here at the cul-de-sac. You can see where it starts
11 to slope up here and it will continue around. This is about the
12 same spot on the cul-de-sac looking due west. You can see that
13 one house is actually already almost completed in that new
14 subdivision. This is looking east. All of these shots are from
15 the west side of the canal. All the building lots would be on
16 the east side of the canal. This is looking down the canal to
17 the north and to the east. This is turning a little bit and
18 looking a little bit more southeast. You can see the vast
19 majority of this property is two to one slopes and more. It's a
20 very limited area to build on and even that is 10% slopes.

21 In order to build houses in this area, you probably are
22 looking at cuts into the bank to construct your house. Gem
23 County Code does allow that if you can meet all the conditions
24 of the Hillside Ordinance.

25 *We have recommended several conditions of approval.*

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1 *There's also several agency conditions. We did not receive any*
2 *written comment from the public on this application.*

3 *MR. DAVID POOLE: Doesn't sound like there's much around*
4 *it.*

5 *MR. BRAD HAWKINS-CLARK: It does have BLM property here on*
6 *the south. It continues where this property ends.*

7 *You may be familiar with the large communication towers.*

8 *They are behind this project but they're not on the property.*

9 *One of the findings we were concerned about had to do with*
10 *a private road. You can not approve a private road if there is*
11 *other developable property that needs their road to get out. In*
12 *this case, the question for the Commission to decide is if there*
13 *is enough evidence in the record that the Krizenesky's would use*
14 *that and are comfortable with it and that the private road would*
15 *serve their needs, as compared to forcing a public road*
16 *situation.*

17 *MR. DAVID POOLE: Is there access to the Krizenesky's*
18 *property?*

19 *MR. BRAD HAWKINS-CLARK: Yeah, about where my cursor is*
20 *there is about a 40 foot wide common ingress/egress easement*
21 *servicing the Krizenesky parcel. The other reason I was*
22 *comfortable with it is because the Krizenesky parcel does have*
23 *an easement across the canal to their land on the other side of*
24 *the canal, which does touch South Slope. So you have one*

25 property owner who does have ownership control on property that

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1 touches South Slope. So they could develop that parcel. So

2 it's a little bit of a different situation.

3 MR. WILL MAUPIN: He's not land locked if he doesn't have

4 that 40 foot easement.

5 MR. BRAD HAWKINS-CLARK: That's correct. A lot of the

6 property is un-buildable; probably 38 acres of the 43. As you

7 can see, this cul-de-sac comes around here. You have a lot that

8 comes down this way off the end of the cul-de-sac and another

9 lot here. Those two lots are proposed to be on a common

10 driveway, which would come off the end of the cul-de-sac in

11 order to get to the flatter ground. The other four lots are

12 proposed to take direct access off of the private road. It

13 would need to be Walker Lane if it was a private road. Since

14 the majority of that is greater than 50% slopes, we're

15 recommending that there be an easement put on the plat to

16 identify that as un-buildable and as open space. The main

17 reason for that is for building purposes. The applicant has

18 noted that there may be boundary fences on each lot. Our main

19 concern was in the very steep areas, being able to construct a

20 boundary fence that's going to be able to withstand a rain on

21 snow flood event, for example. So that was a concern that we

22 were including in here.

23 There's two conditions that I wanted to mention. Number 6

24 says provide documentation of agreements with the Bureau of

25 Reclamation and/or Black Canyon Canal Company for the bridge.

1 They have the jurisdiction to actually approve a bridge across
2 the canal. Bryce had mentioned that he has a signed agreement
3 already that is approval. It's not executed but it is an
4 approval. It doesn't change the condition because we'd still
5 like to have that before the final plat construction drawings
6 are approved.

7 The one change to Number 10, which says to submit a written
8 statement from the property owner to the north, finds the 40
9 foot driveway, easement, bridge, and private road satisfactory
10 for any potential development. So that's tying back to the
11 requirement for you can not approve a private road unless
12 anybody who has developable land is okay with it. As I
13 mentioned, it says they have the legal easement already to South
14 Slope. Staff's comfortable, if the Commission is, to take that
15 one out.

16 MR. LAWRENCE WHITSELL: Because they have an alternative.

17 MR. BRAD HAWKINS-CLARK: Right. There's several other
18 conditions there like getting Fire District approval. We
19 actually weren't aware that they weren't in the District. So if
20 they're annexed, that condition Number 7 would still apply. If
21 they're not annexed, then obviously that would not apply. So we
22 would probably need to add that if annexed into the Fire
23 District, then that would apply. Thank you.

24 MR. DAVID POOLE: Any questions for staff?

25 MR. WILL MAUPIN: When would they request annexation?

1 **MR. BRAD HAWKINS-CLARK:** *There's no time period, as far as*
2 *the County, because that's a different decision making body.*

3 **MR. DAVID POOLE:** *When he's doing the building going in he*
4 *wants to build with that in mind.*

5 **MR. WILL MAUPIN:** *I would think it would be shortly after*
6 *approval. If they're going to be selling anything up there,*
7 *they'd want to be Fire District.*

8 **MR. DAVID POOLE:** *On your fence, you want to classify them*
9 *as a non-buildable lot. Do you mean fences as well? Is that*
10 *the statement you're trying to make?*

11 **MR. BRAD HAWKINS-CLARK:** *Structure, under the code, is*
12 *permanently attached to the ground. We don't require a fence*
13 *permit in Gem County.*

14 **MR. DAVID POOLE:** *That's what I'm asking. So, for example,*
15 *a person could raise goats on that hillside because it is Ag*
16 *land. Goats do live on steeper ground. The point is that if*
17 *they wanted to do that, I would just hate to see them limited by*
18 *calling it non-buildable if that fence is still considered part*
19 *of this building situation. If you're talking about dwelling*
20 *structures, that's a different situation.*

21 **MR. BRAD HAWKINS-CLARK:** *Yeah. The biggest concern was*
22 *barns or structures that are larger in nature that are maybe*
23 *going to cause blockages if there was a flood event.*

24 **MR. BRAD HAWKINS-CLARK:** *There's a lot of issues on the*
25 *Hillside Chapter that are engineering related.*

□

1 **MR. DAVID POOLE:** *So that doesn't address the structures*
2 *they can put up on those hillsides. Being Ag related, do they*
3 *have to have a permit to put a barn up?*

4 **MR. BRAD HAWKINS-CLARK:** *You don't pay for a permit for an*
5 *Ag but you do have to come in and at least get it so we can*
6 *check the setbacks.*

7 **MR. DAVID POOLE:** *So under those circumstances, then there*
8 *would be control over the barn structures or something like*
9 *that. As far as the fence structure, you don't need a permit.*
10 *So if you call it non-buildable, you're still going to have*
11 *control if they have to come in and get a permit right?*

12 **MR. BRAD HAWKINS-CLARK:** *We'd probably want to change the*
13 *language on that.*

14 **MR. DAVID POOLE:** *What would we call it then?*

15 **MR. ROGER BENNIE:** *Maybe just open space.*

16 **MR. DAVID POOLE:** *Using that term non-buildable is telling*
17 *them that they can't put another structure there.*

18 **MR. BRAD HAWKINS-CLARK:** *Well this is the Commissions*
19 *decision.*

20 **MR. WILL MAUPIN:** *You were saying designate non-building in*
21 *the open space and put that on the face of the plat.*

22 **MR. ROGER BENNIE:** *I wouldn't know exactly what the code*
23 *says but, as the man says, a fence is attached to the ground and*
24 *so it's a buildable structure. I would have a problem, if I*
25 *owned it, not being able to fence my own property. So there's*

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1 got to be a way to label it just as open space. There should be
2 some way to word it so we wouldn't have a problem with building
3 fences.

4 MR. DAVID POOLE: It's not required to have a building
5 permit to build a fence. So I don't think we have control over
6 it anyway.

7 MR. DAVID POOLE: Any further questions for staff? Bryce,
8 would you like to make comments?

9 MR. BRYCE WALKER: The idea Brad had, originally, I thought
10 was a good one. He was thinking that we could designate
11 everything under 10% slope and under a clause in the Hillside
12 Ordinance, that could be exempted from the requirements of the
13 Hillside Ordinance. It wouldn't work as well as it first
14 sounded because most of this buildable ground is over 10%. It's
15 not much over 10% but it's over. So I don't want to try to
16 proceed with that idea of exempting part of it so that it
17 doesn't have to comply with the Hillside ordinance. I want it
18 all to go through the process but I wouldn't want to be limited
19 to only building on the 10% area because that would be a very
20 small portion of it.

21 We're talking about custom homes that will be architect
22 designed. I'm sure they'll have engineered footings and the
23 rest of it but because of the way that property lays, the view
24 is all straight out into the valley and people will want to
25 build against the hill. The area they'd be building in would be

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*1 that area that's probably 15% or 17% or something, right where
2 the hill starts to go up. So if you're going to take everything
3 and create an open space area, I would say to divide it at maybe
4 20% because anywhere anybody would want a building would be
5 under 20%. The rest of it could be open space.*

*6 I understand we'd like to keep things simple but there's
7 actually one place on this that I've had kind of a dream in the
8 back of my mind to build something that I designed as an
9 architect student years and years ago. It is a house that spans
10 the canyon and there happens to be a canyon there that's perfect
11 for it. I don't know if I would ever get it done but if you
12 made the restriction that you couldn't build on higher than 20%
13 slopes, the ends of that bridge that the house would be on would
14 be resting against slopes that would be steeper than that. That
15 would be the nature of it. This is all custom designed
16 architecture. I know from my engineering background it can be
17 done. As long it's properly engineered and designed, then it
18 can be done. I don't want to make my project hinge on whether
19 I'm going to build a house across the canyon or not.*

*20 I do think that we're going to have to provide for those
21 people to have houses built against the hill. I think that 10%
22 would ruin that. Otherwise, I'm pretty much in agreement with
23 everything that Brad has recommended.*

*24 We already have that approval from the Black Canyon and I
25 managed to not bring it with me tonight. The attorney for the*

□

1 *Black Canyon or Bureau of Reclamation has drafted a document for*
2 *us to sign and we just have to sign it.*

3 *MR. LAWRENCE WHITSELL: There are engineering guidelines,*
4 *I'm assuming, that would help people build on these steeper*
5 *slopes, right?*

6 *MR. DAVID POOLE: If somebody wants to throw enough money*
7 *at it, it could be done.*

8 *MR. LAWRENCE WHITSELL: Exactly. So, I guess it isn't even*
9 *really for us to decide then, is it?*

10 *MR. DAVID POOLE: In my opinion, unless our code states*
11 *that they can't build in those areas.*

12 *MR. BRAD HAWKINS-CLARK: A grading plan is required, which*
13 *they did provide. Hydrology, geology, and soil study are*
14 *required, which they did provide. The engineer that Mr. Walker*
15 *hired, Focus Engineering, has recommended several conditions*
16 *that he feels would prevent land slide and to protect the*
17 *drainage areas from encroachments to allow for free flowing*
18 *drainage. That's one of the conditions that I recommended is*
19 *that you adopt his engineer's recommendations.*

20 *You also have a letter from Keller. They've asked for some*
21 *additional information for them to feel more comfortable about*
22 *Focus Engineering's work. In particular, the storm water run*
23 *off and some of the culvert sizes that they would like*
24 *information on.*

25 *MR. LAWRENCE WHITSELL: So it's been addressed then,*

□

1 *essentially. If we follow these conditions that have already*

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2 *been laid out, they'll have to satisfy all those engineering*
3 *requirements.*

4 *MR. DAVID POOLE: Anymore questions for Mr. Walker?*

5 *MR. LAWRENCE WHITSELL: With regard to the 45 degree, that*
6 *seems to be an issue. Has that been taken care of? The 45*
7 *degree turn.*

8 *MR. BRYCE WALKER: That's is an issue that I've never quite*
9 *understood because the L Tack Standards, I don't read them that*
10 *way. The explanation I had was this was for snow plows to be*
11 *able to go at velocity around curves and it just didn't seem to*
12 *be anything that applied to what we were talking about.*

13 *MR. BRAD HAWKINS-CLARK: This has to do with creating a net*
14 *work of private roads that are all off the grid but they all*
15 *start to change names. So if you come in off of a public road*
16 *with one private road and then you make a 90 degree and you call*
17 *it another private road and you make another 90 degree and put*
18 *another private road, you have three private roads where the*
19 *public road is only one name. So that emergency services knows*
20 *at the point where the private road and the public road meet.*
21 *There's only one private road name and to try to avoid multiple*
22 *private road names on a net work --*

23 *MR. BRYCE WALKER: There would be no intersections on this.*
24 *It would be all one.*

25 *MR. BRAD HAWKINS-CLARK: Right but that is a waiver that*

□

1 *you should address as a Commission in your motion.*

2 MR. LAWRENCE WHITSELL: The length of the cul-de-sac is a
3 little long.

4 MR. BRYCE WALKER: 1200 feet was the limit that we got out
5 of the ordinance. That 1000 feet, I'm not sure where that one
6 came from. I wasn't aware of that until I read the staff report
7 last night.

8 MR. DAVID POOLE: So this road is 1200 feet long.

9 MR. BRYCE WALKER: Yeah, it's 1200 feet.

10 MR. DAVID POOLE: Brad, does this road fall within our
11 guidelines for being a private road?

12 MR. BRAD HAWKINS-CLARK: I believe it does. Yeah, it's on
13 page 46, 12-6-1-4 if the private street is more than 1200 feet
14 in length, a secondary emergency access must be provided. The
15 thousand foot is under the public street section, which is
16 paragraph 3-D, but that's public street.

17 MR. DAVID POOLE: Any other questions for Mr. Walker?
18 Thank you, Bryce. Lets see if there's any further public input.
19 So there's no rebut needed from Bryce. Therefore, we'll close
20 the public portion of this hearing and bring it before the
21 Board.

22 MR. LAWRENCE WHITSELL: On the bridge, in the design from
23 the Bureau, did they require guardrails at the corners of the
24 bridge?

25 MR. DAVID POOLE: Does the Road Department require these

□

1 rails? Is any of this going to come under Kim Reed?

2 MR. LAWRENCE WHITSELL: No. This is Bureau of Reclamation

3 design, right?

4 MR. DAVID POOLE: The bridge, I think, is probably a State
5 design.

6 MR. BRYCE WALKER: We had to have the design approved by
7 the Bureau of Reclamation.

8 MR. DAVID POOLE: So if they require the corner rails, then
9 you're going to have to put corner guardrails in.

10 MR. BRYCE WALKER: If we're talking about a 14 foot bridge,
11 I see a little more need for a little angle coming into the
12 thing but with 20 feet wide, I don't know why we'd need to do
13 that. It's pretty hard to miss a 20 foot wide road.

14 MR. LAWRENCE WHITSELL: I guess what I'm saying is do we
15 feel the need to have these guardrails? Is it a safety issue?
16 I don't know.

17 MR. DAVID POOLE: With a 14 foot signaling bridge, that may
18 make sense.

19 Anything else that we need to discuss before we make a
20 motion? I think the only thing I'm hearing is Bryce is willing
21 to go with anything except that 10% issue. That condition that
22 nothing be built over a 10% slope. I have to concur with him.
23 I think that's a little limiting. I think from our standpoint,
24 for recommendations, first of all we've already given him a
25 variance for the 20 foot. So I think the rest of it's pretty

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1 straight forward. I think that staff has done a great job in
2 going through this.

3 MR. LAWRENCE WHITSELL: *Being it's not in the Fire*

4 *District, we don't have to address Number 7.*

5 MR. DAVID POOLE: *I think that's been addressed. If he*

6 *wants to do it, the Fire District has made their comment. He's*

7 *going to get a 20 foot bridge requirement anyway.*

8 MR. WILL MAUPIN: *So how do we handle this hillside thing?*

9 MR. LAWRENCE WHITSELL: *We just say that there is no*

10 *percent slope limitation where you can build. It's only limited*

11 *by the engineering and what would be acceptable engineering*

12 *practices.*

13 MR. WILL MAUPIN: *I'm not comfortable with striking it.*

14 *I'd like to add to it if we can do that. Just say that if they*

15 *go beyond the 10% grade, it's going to require engineering.*

16 MR. DAVID POOLE: *I think it's going to require it anyway;*

17 *is it not?*

18 MR. BRAD HAWKINS-CLARK: *Each lot is going to have to have*

19 *a grading plan because we don't know where their going to want*

20 *to put their houses.*

21 MR. WILL MAUPIN: *I'm just thinking about how we can not*

22 *strike that part of the ordinance and still address this without*

23 *people feeling limited.*

24 MR. BRAD HAWKINS-CLARK: *If I could just read that section,*

25 *it's in Chapter 7 of the Subdivision Ordinance. 7-229 says a*

□

1 *portion of a hillside subdivision having a slope of less than*

2 *10% may, with the permission of the Commission, be dealt with in*

3 *a separate phase or phases and are not subject to the special*

4 provision under Chapter 7 of this ordinance. That's the only
5 place you see 10%.

6 MR. DAVID POOLE: And if we strike that, it all comes under
7 the Hillside Ordinance.

8 Are one of you, gentlemen, ready to form a motion? I think
9 it's really straight forward. We have one to strike, right?

10 MR. BRAD HAWKINS-CLARK: Number 10 as well.

11 MR. LAWRENCE WHITSELL: Striking Number 7, right?

12 MR. BRAD HAWKINS-CLARK: My recommendation on Number 7
13 would be if annexed into the Fire District, then submit a letter
14 from them.

15 MR. LAWRENCE WHITSELL: I make a motion that we recommend
16 to the Gem County Board of Commissioners approval of Bryce
17 Walker's Linda Vista #2 Subdivision approval with the conditions
18 from staff, that Number 7 would only apply if they're annexed
19 into the Fire District and that would be condition on Exhibit B.
20 Also, we would strike Number 10 on Exhibit B. All other
21 conditions would apply.

22 MR. WILL MAUPIN: I will second that.

23 MR. DAVID POOLE: Any further discussion on the motion?
24 All those in favor signify by saying I. Opposed same sign.

25 Motion carries.

□

4 **Regular Meeting:**

5 **Item No. 1 - Items from the Public**

6

7 (There were no comments from the public.)

8

9 **Regular Meeting:**

10 **Item No. 2 - Items from the Planning Director/Administrator**

11 **A. Will and Jerry Show, Saturday, February 2**

12

13 **MR. BRAD HAWKINS-CLARK:** *The Will and Jerry Show. You are*

14 *each invited to that. It's a training put on by two land use*

15 *attorneys. I think they do it twice a year. Some of you may*

16 *have been already. They're doing it February 2nd. It's a*

17 *Saturday. We'd be happy to pay for the for that.*

18 *Basically, they give an overview from a statewide*

19 *standpoint. They give you an update, typically, on the*

20 *legislative issues dealing with planning and zoning. My opinion*

21 *is you wouldn't need to go every year, but every other year is*

22 *kind of a nice refresher.*

23 **MR. DAVID HARGRAVES:** *I find their information useful as*

24 *well. They've been before the Supreme Court arguing on land*

25 *use. They have a lot of experience.*

□

1

2 **Regular Meeting:**

3 **Item No. 3 - Items from the Deputy Prosecuting Attorney**

4

5 MR. DAVID POOLE: Items from the prosecuting attorney.

6 MR. DAVID HARGRAVES: Nothing.

7

8 Regular Meeting:

9 Item No. 4 - Items from the Planning and Zoning Commission

10

11 MR. DAVID POOLE: In trying to deal with this thing with
12 the mining, how do we connect on this and try to come up with
13 something? I understand the concerns but I think we're still on
14 pretty grounded soil here by trying to make sure that doesn't
15 bounce back into the public cost. So what do we do? How do we
16 mitigate that? First of all, I guess we need to know if there's
17 some way we can collect these fees.

18 MR. DAVID HARGRAVES: The legislature clearly gives you the
19 authority of mitigation for special use permits. So we have to
20 know what the impact is and what the effect is. We've gotten
21 some different information from Kim and the engineer. So we
22 estimate what the impact is and we can require mitigation. The
23 concern that I have when we say you have to pay a fee is that
24 it's looking like an impact fee.

25 MR. DAVID POOLE: So when you say require mitigation, at

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1 that point, what do we do?

2 MR. DAVID HARGRAVES: We have to be creative about
3 mitigation. Maybe supplying gravel and materials would be a way
4 to mitigate.

5 **MR. DAVID POOLE:** *So do you put this gravel in the form of*
6 *a dollar value?*

7 **MR. DAVID HARGRAVES:** *The other guy was happy to pay a fee.*
8 *I think we have to be careful about not requiring a fee but say*
9 *here's what it's going to cost to maintain it, how do you*
10 *propose to mitigate the impact that you're having? I need to*
11 *look at what some of the options are.*

12 **MR. WILL MAUPIN:** *Is it the Commission's job to come up*
13 *with the numbers because that's what we're trying to do and*
14 *that's not working.*

15 **MR. DAVID HARGRAVES:** *The easiest way to do it is to kind*
16 *of agree on what's the impact or the effects and how to mitigate*
17 *it. If you can be presented with staff recommendation and*
18 *something the applicant will go along with, that's the best way*
19 *to do it in my opinion. Otherwise the way you figure out the*
20 *exact effect and the exact mitigation that will cover it is you*
21 *make them submit a study and they can pay for the expense for*
22 *the study.*

23 **MR. WILL MAUPIN:** *And he didn't want to do that. I was*
24 *proposing to maybe share in the cost of that 1 mile study.*

25 **MR. DAVID HARGRAVES:** *You can require studies. You have to*

□

1 *make a decision based on what you have in the record. If they*
2 *can kind of agree on what they think the impact is and our*
3 *engineer says what the impact is and here's a mutually*
4 *satisfactory way to solve the problem, then I'm happy with that.*
5 *Then you don't have to worry about all the studies.*

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6 *MR. WILL MAUPIN: I, personally, think the numbers he was*
7 *are pretty inaccurate. They're pretty high.*

8 *MR. DAVID HARGRAVES: I don't know if we have a base line.*

9 *MR. DAVID POOLE: When I talked to Paul he asked what I'm*
10 *really wanting out of this. I said that the Planning and Zoning*
11 *Commissioners need a way to come up with some cost per load or*
12 *per mile or something for the extra impact on that road. Then*
13 *we can come up with some method of saying the extra impact is*
14 *going to be this number. We've got to have a starting point.*
15 *When I worked as an associate engineer, one of the things we*
16 *were taught is you always error on the high side. In this case,*
17 *I think he did error on the high side.*

18 *MR. DAVID HARGRAVES: Don't be afraid to take information*
19 *from both sides. We have what our Road Department is telling us*
20 *and what our engineer is telling us about what the impact is*
21 *going to be and the cost. Then he wants to come in and shoot*
22 *down everything Kim is saying and what our engineer is saying.*
23 *Well tell us what you think the impact is going to be and tell*
24 *us how you propose to mitigate it. Kind of find a middle*
25 *ground.*

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1 *MR. WILL MAUPIN: So between now and the next meeting, he's*
2 *going to get with Development Services, Kim, and you guys are*
3 *going to sit down and have an office negotiation.*

4 *MR. LAWRENCE WHITSELL: What do you think about proposing*
5 *this trial and error sort of thing?*

6 **MR. DAVID POOLE:** *I think that's where it's really going to*
7 *be because we're probably going to have to adjust it.*

8 **MR. BRAD HAWKINS-CLARK:** *We're not getting the engineer*
9 *involved anymore unless Bret is going to pay. We've already*
10 *paid \$500 for this research. What you have before you doesn't*
11 *reflect all of his time. He's got more data. He just gave you*
12 *the summary. We can get that for you. Bret refuses to pay any*
13 *of his money to get the information that you're asking for. We*
14 *thought this would be fairly universal information that we could*
15 *use in other situations and that it was probably worth it.*

16 **MR. WILL MAUPIN:** *That landscape buffer, we talked about it*
17 *briefly and how we could try to make it work better. Lawrence*
18 *and I were thinking out loud and came up with maybe when you're*
19 *in the County, it doesn't apply to minor subdivisions. It*
20 *becomes problematic with four lots or less in the County because*
21 *they're splitting 5's and their splitting 10's.*

22 **MR. DAVID POOLE:** *We have to make an amendment to the*
23 *ordinance to do that.*

24 **MR. WILL MAUPIN:** *I would support an amendment.*

25 **MR. BRAD HAWKINS-CLARK:** *I've got a list of 28-30 items*

□

1 *that David and I will hopefully sit down with in the next couple*
2 *of weeks and go over all changes to the Zoning Ordinance.*

3

4

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6 **Regular Meeting:**

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7 Item No. 5 - Adjourn

8

9 MR. LAWRENCE WHITSELL: I make a motion that we adjourn.

10 MR. WILL MAUPIN: I second it.

11 MR. DAVID POOLE: And motion carries.

12

13 (Motion carries unanimously.)

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