

June 9 2008

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GEM COUNTY PLANNING AND ZONING PUBLIC HEARING

Date: June 9, 2008  
Time: 7:00pm - 8:15pm  
Place: Gem County Courthouse

MEMBERS PRESENT:

David Poole, Don Wilkerson, Debbie Rouwenhorst, Dale Reynolds, Will Maupin, and Lawrence Whitsell.

OTHERS PRESENT:

Brad Hawkins-Clark - Planning Director/Administrator.

This transcript is a summary of the meeting, not verbatim.  
Transcription from recording done by Amanda Shaw.

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PROCEEDINGS

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Gem County, City of Emmett, May 12, 2008

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CONSENT AGENDA:

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Item No. 1 - Approval of the Minutes of April 14, 2008

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MR. DAVID POOLE: This June 9 meeting of the Gem County Planning and Zoning will come to order. It appears we're not going to have a lot of public testimony. I think we'll all be able to feel free to speak our piece. So we'll get started with

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12 the meeting. First thing on the agenda is approval of the  
13 minutes for April 14th. Anybody want to make comment? Do we  
14 have approval of the minutes?

15 MRS. DEBBIE ROUWENHORST: I make a motion that we approve  
16 the minutes as submitted.

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

18 MR. DALE REYNOLDS: Second.

19 MR. DAVID POOLE: It's been moved and seconded. All those  
20 in favor signify by saying I. Opposed came sign. Motion  
21 carries.

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23 (Motion carries unanimously.)

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2 PUBLIC HEARING:

3 Item No. 1 - Variance #VAR-08-004 - Jeremy and Becky Davis

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6 MR. DAVID POOLE: Now we move straight ahead to the public  
7 hearing. We've got a variance #VAR-08-004, Jeremy and Becky  
8 Davis. Do you want to bring us up to speed on this, Brad?

9 MR. BRAD HAWKINS-CLARK: This variance is on 1517 West  
10 Sales Yard Road. It's on the south side of Sales Yard. The  
11 site is approximately 9.3 acres. The variance is to allow the  
12 house on 1 acre to be classified separately from the industrial  
13 business on 8 acres for zoning instead of the required lot size  
14 of 5 acres. This is Gem County Code 11-4-2B.

15 So I will just give you some of the highlights and the  
16 facts here and then let the applicant come up. This is an

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17 aerial photo. You can see here that Sales Yard runs across  
18 about the middle of the screen. The drainage ditch runs here.  
19 This is the west boundary of the subject site. There is a shop,  
20 kind of a Quonset hut, metal building here at the north end of  
21 the site. Then the auto business going south there. The  
22 residence is right here just east of the shop.

23 In your packets, you should have received a darker version  
24 of this parcel map. Basically it shows the parcels in the area.  
25 There are a couple of parcels that are in the area on the north

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1 side of Sales Yard that are less than 1 acre in size. The  
2 majority of the other parcels are either A-2 zoned or there are  
3 two industrial zoned.

4 This is also in your packet. This is a drawing that the  
5 applicant submitted, just a little bit more detail. It shows  
6 the house and the shop. There's a distance of about 40 feet  
7 between the house and the existing fence and about 36 feet  
8 between the shop and the fence. This photo shows you a little  
9 bit better on that. This is a view south from Sales Yard. This  
10 is supposed to be between the residence and the shop. This is  
11 about the same location just looking a little bit further to the  
12 west with the shop.

13 This is south. This is going over to the west easement. I  
14 pointed out the drainage ditch on that aerial photo that runs  
15 along their south boundary and then a drive that goes back and  
16 serves the rest of their property.

17 I've been talking with the Davis' for quite some time.  
18 They have been trying to decide what they wanted to do in terms  
19 of what the options are under Gem County Code for them to  
20 pursue.

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21 The property, as best I can tell, was split zoned when Gem  
22 County first started zoning in 1978. All of the department maps  
23 go back and show the property having the residence being A-2 on  
24 approximately .8 or .9 acres and then all the rest of it being  
25 M-2, which is the heavy industrial. As far back as we can go,

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1 that seems to be the way the properties been zoned and it has,  
2 since that time, also been one property, one parcel. So the  
3 shop and the business do sit on a single tax parcel.

4 The staff report kind of goes over in more detail and talks  
5 about the fact that the property is legal today because it's  
6 grandfathered in. The reason that it's nonconforming is because  
7 there's two principal buildings on the same property, under the  
8 same ownership but there are two main principal buildings that  
9 are detached, which is the reason it is nonconforming.

10 The options that we looked at for what the Davis' wanted  
11 to accomplish was one rezone so that the house could potentially  
12 be, instead of A-2, could be R-1, which is 6,000 square foot lot  
13 size. That is what the R-1 Zone is in Gem County. Then they  
14 would obviously be able to get greater than that with a  
15 Development Agreement. That they be an option. I was a little  
16 concerned about that option because the Comprehensive Plan now  
17 designates all this area south of Sales Yard as mixed planned  
18 development. That mixed planned development, the whole goal in  
19 the Comprehensive Plan is to really promote mixes of uses other  
20 than single family residential. Single family residential will  
21 be grandfathered in but the idea was to have other uses other  
22 than single family in there. They are designated as special  
23 uses, single families are, in the mixed planned developments.  
24 So could they or could they not meet the findings for a rezone?  
25 we didn't do a full analysis. That's not what they applied for.

1 So option number 2 was if you go for a variance that says even  
2 though you're in the A-2, which is a 5 acre minimum, you may  
3 have the option to go less than 5 acres in that zone. So that's  
4 really what they applied for.

5 We put the Comp Plan designations and the land uses there  
6 in page 3 of the staff report. There's a number of comments  
7 from our code listed on page 4.

8 The Commission has kind of a task before you tonight.  
9 There's kind of a lot to consider regarding the four required  
10 findings for a variance. You have to make each one of those  
11 findings in the positive. Do you or do you not believe they can  
12 be met? As I point out on page 6 of the report, there  
13 definitely are some pro's and con's. Maintaining the house and  
14 the business on the same parcel could help prevent conflicts  
15 between the auto dismantling operation and the residence, should  
16 they be separated, having them under the same ownership could be  
17 seen as an advantage. On the other hand, there could be a  
18 benefit to cleaning up the nonconforming status of the property  
19 so that it's not designated as nonconforming.

20 The last thing I included in the report was just some  
21 outstanding issues for their consideration because if you  
22 approve this, it does not actually approve a subdivision. Any  
23 approval tonight, by the Commission, would not waive the minor  
24 subdivision requirements. They would still have to go through  
25 to survey and divide the property, but it would give them the

1 assurance that the County and the Commission are in favor of  
2 creating a subdivision where you have one of those lots that is

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3 less than 1 acre in size.

4 If you were to deny the application, for the most part,  
5 they would remain as they are today, or you can put conditions  
6 on it, or you could have them maybe consider a rezone as I  
7 talked about before. I think that kind of highlights the staff  
8 report.

9 MR. DAVID POOLE: Thank you, Brad. Any questions, at this  
10 time, from the Commission to staff.

11 MR. DON WILKERSON: Brad, can you go back to that previous  
12 photo? Is that the fence line that they're talking about? It  
13 shows on their drawing that they want to split it at that fence.

14 MR. BRAD HAWKINS-CLARK: Yes. Correct.

15 MR. DON WILKERSON: Then if you look at the legal  
16 description, that's 127 and a quarter feet by their drawing.  
17 They're taking 36 feet of that out. So they may have something  
18 as small as a half acre for the house.

19 MR. BRAD HAWKINS-CLARK: It is possible. I do not know if  
20 the property has been surveyed. I don't think it has. At this  
21 point, it is guess work.

22 MR. DON WILKERSON: It's only about 3 quarters of an acre.

23 MR. BRAD HAWKINS-CLARK: So your estimate is assuming that  
24 40 foot road dedication were to be made, you're taking that out.

25 MR. DON WILKERSON: Right. I'm just saying the parcel left

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1 of the house is well under .9 acres if they only go from that  
2 fence.

3 MR. DAVID POOLE: Any other questions for staff?

4 MR. LAWRENCE WHITSELL: Well being that's a substandard  
5 lot, it doesn't really matter how substandard does it? I mean  
6 we're already under an acre, we're under 5.

7 MR. DAVID POOLE: You still have to get two septic systems  
Page 8

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8 on there.

9 MR. LAWRENCE WHITSELL: Right. It has some relevance then.

10 MR. DAVID POOLE: Yeah. I think as far as water quality  
11 and that sort of thing goes it does.

12 MRS. DEBBIE ROUWENHORST: Anything under an acre cannot  
13 have it's own well and septic tank; is that what I understand?

14 MR. BRAD HAWKINS-CLARK: Well yeah. The Health Department  
15 uses that as their basis. They also have variance proceedings,  
16 but you're right. That is generally what they have said to be  
17 the minimum.

18 MR. DAVID POOLE: Any further questions? If not, we can  
19 hear from the applicant.

20 MR. JEREMY DAVIS: My name is Jeremy Davis. I'm at 1517  
21 West Sales Yard Road. I brought a friend of mine here to kind  
22 of explain some of this to you guys better than I probably can.  
23 We've worked with him and he's a good friend of ours. He can  
24 probably do a lot better standing up here than I can. So he's  
25 going to help us out if that's okay with you guys.

11

1 MR. DAVID POOLE: No problem.

2 MR. WALT SCHAAL: I'm Walt Schaal and I live at 3815 Fuller  
3 Road. I've done a one page summary of my understanding of the  
4 conditions and what the Davis's are recommending be done. If  
5 you don't mind, I'd like to pass this out.

6 MR. DAVID POOLE: Certainly.

7 MR. WALT SCHAAL: I've recapped under Number 1, the current  
8 nonconforming status, as I understand it from the report from  
9 Brad's group. There is not a condition, currently, in relation  
10 to the Davis's being able to continue under the grandfather  
11 concept for conducting their life and their business on that

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12 site. They are asking that the A-2 portion be permitted a lot  
13 size of less than 1 acre. The idea behind that, from their  
14 understanding, is that doesn't really grant them anything, it  
15 just gives them the variance to proceed to a subdivision  
16 application where there's many other hurdles that need to be  
17 addressed.

18 The reasoning, as I glean it from the Davis's, is they're  
19 in the midst of a split zoning situation that they inherited  
20 when they bought it and they're just merely asking for the  
21 opportunity to get the current nonconforming condition changed  
22 or corrected.

23 In reviewing the report, there appears to be support on  
24 granting the variance within the Zoning Ordinance itself. The  
25 two that I picked out of the four that were referenced are 3.5J,

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1 which keeps the lot size reduction, meaning reducing the lot  
2 size below the specified amount, open for consideration as long  
3 as it's not Ag-1. This is Ag-2. Secondly, section 13-2B, a  
4 variance can address the lot size. In other words, you're not  
5 precluding the Commission from being able to, in two instances,  
6 consider reducing the lot size below the 5 acre.

7 It appears that the applicant has met the four step  
8 criteria in relation to you entertaining an application for a  
9 variance.

10 In my evaluation of the Comprehensive Plan, there's only  
11 one other area north of them, which has the A-2/M-2 zoning and  
12 as I understand it, there are currently lots in there that are  
13 from .9 to 2.8 acres in an A-2 zoning. So there seems to be  
14 some precedent within the Comprehensive Plan area to consider  
15 this sort of variance.

16 That's my summary of the situation. I hope I haven't

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17 missed to many items on point. Did you folks want to say  
18 anything else?

19 MR. DAVID POOLE: Are there questions from the Commission  
20 for Mr. Schaal?

21 MR. LAWRENCE WHITSELL: There was some indication that they  
22 want to get some sort of financing or remodeling on the house.

23 MR. JEREMY DAVIS: We've already refinanced the property.

24 MR. LAWRENCE WHITSELL: So that's a non-issue.

25 MR. JEREMY DAVIS: Yes.

13

1 MR. LAWRENCE WHITSELL: So you just want to clear this up.

2 MR. JEREMY DAVIS: Correct. Essentially, what we want to  
3 do is separate our home from the business so we have two  
4 separate addresses. This is our home and this is our business.  
5 We just want to make things right for all intention purposes.

6 MR. LAWRENCE WHITSELL: And as far as taking ground from  
7 the auto business and putting it with the house to make it at  
8 least a 1 acre lot is not an option.

9 MR. JEREMY DAVIS: Well, if you did the figures on it, it  
10 would not leave you enough room between the buildings.

11 MR. LAWRENCE WHITSELL: So 5 acres is totally out of the  
12 question.

13 MR. JEREMY DAVIS: Yes, totally out of the question.

14 MR. DAVID POOLE: Okay. So on your shop, with a setback,  
15 your side property line, what is it? Is it 8 feet, 10 feet;  
16 what is it?

17 MR. BRAD HAWKINS-CLARK: 8 on the side.

18 MR. DAVID POOLE: So that 36 foot distance, if you reduce  
19 that, would that not allow enough to put you into that.

20 MR. JEREMY DAVIS: No. If you reduced it all the way down

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21 to just an 8 foot width, it would not allow us enough room to  
22 operate the way the building is set up.

23 MR. DAVID POOLE: So on the other side of the building you  
24 have no room.

25 MR. JEREMY DAVIS: well, there's only one main entrance to

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1 the building as far as working out of the building.

2 MR. DAVID POOLE: From our standpoint, as far as water  
3 quality goes, I think that's something we need to be very  
4 careful about, especially in the high water table area.

5 MR. JEREMY DAVIS: I think that we're allowed to have a  
6 shared well.

7 MR. DAVID POOLE: You are but where is the well at now?

8 MR. JEREMY DAVIS: It's on the east side of the property;  
9 on the east side of the home.

10 MR. DAVID POOLE: As far as the well between the business  
11 and the house, I don't think that's so much a problem, it's back  
12 to the septic system and what's required by Southwest District  
13 Health.

14 MR. JEREMY DAVIS: I think there's already two septic  
15 systems on the property.

16 MR. DAVID POOLE: One for the business and one for the  
17 home.

18 MR. JEREMY DAVIS: Yes.

19 MR. DAVID POOLE: But see you have to have a replacement  
20 septic system and the availability for that. So if you don't  
21 have room for a replacement and that one fails, one of the  
22 problems we could be doing here is making a piece so small you  
23 couldn't do that. Now you've got it in a place you can't use.

24 MR. JEREMY DAVIS: I understand that. I think the well  
25 sits at the front corner of the east side. It would be the

1 north east corner of the home is where the well sits. It's  
2 about 15 feet from the roadway. If you kind of figured it out,  
3 you'd probably have enough room to put a septic system on the  
4 back part of that property still. I don't know how the  
5 measurements work or what but I'm just guessing.

6 MR. DAVID POOLE: well I think for us to make an  
7 intelligent decision, that's something that's important.

8 MRS. DEBBIE ROUWENHORST: Brad, you made a comment that  
9 Southwest District Health would do a variance also on wells and  
10 septic tanks or are they pretty set on their acreage?

11 MR. BRAD HAWKINS-CLARK: I was just pointing out that they  
12 have a procedure available to pursue. I am not aware of any  
13 being approved. They have gotten strict.

14 MRS. DEBBIE ROUWENHORST: Because that would be an issue.

15 MR. JEREMY DAVIS: If we get approved by you folks, we have  
16 other hurdles probably to overcome before we can make anything  
17 happen.

18 MR. DAVID POOLE: From my standpoint, until that could be  
19 stated, I don't think I would be willing to approve it. In  
20 other words, I would want to continue until you have that  
21 information back to us. That's the way I would feel about it  
22 but I'm not the only Commissioner here. I think it's a very  
23 important piece of the puzzle here that we need to deal with.  
24 Any other questions?

25 MR. DON WILKERSON: The front door faces north; right?

1 MR. JEREMY DAVIS: Yes, sir.

2 MR. DON WILKERSON: Okay. You mention that if we move your

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3 fence line where you show 36 feet and the fence line to the  
4 shop, if that was reduced down to 8 feet, it makes it  
5 non-workable; explain why.

6 MR. JEREMY DAVIS: The backside of the building is the only  
7 entrance for entering vehicles in and out of the building.

8 MR. DON WILKERSON: The east side.

9 MR. JEREMY DAVIS: Correct.

10 MR. DON WILKERSON: So you have a doorway.

11 MR. JEREMY DAVIS: Yeah, there's a doorway where the main  
12 operation is of dismantling vehicles.

13 MR. DAVID POOLE: But we're talking about drawing a line in  
14 the sand. We're not talking about putting a fence there.

15 MR. JEREMY DAVIS: I understand that but to be conforming  
16 don't you have to have something there?

17 MR. DAVID POOLE: It's your property. Push comes to shove,  
18 you could put a door somewhere else I assume.

19 MR. JEREMY DAVIS: No. There's no other place to put a  
20 door because it's a quonset hut.

21 MR. DAVID POOLE: Well you got two ends to work with.

22 MR. JEREMY DAVIS: Well there's an office on the other end.  
23 You'd have to tear the office down on the other end.

24 MR. DAVID POOLE: But it is possible.

25 MR. JEREMY DAVIS: You're right. It is possible.

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1 MR. DON WILKERSON: But like Dave said, move the property  
2 line closer to the Kwanzaa hut, that's a line in the sand and  
3 you can still drive over it to get in your shop.

4 MR. JEREMY DAVIS: You're right. That's not a problem.  
5 From what I understood, you couldn't do that.

6 MR. DON WILKERSON: You mentioned earlier that there's one  
7 well and one septic tank on the whole parcel.

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8 MR. JEREMY DAVIS: There's one well and two septic tanks.

9 MR. DON WILKERSON: Okay. If we grant the variance, would  
10 you have a septic tank on both parcels.

11 MR. JEREMY DAVIS: Yes, sir.

12 MR. DON WILKERSON: Because it says here that you have to  
13 have a septic tank or a well on each parcel.

14 MR. JEREMY DAVIS: There's two separate septic systems.  
15 The only thing there's a single of is the well. As a matter of  
16 fact, even the power is separate.

17 MR. DON WILKERSON: And, Brad, one of your outstanding  
18 issues is the well. In that case, could the well on the north  
19 east corner of the property serve the business portion of the  
20 property.

21 MR. BRAD HAWKINS-CLARK: There's nothing in the code that  
22 would prohibit a shared well.

23 MR. DON WILKERSON: But in your statement here, it says  
24 septic tank and well must be located on separate lots.

25 MR. BRAD HAWKINS-CLARK: Yeah. I should have clarified

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1 that. From Jeremy's testimony here tonight, if it's 15 feet  
2 from the road, I mean, that may raise up another set of things.  
3 In terms of can it be shared, under the Ordinance, it could as  
4 long as there's an easement granted across the property line.

5 MR. DON WILKERSON: Where we have the concern about the  
6 size of the lot you're proposing, your 36 feet, plus you may  
7 have to give up another 15 feet in front for road widening, are  
8 you aware of that?

9 MR. JEREMY DAVIS: Yes.

10 MR. DON WILKERSON: Are you open to the option of  
11 increasing the size of the parcel that we do the variance on.

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12 In other words, move that west property line closer to your  
13 shop.

14 MR. JEREMY DAVIS: Yes. There wouldn't be a problem with  
15 that.

16 MR. DON WILKERSON: Again, in reading Brad's outstanding  
17 issues here, there's landscaping. You mention a minimum 35 foot  
18 wide buffer between the industrial and the residential. The  
19 buffer could be a berm. So that could cause you a problem if  
20 you move your west property line to the west. That could give  
21 you a problem. Is that an item that he needs to consider also,  
22 Brad?

23 MR. BRAD HAWKINS-CLARK: Yes and this may not even be all  
24 of them. This isn't a subdivision application so we didn't do  
25 all the analysis. I was just pointing out the big ones. If it

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1 comes down to it and they decide to proceed, the landscaping  
2 buffer is to protect residential from industrial. If there's a  
3 different owner, it becomes more of an issue, but that's the  
4 reason for it. There is a waiver for a piece of that and then  
5 potentially a variance for some of it.

6 MR. DON WILKERSON: Again, you mention in your staff report  
7 here, several times, subdivision. So if we grant the variance  
8 and they split and it becomes two parcels instead of one, is  
9 that what you're considering a subdivision?

10 MR. DAVID POOLE: They still have to do a minor sub.

11 MRS. DEBBIE ROUWENHORST: Even with the variance?

12 MR. BRAD HAWKINS-CLARK: Yes. The variance is strictly  
13 dealing with zoning minimum size.

14 MR. DON WILKERSON: So the conditions of the subdivision  
15 will come back as another issue later on.

16 MR. BRAD HAWKINS-CLARK: Right.

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17 MR. LAWRENCE WHITSELL: Do all these issues stay the same  
18 under one ownership? Will all these issues change if it goes  
19 under multiple ownership?

20 MR. BRAD HAWKINS-CLARK: If they were to split the  
21 property, we don't care if they decide to own both. They could  
22 sell one or they may not sell one.

23 MR. LAWRENCE WHITSELL: But if they keep it all under one  
24 ownership, two tax parcels, do buffers and all that stuff still  
25 need to be in place or do they apply?

20

1 MR. DAVID POOLE: We have to go by Ordinance.

2 Any other questions for the applicant? Thank you. Further  
3 public input for or against this. If not, I guess there's  
4 nothing to rebut at this point. We'll bring it back before the  
5 Board. Commissioners, comments?

6 MR. DALE REYNOLDS: It looks to me like this is something  
7 that got messed up back in 1978 and we have a chance to make it  
8 right. It needs to be fixed somehow. Whether we grant the  
9 variance or not, he's still got a lot of steps to go through.

10 MR. DAVID POOLE: Any other comments from Commissioners?

11 MR. DON WILKERSON: I don't know if I agree with Dale's  
12 comment that it's a problem. There's lots of them that were  
13 probably created back in 1978 when the County decided to put in  
14 Ordinances. We find those every once and a while and those are  
15 beyond our control because they were there before 1978. Some of  
16 them are because somebody got something through the Records  
17 Office that got a 1 acre lot in a 5 acre zone. So I think we,  
18 as a staff, need to be very careful of granting this variance  
19 and creating another nonconforming lot in a 5 acre zone. We  
20 already have one and we're just creating another one. Thank

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21 you.

22 MR. LAWRENCE WHITSELL: If you can't get a variance with  
23 the Department of Health, then it really doesn't matter what we  
24 do. I suggest we just continue this until he finds that out.

25 MR. DAVID POOLE: It appears too that we may have another

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1 problem. If the well is 15 feet from the road, we may have the  
2 well and possibility of a road way for subdividing. So we need  
3 to know where that's at as well.

4 MR. JEREMY DAVIS: And that's a guesstimate on my part.

5 MR. DAVID POOLE: That's what I'm saying. These are things  
6 that I think we probably need to know to make that intelligent  
7 decision before we move ahead. Any further comments from the  
8 Commission?

9 MR. DON WILKERSON: I'd like to make a motion that we  
10 continue this hearing for the following reasons: That the  
11 applicant go and confer with Southwest District Health to  
12 determine if the septic system complies with the smaller lot  
13 size. I would also like to see the applicant come back with a  
14 better drawing, with a more accurate size of the lot that they  
15 propose. Also they have the well placement in relation to the  
16 roadway. Another item that I want to bring up is if we get to  
17 far to the west with the new property line, do they have to do a  
18 rezone if it gets into the M-2 area? I just looked at the  
19 zoning map and it's not real clear where the break is.

20 MR. BRAD HAWKINS-CLARK: That's a good question. We can  
21 check that.

22 MR. DON WILKERSON: So that may be something that the  
23 applicant wants to check with the Department of Development  
24 Services is actually where the break is between the M-2 and the  
25 A-2.

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

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

3 MR. DAVID POOLE: It's been moved and seconded that we  
4 continue for the four reasons that were mentioned. Discussion?  
5 If not, all those in favor of the motion signify by saying I.  
6 Opposed same sign. Motion for continuance carries. So we  
7 continue to the next meeting on July 14th. Thank you very much.

8

9 (Motion carries unanimously.)

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11 PUBLIC HEARING:

12 Item No. 2 - Rezone #RZ-08-001 - Timothy and Sylvia Walker

13

14 MR. DAVID POOLE: Second item on our agenda tonight is  
15 Rezone #08-001 by Timothy and Sylvia Walker. You want to bring  
16 us up to speed on that please, Brad.

17 MR. BRAD HAWKINS-CLARK: This is a rezone request by  
18 Timothy and Sylvia Walker. This is approximately 39 acres from  
19 A-1 prime Ag, 40 acre minimum lot size to A-2 rural transitional  
20 Ag, 5 acre minimum lot size.

21 North is up on this map. East Idaho boulevard is located  
22 here. East Black Canyon Highway is located at the top of the  
23 screen.

24 There are 2 parcels that the applicant owns. They do touch  
25 at a point. The properties do not have any structures on them.

1 The property is, as I mentioned, zoned A-1, 40 acre minimum lot  
2 size. Neither one of these parcels is 40 acres in size.

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3 This map just shows you the tax assessors parcel map. On  
4 the property there is a rural access, unimproved for the most  
5 part, kind of along the southern boundary of the larger of the  
6 two parcels. Shown here is 006. That access runs pretty close  
7 to the bench, kind of the ridge line there, and continues east  
8 and north. Then there is another easement that takes that to  
9 the north, to their second parcel, which is approximately 15  
10 acres in size.

11 Here's a couple of site photos. You've probably driven by  
12 in the years and seen agricultural use. This is east from Idaho  
13 Boulevard. This is looking more north east towards the Butte.

14 The property is designated in the county residential area  
15 in the Comprehensive Plan. It is that priority growth area 2 as  
16 you reviewed a few months ago with Commissioner WhitSELL's  
17 property across the street. It does have a similar designation.  
18 The 24.3 acre and the 15 acre lie within that same Comp Plan  
19 designation.

20 Referring to page 3 on the staff report, it notes the areas  
21 surrounding this property. County residential area on the  
22 Comprehensive Plan is adjacent to all sides except for the south  
23 of the site. The priority growth area 1 is south of the site.  
24 So that just means that they could potentially have 1 acre  
25 zoning on that priority growth area 1. Its the priority growth

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1 area 2 that's limited to 5 acres at this time. Primarily in Ag  
2 areas still there are a few other parcels that are less than 40  
3 in the close vicinity and of course, just recently, the WhitSELL  
4 parcel that was rezoned to a minimum 5 acre by the Board of  
5 County Commissioners.

6 The Comprehensive Plan policies are outlined in the staff  
7 report. We did receive, in the public record, a couple of

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8 written comments. I just wanted to point those out. One of  
9 those is written by Lyn Whitsell in support of the application.  
10 One is by Carla Porath with the Emmett Irrigation District.  
11 Typical comment from the Irrigation District where they don't  
12 have a position on the rezone itself but they're just pointing  
13 out future development. John Henderson with the Assessors  
14 Office is noting a couple of questions about the easement along  
15 the south boundary. The Road and Bridge Department has a  
16 comment regarding the future Capital Improvement Program Policy.  
17 The final item is written by Rex and Bev LaBrie. They have  
18 three items of concern for the Commission primarily regarding  
19 the agricultural area and going less than the current parcel  
20 sizes. So unless there's any questions from the Commission,  
21 that's all I have.

22 MR. DAVID POOLE: Are there any Commissioners that have  
23 conflict of interest or ex parte communication? Under the  
24 circumstances, because you're listed as one of the owners, maybe  
25 you should step down.

25

1 MR. LAWRENCE WHITSELL: Should I?

2 MR. DAVID POOLE: I think so. It's been practiced in the  
3 past I think. All right. You get to be part of the public for  
4 now.

5 MR. DON WILKERSON: Brad, John Henderson's letter looked  
6 like most of those issues would be addressed at the time of  
7 subdivision.

8 MR. BRAD HAWKINS-CLARK: That was my opinion.

9 MR. DAVID POOLE: Any other questions for staff? If not,  
10 then I guess we'll go directly to the applicant or the  
11 applicant's spokesman.

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12 MR. TIMOTHY WALKER: Thank you. My name's Tim walker.  
13 This is my wife Sylvia. We reside at 1330 Edgemont Road in  
14 Emmett. We are applying for a rezone from A-1 to A-2 on two  
15 contiguous parcels of property, which total 39.31 acres. This  
16 property is bordered on the west by East Idaho Boulevard, a  
17 minor collector, and directly across the road, to the east, from  
18 the whitseil farms.

19 within a 3 quarter mile radius of our property, there are  
20 numerous 1 and 5 acre residences and subdivisions. we feel that  
21 this rezone request is harmonious with the surrounding area and  
22 is supported by policies of the 2007 Gem County Comprehensive  
23 Plan. we have some examples listed. Housing Chapter 3-G1.5,  
24 page 19, rural residential and small ranch-type developments  
25 shall be encouraged in areas where it is compatible with

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1 existing agricultural and ranching development. Example 2,  
2 General Land Use Policies 12.2, page 84, will also put no burden  
3 on County or Municipal needs. 12.11, would create growth from  
4 community centers and radiate outwards in a logical and orderly  
5 fashion. Example 3, Residential Land Use Policies 12A.3, page  
6 84, this request would also compliment existing neighborhoods.  
7 Example 4, line item 3, page 79, our rezone request co-insides  
8 with the land use objectives of designating ample land for urban  
9 expansion and encouraging in fill.

10 If we are approved for A-2 rezone we plan to build a home  
11 for our family. we would also like the opportunity to gift our  
12 children property with the intention of them residing on it in  
13 the future.

14 MR. DAVID POOLE: Questions for Mr. walker from the  
15 Commission.

16 MR. DON WILKERSON: Your example 2, also will not burden on  
Page 22

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17 County or Municipal needs, if you build the potential of 7 lots,  
18 you are putting some burden on County with construction.

19 MR. TIMOTHY WALKER: Yes. I realize that. I also learned  
20 in this process that in October of last year, for lack of CIP,  
21 if I understand correctly, that will help offset that burden.

22 MR. WILL MAUPIN: I appreciate what Don's saying but I  
23 think, as a Commission, it's important that we remember that  
24 those issues are not necessarily rezone issues. Those would be  
25 subdivision issues.

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1 MR. TIMOTHY WALKER: Thank you.

2 MR. DAVID POOLE: Any other questions for Mr. Walker? If  
3 not, thank you very much. Further comments from the public for  
4 or against.

5 MS. CATHY SMITH: Cathy Smith. My address is 76 South  
6 Grandean, Eagle. I own the property underneath the bench. I'm  
7 speaking on behalf of my ex-husband, Gary Smith, who owns the  
8 house up on the bench, 9 acres. We have no opposition. We're  
9 accepting of the applicant's request for the rezone.

10 As I expressed to Tim today, our concern would be at the  
11 point of plat to ensure character of the community. That's it.

12 MR. DAVID POOLE: Thank you. Further public input. If  
13 not, it appears you don't need to rebut that because you've  
14 already discussed it. So if you don't want to speak anymore,  
15 we'll close the public portion and bring it back before the  
16 Board. Commissioners, comments?

17 MR. WILL MAUPIN: I make a motion that we approve the  
18 rezone based on staff analysis and public testimony.

19 MR. DAVID POOLE: Do we have a second to that motion.

20 MR. DALE REYNOLDS: I second it.

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21 MR. DAVID POOLE: Been moved and seconded. Discussion on  
22 the motion. If not, all those in favor signify by saying I.  
23 Opposed same sign. Motion carries to recommend to the County  
24 Commissioners for rezone.

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(Motion carries unanimously.)

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REGULAR MEETING:

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Item No. 1 - Items from the public

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(There were no items from the public.)

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REGULAR MEETING:

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

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MR. BRAD HAWKINS-CLARK: As you can see, Kandi is not here  
13 this evening. It was unfortunate, but I think one of those  
14 situations where a great person but kind of the wrong fit for  
15 the job. So she is no longer with Gem County.

16

17

I wanted to let you know that the Board of County  
18 Commissioners has talked with Kim Reed today about the McGregor  
19 special use permit. This is a gravel extraction operation off  
20 of Shale Rock Road. If you've driven on Shale Rock recently,  
21 you've probably seen some spidering of the asphalt on Frozen  
22 Dog, kind of before you go up the hill. It's breaking up pretty  
23 good. All indications from the Road Department are that it's  
24 likely caused by the impacts of that operation. So we are doing  
25 some enforcement of your conditions. If there's any questions  
about the conditions, I just want to give you a heads up that it

1 may come back to you. Right now it's at the Board of County  
2 Commissioners, mainly because they oversee the roads and the  
3 budget.

4 Kim Reed did shut them down on the basis of weight limits  
5 and his concern about the integrity of the road being broken  
6 down even further. So they did begin operation but they are  
7 currently delayed.

8 I'll just try to keep you up on special uses that you have  
9 approved. At this point, I think what's going to happen is one  
10 of your conditions was that a mitigation agreement be entered  
11 into between Mike Wright and Carol McGregor for the roads. That  
12 actually was informal and didn't get formalized. So we're  
13 working on formalizing that now, probably for the next two  
14 weeks. That's Kim's estimate on how long it will take the road  
15 to dry out a little bit. Once it's dried out, he feels better  
16 about allowing a few trucks. So during that two week time, the  
17 mitigation of the roads will be worked on. So that is the  
18 reason he is not operating, just if you get any questions.

19 MR. LAWRENCE WHITSELL: Is Kim suggesting any other  
20 remedies other than just keeping the trucks off the road?

21 MR. BRAD HAWKINS-CLARK: There's about a 300 foot long  
22 patch that is pretty broken up. In Kim's opinion, it's not just  
23 the surface, it's a base problem. As you recall, that was his  
24 testimony in writing but he also said well, if you're going to  
25 go for it, here's what you've got to do. His estimate was

1 probably about \$20,000 to completely rebuild that 300 feet going  
2 down to the subgrade and then rebuilding the road up to

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3 standards. Obvious point there is why, because if you only do  
4 300 feet, the rest of the road has the same sub-base.

5 There's a lot of legal questions. You can't really require  
6 him to come in and put the road up to Gem County standards when  
7 it wasn't that way when he was approved. At the same time,  
8 apparently, since 1970 or whatever it was when Picket Corral  
9 subdivision was put in, when that road was built going up the  
10 hill, there have not been any significant problems with the road  
11 other than some typical treatment. So Kim's fairly certain this  
12 is the reason.

13 He has moved it up to probably about 12 loads. That's 24  
14 trips. So he's doing well and the County wants him to succeed,  
15 obviously, but there's that whole relationship that you  
16 struggled with. The Commissioners did read your minutes and  
17 they do appreciate the time you spent on it. At this time, it's  
18 just an unfortunate matter.

19 Hopefully you all got word that we had a meeting with the  
20 new consultant a couple weeks ago. Debbie was able to make it.  
21 I thank you. So she's starting in on that list that I sent you  
22 and probably will be meeting with you. She's going to meet with  
23 the County Engineer and some of the County department heads and  
24 kind of come up with some initial thoughts. Her plan on a lot  
25 of those is to give you two to three options so that you have

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1 them in front of you to discuss instead of just here's the  
2 proposed change to the Ordinance, here's two or three options.

3 So that contract, at this point, is probably around 5  
4 months and you could probably expect at least one workshop  
5 before your public hearing to kind of get you familiar with  
6 these changes.

7 It is budget season. The County Commissioners are putting

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8 that together if you have any thoughts about projects that you  
9 think would be important. One of the things is the sound. The  
10 Courts Department controls this. The Supreme Court goes around  
11 the State and gives money to various Counties to help improve  
12 these court systems. They're going to try to really work hard  
13 to get some of that money. That's it for me unless you've got  
14 questions for me.

15 MRS. DEBBIE ROUWENHORST: I have a question. This goes on  
16 the Davis one. I noticed it is a mixed use. If they went under  
17 a mixed use, which the current Comp Plan is, would they have to  
18 go through the subdivision Ordinance if they went as a special  
19 use within the MX zone? If they did a rezone versus the  
20 variance, would it be easier for them to do that?

21 MR. BRAD HAWKINS-CLARK: I don't know how you're going to  
22 help them avoid the minor subdivision.

23 MR. DAVID POOLE: When you do a split, you've got a minor  
24 sub.

25 MRS. DEBBIE ROUWENHORST: Even if it's a special use permit

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1 within an MX zone it still would be classified a subdivision.

2 MR. BRAD HAWKINS-CLARK: It's a separate matter. The  
3 special use is just dealing with the use of the property.

4 MRS. DEBBIE ROUWENHORST: So it still has to go through  
5 minor sub?

6 MR. BRAD HAWKINS-CLARK: Yes. The special use is saying a  
7 residential use in this area is a use that we accept and then a  
8 survey, typically, divides the property.

9 MRS. DEBBIE ROUWENHORST: And then it still has to be a  
10 minor sub.

11 MR. BRAD HAWKINS-CLARK: Yes.

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REGULAR MEETING:

Item No. 3 - Items from the Deputy Prosecuting Attorney

(No items from the Deputy Prosecuting Attorney.)

REGULAR MEETING:

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

(There are no items from the Commission.)

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REGULAR MEETING:

Item No. 5 - Adjourn.

MR. LAWRENCE WHITSELL: I make a motion to adjourn the meeting.

MRS. DEBBIE ROUWENHORST: I second that.

MR. DAVID POOLE: Motion carries.

(Motion carries unanimously.)

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