

September 8 2008 meeting

1

1

2 GEM COUNTY PLANNING AND ZONING PUBLIC HEARING

3

4

5

6 Date: September 8, 2008

7 Time: 7:00pm - 8:00pm

8 Place: Gem County Courthouse

9

10 MEMBERS PRESENT:

11 David Poole, Don Wilkerson, Debbie Rouwenhorst, and Dale

12 Reynolds.

13

14 MEMBERS ABSENT WITH PRIOR NOTICE:

15 Will Maupin and Lawrence Whitsell.

16

17 OTHERS PRESENT:

18 Brad Hawkins-Clark - Planning Director/Administrator and

19 David Hargraves - Deputy Prosecuting Attorney.

20

21

22

23

September 8 2008 meeting

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

25 Transcription from recording done by Amanda Shaw.

□

2

1

2

ITEMS REFERENCE PAGE

3

4

CONSENT AGENDA:

5

Item No. 1 - Approval of the Minutes for July 14th, 2008

6

.....Page 4

7

8

PUBLIC HEARING:

9

Item No. 1 - (Continued) Preliminary Plat (View Acres)

10

#PP-08-004 - Fred Doriot .....Page 4

11

12

Item No. 2 - Rezone #RZ-08-003 - Craig Gibson

13

.....Page 14

14

15

REGULAR MEETING:

16

Item No. 1 - Items from the Public .....Page 27

17

18

Item No. 2 - Review of Proposed Subdivision Ordinance

19

Amendments .....Page 27

20

21

Item No. 3 - Items from the Planning Director/Administrator

September 8 2008 meeting

22 .....Page 28

23

24 Item No. 4 - Items from the Deputy Prosecuting Attorney

25 .....Page 30

□

3

1

2 ITEMS REFERENCE PAGE

3

4 REGULAR MEETING:

5 Item No. 5 - Items from the Planning and Zoning Commission

6 .....Page 31

7

8 Item No. 6 - Adjourn .....Page 32

9

10

11

12

13

14

15

16

17

18

19

20  
21  
22  
23  
24  
25

□

4

1

2

PROCEEDINGS

3

Gem County, City of Emmett, September 8, 2008

4

5

CONSENT AGENDA:

6

Item No. 1 - Approval of the Minutes for July 14th, 2008

7

8

MR. DAVID POOLE: First thing is approval of the minutes of

9

July 14th. Anybody want to make a motion?

10

MR. DON WILKERSON: I make a motion that we approve the

11

minutes as presented.

12

MRS. DEBBIE ROUWENHORST: I'll second it.

13

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

14

approve the July 14th minutes as submitted. All those in favor

15

signify by saying I. Opposed same sign. Motion carries.

16

17

(Motion carries unanimously.)

September 8 2008 meeting

18

19 PUBLIC HEARING:

20 Item No. 1 - (Continued) Preliminary Plat (View Acres)

21 #PP-08-004 - Fred Doriot

22

23 MR. DAVID POOLE: Now we've got the continued preliminary

24 plat review for View Acres. The only part we're going to be

25 continuing is the portion that was in the public hearing. We

□

5

1 needed some legal advice before we made any decisions. Is

2 Mr. Doriot here? Are you the spokesman for him?

3 MR. ROGER BENNIE: Yes. Fred has been in the hospital.

4 The only thing is I read David's letter and I don't think I

5 understand it. I needed to talk to him about it. The thing is

6 we wanted to restrict the property. We don't want to

7 permanently restrict it. In other words, we don't know how the

8 engineering is going to change in the next 10 years. All kinds

9 of things could come up. We want to restrict it but if the

10 people that buy it want to do something with it, then they can.

11 There's still areas to build on if they don't want to get up

12 into the 10% slope area. That's the only contention I know of,

13 at this point, is the word "permanent."

14 MR. DAVID POOLE: David, do you see any way? I understand

15 you're telling us this is the way the Ordinance is written and

September 8 2008 meeting

16 our position should be that we follow the Ordinance. Anything  
17 over that 10%, they would have to do a Hillside Subdivision; am  
18 I stating this correctly?

19 MR. DAVID HARGRAVES: I mean, they've already done the  
20 Hillside, but the Ordinance allows it to be done in a phase. If  
21 they don't want to submit the reports and all that, then there  
22 needs to be some kind of restriction. I think the hang up is  
23 the wording of the restriction. Again, I think the strongest  
24 legal position for you is to require all that stuff because that  
25 is what the Ordinance requires. Brad and I have discussed this

□

6

1 and apparently the Board of County Commissioners have discussed  
2 this too. That might be too strict of a reading of our  
3 Ordinance. There is a provision that allows the Hillside to be  
4 done in a separate phase. Brad suggests that if there's not  
5 going to be any development at all, that kind of the trade off  
6 is you don't get the reports but you have to put a restriction  
7 on the plat that doesn't allow building in that area.

8 MR. DAVID POOLE: Now when you say it doesn't allow  
9 building, does that mean it doesn't allow building ever or until  
10 they get the reports?

11 MR. DAVID HARGRAVES: Well, I think that's kind of up for  
12 debate. Maybe Brad could give his opinion on what the pro's and  
13 con's of each would be. I mean, I can understand both sides of

September 8 2008 meeting

14 this.

15 MR. BRAD HAWKINS-CLARK: My experience in the last 10 years  
16 in Planning is just what Roger testified to, is things do  
17 change. You do have technology that comes up. You do have  
18 various innovations in terms of building and if geology,  
19 hydrology, and soil reports were done today, that engineer is  
20 going to make certain recommendations based on that soil type  
21 and based on the seismic zone and on a number of other factors.  
22 It's highly doubtful the soil type is going to change but how  
23 you stabilize the slopes and potentially some options for  
24 preventing erosion may be some material that we don't know about  
25 today. It's all possibility. I completely agree with that.

□

7

1 I've seen it. So, to me, obviously the main thing is the  
2 Ordinances. If your going to subdivide land, it's the  
3 subdivider's responsibility to make sure your creating building  
4 lots that work.

5 What you would be doing if you said you can restrict it and  
6 in the future somebody wants to build here, you're basically  
7 just shifting the responsibility to the future property owner.  
8 Does that mean your not going to get good material, a good  
9 project? No. I mean, you may get the exact same product. It's  
10 more of just whose responsibility it is. I guess the  
11 Commission, correct me if I'm wrong, David, there is flexibility

September 8 2008 meeting

12 here. You're just getting staff's perspective on what it is

13 today.

14 MR. DAVID POOLE: The way I'm reading it is we have an  
15 Ordinance in place and we need to follow that Ordinance as close  
16 as we can. What I'm asking for from you guys is, is there some  
17 sort of wording or some way that we can propose this motion so  
18 that we can move ahead or would we be setting a precedence when  
19 we do this? We are working with an Ordinance that probably  
20 needs to be changed anyway. Probably setting that precedence is  
21 not a bad idea. Then we can get right on to straightening the  
22 Ordinance out so that it's better worded. I hate to hold them  
23 up if that's the way we feel about this Ordinance because  
24 obviously we have several that need massaging, this being one of  
25 them. So I'd just like some appropriate wording or some way

□

8

1 that we can approach this and not leave an open door.

2 MR. DAVID HARGRAVES: The question is if you don't require  
3 the hydrology and soil reports and whatever the other reports  
4 that are required at this point, then there needs to be a  
5 restriction on the face of the plat that does not allow for  
6 building permits until those reports are received at some point  
7 in the future. I don't know if Brad's comfortable with that.  
8 The other wording was a permanent restriction. What does that  
9 mean? It means development is forever ruled out. I don't know

September 8 2008 meeting

10 that I like that.

11 MRS. DEBBIE ROUWENHORST: Question for Brad, if there is a  
12 restriction on the face of the plat, is that something that you  
13 can, in Development Services, track or is it going to fall  
14 through the cracks?

15 MR. BRAD HAWKINS-CLARK: Actual notes on the face of plats  
16 are pretty easy to track. Every time a building permit comes in  
17 and we look at the deed and it says lot, then we know it's in a  
18 subdivision and we just pull the subdivision plat and read it.  
19 So we do that for every building permit on the deed. So I'm not  
20 to concerned about that part of it. I think David's right.

21 What does permanent mean? Somebody could come in and apply to  
22 amend a subdivision for just about any reason if they want to  
23 pay the fee. You come in and pay and amend the plat.

24 MR. DAVID HARGRAVES: But I think the wording would need to  
25 be clear about what would be required to obtain building permits

□

9

1 and have to include language in submitting the required reports  
2 for a Hillside Subdivision. It does become a little tricky if  
3 you have three separate ownership's. Do they all have to agree  
4 to come in and amend the plat? Would they have to do that  
5 hillside phase, which extends across all three lots, all at the  
6 same time or can they do sections of it when each lot owner  
7 wants to develop in the hillside? It does raise some questions

September 8 2008 meeting

8 that can be dealt with but it can be a little tricky.

9 MR. DAVID POOLE: I think from that standpoint, as far as  
10 each individual lot, that if that's on the face of the plat,  
11 that anything over the 10% slope has to have the hillside  
12 requirements met on each lot. Then I think if we could do  
13 something like that, it would at least alert you. Then if they  
14 want to build in that area, they have to do the work. They have  
15 to spend the money and get it done. I assume you can purchase a  
16 lot but not develop it for whatever time you wish.

17 MR. ROGER BENNIE: And on these, there are places to build  
18 the houses without going into the slope area on each three lots.

19 MR. DAVID HARGRAVES: So that raises the other possibility  
20 that this may never come back. There may be people that are  
21 completely satisfied with not building on the hillside from here  
22 to forever.

23 MR. DAVID POOLE: And I think the owners reasoning is  
24 pretty sound. He would like the new owner of the lot to be able  
25 to make that decision.

□

10

1 Thank you. Further public input? If not, I'll close the  
2 public portion and bring this before the Board.

3 MR. DON WILKERSON: To the staff, where the letter from  
4 Keller mentions permanent restrictions, can't you just put a  
5 restriction on the plat showing it's a recorded restriction?

September 8 2008 meeting

6 Like Bennie said, 10 years down the road, things may change.

7 Then they can approach you folks and look for changes. It may

8 never change. I think we ought to go with the Ordinance. It

9 appears where the applicant, at this time, has not provided

10 studies as required, then we put recorded restrictions on the

11 lots.

12 MRS. DEBBIE ROUWENHORST: I agree with Don.

13 MR. BRAD HAWKINS-CLARK: The latest plat that I believe

14 Development Services has is dated July 7th. Note number 14 says

15 building on areas steeper than 10% shall require submittal of a

16 geo-technical report to be reviewed by the County.

17 MR. DON WILKERSON: It was mentioned in the staff report

18 that the requirement of development of a subdivision for

19 buildable lots falls on the subdivider, not the owner. I wonder

20 if we could add to note 14 that those reports will be provided

21 by the owner, at the time. They are either needed or required.

22 MR. DAVID HARGRAVES: Brad and I can come up with some

23 wording to recommend to the Board of County Commissioners.

24 MR. BRAD HAWKINS-CLARK: It would be helpful to know --

25 MR. DAVID POOLE: What the intent is?

□

11

1 MR. BRAD HAWKINS-CLARK: Yeah.

2 MR. DAVID POOLE: I think I agree with the intent from Don

3 here that as long as it's on the plat that it's required, in

September 8 2008 meeting

4 this case, by the owner as opposed to the subdivider.

5 MR. DON WILKERSON: So, Brad, what you're suggesting is we  
6 make some type of motion here to give you something to look at.

7 MR. BRAD HAWKINS-CLARK: Right. When we put your motion  
8 through to the Board we need to know what you want. I would add  
9 my one concern with that is that today the subdivider is Doriot.  
10 Tomorrow, it may not be Doriot. So if your intent is to have  
11 the lot owner pay for the studies, then make that clear. If  
12 your intent is to have the owner pay, then I guess, how are we  
13 going to know?

14 MR. DAVID POOLE: So you're saying as opposed to  
15 subdivider, we want to say lot owner.

16 MR. DAVID HARGRAVES: You could almost say that no building  
17 permits will be issued for these parcels in this slope area  
18 until these reports are received. I don't think we care who  
19 pays for it.

20 MRS. DEBBIE ROUWENHORST: Somebody could buy a lot and it  
21 could be 8-10 years before they build and how do you go back on  
22 the original subdivider?

23 MR. DAVID POOLE: So we want to make sure we're clear on  
24 who's going to pay for this. In this case, it's going to be the  
25 lot owner or the permittee.

□

12

1 MR. DON WILKERSON: Or it could be that the potential buyer

September 8 2008 meeting

2 will say I'll by the lot if you, as the owner, furnish the  
3 reports.

4 MR. DAVID POOLE: That's negotiable.

5 MR. DON WILKERSON: But down the road, they need to change  
6 the Ordinance.

7 MR. DAVID POOLE: Which might resolve that issue. Any  
8 comments? Somebody want to put that in the form of a motion so  
9 we can move forward on this?

10 MR. DON WILKERSON: I'll make a motion. I move that we as  
11 the Commission make a recommendation to deny this application  
12 #PP-08-004 because the applicant, at this time, has not provided  
13 the required geological reports and we will place a deed  
14 restriction, as presented on the latest plat, to restrict the  
15 building envelopes on the lot. I'll let staff determine how  
16 they're going to write that.

17 MR. DAVID POOLE: So you want to recommend denial. So if  
18 we're going to deny, we don't need the other stuff. Do we have  
19 a second to that motion? Then I guess the motion dies for lack  
20 of a second.

21 MRS. DEBBIE ROUWENHORST: I have a question. So if we deny  
22 it, then don't we want to approve it with conditions or is it a  
23 total denial?

24 MR. DAVID POOLE: Well, anything you deny, you deny.  
25 There's no approval in it. The word deny means this motion is

□

1 not going to go forward.

2 MRS. DEBBIE ROUWENHORST: Okay. I have a question for Don  
3 then because you had a stipulation to put restrictions on the  
4 lot. So we would not even do that.

5 MR. DAVID POOLE: Does anybody else want to bring a motion  
6 before the Board?

7 MR. DALE REYNOLDS: I make a motion that we approve this  
8 application, recommend to the County Commissioners, with the  
9 stipulation that the soil studies be marked on the plat and that  
10 is paid for by the lot owner.

11 MR. DAVID POOLE: Meaning the person that is going to do  
12 the actual building.

13 MR. DALE REYNOLDS: Exactly.

14 MR. DAVID POOLE: Under item 14 that's on there now? Would  
15 that be a good place to put that?

16 MR. DALE REYNOLDS: Exactly.

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

18 MRS. DEBBIE ROUWENHORST: I'll second.

19 MR. DAVID POOLE: Discussion. If not, all those in favor  
20 signify by saying I.

21 MR. DAVID POOLE: Okay. It's two to one. Motion carries.

22

23 (Motion carries. Commissioner Rouwenhorst and Commissioner  
24 Reynolds are in favor of the motion. Commissioner Wilkerson

25 opposed.)

□

14

1

2 PUBLIC HEARING:

3 Item No. 2 - Rezone #RZ-08-003 - Craig Gibson

4

5 MR. DAVID POOLE: We'll move on to the second item on our

6 agenda and that would be RZ-08-003. You want to give us a

7 little read in on this thing, Brad?

8 MR. BRAD HAWKINS-CLARK: Sure. This application before you

9 is a rezone request for approximately 31 acres from A-2, which

10 is an agricultural 5 acre minimum lot size zone to an M-2, which

11 is a heavy industrial zone.

12 The property is located generally at the south east corner

13 of Union and Cascade Road, township 6 north, range 2 west in

14 section 10.

15 Here's an aerial of the property. You can see the dark

16 black outline in this area. This is Cascade Road along the

17 north boundary of the property and then Union Lane along the

18 western boundary.

19 There is a small out parcel, approximately 1 acre, right at

20 the corner of Union and Cascade that is not owned by Gibson.

21 Idaho Northern Pacific Railroad runs just south, more or less,

22 parallel with Cascade. It does come at the tip of this

September 8 2008 meeting

23 property. You can see there is a sliver of property between  
24 Cascade Road and the Railroad that is triangular in shape. That  
25 is technically separated with ownership which, under our

□

15

1 Ordinance, means it's a separate parcel. I do not believe the  
2 Tax Assessors office has it as such but from the Zoning  
3 Ordinance any properties that are not contiguous to each other  
4 and they're separated by some other ownership are actually  
5 separate parcels. That really doesn't have a whole lot to do with  
6 the application. I just wanted to point that out.

7 There has in the past been some gravel extraction work on  
8 the property. I don't believe there's been a lot of activity  
9 there recently but maybe the applicant can clarify that.

10 The access for that comes off of Cascade. You can see the  
11 small driveway that cuts across the Railroad. It's about  
12 halfway between Union and the tip of their property. There is  
13 no driveway to Union Lane to the property. It is accessed  
14 strictly off of Cascade.

15 Heres a parcel map from the Assessors Office that shows you  
16 a little bit of the parcelization around the area. The property  
17 touches the Shadow Butte Industrial Park for about 250 feet down  
18 here on the south boundary. This is the northern portion of the  
19 Industrial Park which is also zoned Industrial.

20 The applicant also owns these two large parcels here to the

September 8 2008 meeting

21 south and to the east. Actually, I'll just go back to that area  
22 one more time so I can point out the Enterprise Ditch which is  
23 more or less covered by the property line. The applicant owns  
24 to the center line of the ditch. You can see the Enterprise  
25 right here and then it comes across into this area. Then the

□

16

1 Enterprise continues on and crosses over into Union Lane.

2 The property does have a special use permit on it that was  
3 issued in 1983. That special use permit did allow for gravel  
4 extraction and would continue to require a special use permit  
5 even if you choose to recommend the zoning change to have the  
6 industrial. That zone still require as special use permit. So  
7 changing the zoning would not actually remove the special use  
8 permit.

9 In terms of the Comprehensive Plan and some of the other  
10 zoning in the area, north of the site is Idaho Fish and Game.  
11 They have ownership on most of that property that goes up to the  
12 Payette River. That has agricultural zoning on it. South to  
13 the site is the Shadow Butte Industrial Park. That has M-1,  
14 which is light industrial and the others are A-2 zoning. East  
15 of the site is also A-2 agricultural and pasture. West of the  
16 site, with the exception of this little out parcel that has a  
17 single family residence on it, is also all zoned A-2. The  
18 Comprehensive Plan actually has this entire area as industrial

September 8 2008 meeting

19 in the future land use map with the exception of the Fish and  
20 Game property which is intended to stay public.

21 Here's a couple of site photos looking across the property.

22 This is the Enterprise Ditch. This is from Union and we're not

23 quite at the property line here but just to show you the size of

24 the ditch. This is also from Union looking down the Railroad

25 corridor. This has 100 feet of fee-simple ownership by the

□

17

1 Railroad Company. This is not an easement. This is separate  
2 ownership.

3 This is a view south from Cascade Road. You can see the

4 gravel here and kind of beyond that little knoll there's some of

5 the ponds. You can see that the majority of the site is

6 relatively flat. It is irrigated land. It's about a half mile

7 of frontage along Cascade Road. There is a little over 2,500

8 feet. There's about 491 feet of frontage on Union.

9 The Road Department did not submit anything in writing for

10 this application. Kim Reed did tell me that Union Lane

11 was a gravel road for years and years. I don't remember when he

12 said it was paved over but essentially they put a chip seal over

13 the top of Union for dust control purposes. It was never

14 rebuilt to public road standards. It's too narrow for public

15 road standards. So in terms of industrial zoning, that is

16 probably the main concern. In terms of the use of Union, which

September 8 2008 meeting

17 is probably okay for residential agricultural but industrial  
18 zoning allows for a number of uses. Most of those uses  
19 involving a lot more heavy truck travel than agricultural. So  
20 this gets a little bit into the game of County responsibility  
21 and private owner responsibility. It's obviously a County  
22 road/public road. It is the County's responsibility to keep  
23 these upgraded but it's also your responsibility to watch out  
24 for the public interest. We just probably need to talk about  
25 that in this public hearing and get a little bit more thoughts

□

18

1 from you. That's really all the road department had to say is  
2 that it's definitely substandard and would not hold up under  
3 heavy industrial traffic. Cascade Road he was a little more  
4 comfortable with.

5 MR. DAVID POOLE: Questions for staff from the Commission?  
6 If not, we'll move forward with the public hearing portion of  
7 this. We'll start with the applicant.

8 MR. GREG PULLEY: Greg Pulley. I live here in Emmett. I  
9 live at 2703 Black Canyon Highway. Right now I realize that  
10 he's put in for a hot plant permit. At this time, he doesn't  
11 have any plans on putting a hot plant in. We want to try to get  
12 it permitted because it's already a gravel source and we think  
13 in the future, as things start growing around here, that a hot  
14 plant is needed for this area. There isn't one here and the

September 8 2008 meeting

15 nearest one is Nampa, Caldwell, or Boise. This is an area of  
16 impact for the industrial area for Emmett. Personally, I think  
17 it's a good idea to have one here. It's going to cut a lot of  
18 cost for anybody building or even for the County and their  
19 roads. Right now they either have to go out of town to purchase  
20 the material or they have to use the chip seal, which is a  
21 substandard material because it's just got cold oil mixed with  
22 gravel. So that's the portion of the hot plant scenario. We  
23 are planning on using that as a gravel source. We'll continue  
24 with that under our already permitted use.

25 The other thing that we would like is putting some storage

□

19

1 use buildings out on the property.

2 MR. DAVID POOLE: I think that was mentioned on the  
3 application.

4 MR. GREG PULLEY: That is something that we plan on moving  
5 rather quickly on, with the approval.

6 MR. DAVID POOLE: Okay. Questions for the applicant or  
7 spokesman?

8 MR. DON WILKERSON: In the staff report, they're concerned  
9 about water discharge. I know that with a cement plant you have  
10 washing out of trucks. Is there much discharge with an asphalt  
11 plant?

12 MR. GREG PULLEY: There isn't. In fact, there's two types

September 8 2008 meeting

13 of asphalt plants. One is called a bag house plant, which all  
14 the fines are run down through in a fine source material and it  
15 goes through what's like a vacuum cleaner bag and cleans all the  
16 dust out. There is another type that has a washout. Basically  
17 you create a pond 100 feet long, 25 feet wide, and the wash out  
18 goes through that pond and it never goes anywhere else. It just  
19 stays in that pond. You clean the pond out periodically. It  
20 doesn't get out in the air or anything else. The trucks, they  
21 don't clean out there. They would clean out on the job they're  
22 going to. So there's very little disturbance of material. Some  
23 of the material from the plant itself, they do extract just the  
24 asphalt itself, what they call a clean out, and they stockpile  
25 the material and they crush it and reuse it. So everything is

□

20

1 trying to be recycled. Nothing ever gets buried or wasted out  
2 on the site. It all gets reused now.

3 MR. DAVID POOLE: I think there's very little water used in  
4 an asphalt plant.

5 MR. GREG PULLEY: Yeah. Like I said, there's just those  
6 two types. One is a water wash plant and the other is a dry  
7 plant. Both of them are EPA and DEQ approved.

8 MR. DON WILKERSON: So you don't see any fear of  
9 discharging any water into Enterprise Ditch?

10 MR. GREG PULLEY: Absolutely not.

September 8 2008 meeting

11 MR. DON WILKERSON: Are you encountering any sub-water  
12 problems out there with the gravel pit? I can tell by Brad's  
13 picture that there's water sitting there.

14 MR. GREG PULLEY: When we go to extract the gravel, we pump  
15 it down. Through our other permit, the water is sent down  
16 through the old ditch, which is on the north side between the  
17 railroad right-of-way and our portion of the property. There's  
18 a ditch line that continues down and that's where the water's  
19 pumped to. It's just the clean ground water that's going back  
20 down the ditch line.

21 MR. DON WILKERSON: One thing that was in the staff report,  
22 you're not the owner; right?

23 MR. GREG PULLEY: No. I'm just a representative.

24 MR. DON WILKERSON: Concerning setbacks, you need to get a  
25 possible widening of the road.

□

21

1 MR. DAVID POOLE: I think all he was doing to alert them  
2 because that has to be done regardless.

3 Any other questions for the applicant/spokesman? Any  
4 public input?

5 MRS. PATTI LANGNER: I'm Patty Langner. I live right on  
6 the corner over there where the bridge is. That's the start of  
7 our property. We can't handle any more noise or any more dirt.  
8 We're really opposed to all this heavy equipment. We moved out

September 8 2008 meeting

9 there to be in the country with peace and quiet and agriculture.

10 MR. DAVID POOLE: Where's the rest of the noise coming  
11 from?

12 MRS. PATTI LANGNER: The same plant. When we moved out  
13 there it was quiet. They worked one shift. We didn't hear the  
14 thing backing up all the time.

15 MR. DAVID POOLE: So this is the same gravel plant you're  
16 talking about?

17 MRS. PATTI LANGNER: No. This is Unimin. So if this is  
18 going to be the same thing with the heavy trucks making noise,  
19 our neighbor is now in the hospital. He's mentally gone. He  
20 lives right across from the sand mill with all the beep, beep,  
21 beep constantly. I've had to start taking pills a while ago. I  
22 can't handle it. So if this is going to make noise too, we  
23 can't just sell our property and up and leave. That's our home.  
24 Also, the road isn't wide enough. The bridge is too narrow on  
25 Cascade.

□

22

1 MR. DAVID POOLE: If they were going to use it for that,  
2 they would have to extend it.

3 MRS. PATTI LANGNER: Thank you.

4 MR. BOBBY LANGNER: My name's Bobby Langner. I live at  
5 4770 Cascade Road. My big concern, other than the noise, is all  
6 the Fish and Game property back there. With this new

September 8 2008 meeting

7 development and with the smell, the noise, what's it going to do  
8 to all the hunters and everybody that tries to go out there and  
9 enjoy themselves? It's just going to chase it all away.

10 MR. DAVID POOLE: Thank you. Further public input? Would  
11 you like to rebut, sir?

12 MR. GREG PULLEY: I certainly understand people  
13 living/surrounding any industrial area. The reason why we  
14 purchased this property was because it was in the planning for  
15 industry. We wouldn't have purchased the property if it hadn't  
16 been industrial. That was our major reason, understanding that  
17 the county had already proposed this as an industrial area.  
18 This has already been approved for this area.

19 MR. DAVID POOLE: Do you have any comments as far as maybe  
20 hours you plan of operation or what kind of noise is going to be  
21 made?

22 MR. GREG PULLEY: There's very little noise from a hot  
23 plant itself. There are trucks entering and exiting. There's  
24 some noise but I think it's much less than Unimin, which runs  
25 around the clock. We wouldn't be doing that. We run about 8-10

□

23

1 hour days and that's it.

2 MR. DAVID POOLE: But you're still going to have back up  
3 alarms on your machinery.

4 MR. GREG PULLEY: Absolutely. I don't think they would

September 8 2008 meeting

5 really be affected that far away.

6 MR. DAVID POOLE: She says yes they would.

7 MR. GREG PULLEY: I think that's the major one, that we  
8 purchased the property for industrial use.

9 MR. DAVID POOLE: Okay. If there isn't any comment from  
10 anyone that hasn't already commented, we'll close the public  
11 portion and bring it before the Board. Commissioners, any  
12 comments on this rezone?

13 MR. DON WILKERSON: To staff, can we put conditions on the  
14 rezone?

15 MR. BRAD HAWKINS-CLARK: Commissioners, you can not unless  
16 there was a development agreement.

17 MR. DON WILKERSON: Okay. So what brings up my question is  
18 we're changing it to an M-2, which has various operations that  
19 can be performed out there without a special use permit. So he  
20 could put in some type of plant that would increase the traffic  
21 or maybe put in a driveway that you and your office have no  
22 control over.

23 MR. BRAD HAWKINS-CLARK: Yes.

24 MR. DON WILKERSON: Okay. In that case, where we don't  
25 know exactly what's going on, I think we ought to look at a DA

□

24

1 so we can have some restrictions. We could have mitigations for  
2 the road, especially Union. We could have road dedications so

September 8 2008 meeting

3 it's there for the future and other items we think about. Thank  
4 you.

5 MR. DAVID POOLE: Any other comments from the  
6 Commissioners?

7 MRS. DEBBIE ROUWENHORST: I have one question for the  
8 neighbors. In the special considerations is that a landscape  
9 buffer be put in. That itself will deaden the noise that will  
10 come. There's a 20 foot wide landscape buffer and that's not  
11 just for this but for any type of commercial business that is  
12 coming in. They have new Landscape Ordinances.

13 MR. DAVID POOLE: Other comments from the Commissioners?  
14 Does anybody want to bring this in the form of a motion? Under  
15 the current use, they could not put in their asphalt plant with  
16 a special use permit. They would have to go to an M-2.

17 MR. BRAD HAWKINS-CLARK: That is correct.

18 MRS. DEBBIE ROUWENHORST: Question for staff, an M -2 zone,  
19 is there a lot of difference? I know M-1 is light industry.  
20 Are we getting into a lot of different things with an M-2?

21 MR. DAVID HARGRAVES: Yeah. There are a lot of different  
22 uses that are authorized without a special use permit.

23 MRS. DEBBIE ROUWENHORST: So a development agreement, if  
24 that was to be done, does that need to be done at this point or  
25 is that something that Development Services needs to draft?

□

September 8 2008 meeting

1 MR. BRAD HAWKINS-CLARK: If you were going to be asking for  
2 a Development Agreement we would have to continue this so we  
3 could draft something and bring it back to you.

4 MR. DALE REYNOLDS: Did you get an opinion from the  
5 railroad as far as including them in the rezone?

6 MR. BRAD HAWKINS-CLARK: No. I did not. Staff's opinion  
7 is we could probably rezone the property without because it's  
8 not important to the railroad.

9 MR. DAVID HARGRAVES: The railroad section was never  
10 included in the public notice. So it would have to be  
11 separately noticed in order to change the zoning.

12 MR. DAVID POOLE: So what's that going to do for this one?  
13 I mean you've got to have somebody to apply for that.

14 MR. DAVID HARGRAVES: The Commission can initiate a rezone.

15 MR. DAVID POOLE: That was my question. So, in the event  
16 this does go through, the Commission could do that. So there's  
17 no sense in holding this one at bay because of that. The only  
18 reason we would want to continue this is if we want a  
19 Development Agreement.

20 MR. BRAD HAWKINS-CLARK: Title 11, Chapter 15, Section 8  
21 deals with Development Agreements. It does say that approval of  
22 other applications for Zoning Ordinance map amendments may be  
23 conditioned upon the applicants entry into a Development  
24 Agreement. There is an application form and fees to be  
25 submitted. So the Ordinance does not actually require a public

□

1 hearing for a Development Agreement but you do need to review  
2 it.

3 MR. DAVID POOLE: So if we continue this, is there going to  
4 be a fee for the applicant since we're requiring it?

5 MR. BRAD HAWKINS-CLARK: Probably not.

6 MR. DAVID POOLE: Okay. So you could waive the fee since  
7 we're requiring it. All right. Any further comment from the  
8 Commission or does somebody want to put this in the form of a  
9 motion?

10 MR. DON WILKERSON: I make a motion that we continue this  
11 application in order for staff to prepare a Development  
12 Agreement to address concerns to protect the public entity.

13 MR. DALE REYNOLDS: Second.

14 MR. DAVID POOLE: And we're going to waive the fees on that.

15 MR. DON WILKERSON: Correct. We'll waive the fees per  
16 staff.

17 MR. DAVID POOLE: All right. Is there any discussion? If  
18 not, all those in favor signify by saying I. Opposed same sign.  
19 Motion carries.

20

21 (Motion carries unanimously.)

22

23 MR. DAVID POOLE: Then we'll continue to next month, right?

September 8 2008 meeting

24 October meeting is the 13th. The second Monday in October.

25

□

27

1

2 REGULAR MEETING:

3 Item No. 1 - Items from the Public

4

5 (There were no items from the public.)

6

7 REGULAR MEETING:

8 Item No. 2 - Review of Proposed Subdivision Ordinance

9 Amendments

10

11 MR. DAVID POOLE: Second item is the review of the

12 Subdivision Ordinance Amendments.

13 MR. DON WILKERSON: I think we ought to continue that until

14 we have a chance to look at them.

15 MR. DAVID POOLE: I think you're right. I move that we

16 continue those until next meeting so we have an opportunity to

17 review these County Subdivision Ordinance Amendments.

18 MR. DALE REYNOLDS: Second.

19 MR. DAVID POOLE: Moved and seconded. Discussion? All

20 those in favor signify by saying I. Opposed same sign.

21

September 8 2008 meeting

22 (Motion carries unanimously.)

23

24 MR. DON WILKERSON: Is Teri reviewing these? I thought

25 that our next meeting with her is to discuss the Subdivision

□

28

1 Ordinance.

2 MR. BRAD HAWKINS-CLARK: Yeah. We just put it on here in

3 case you were feeling spunky tonight. Our goal was to get those

4 from her a week ago. We just wanted to put it on there for

5 general discussion.

6 MRS. DEBBIE ROUWENHORST: When are they going to be

7 reviewed? Should Planning now be part of this? Going over all

8 the information for the Planning Board, this is the type of

9 stuff that the Planning Board is supposed to be looking at also.

10 So this needs to be done with the new Planning Board and the

11 Zoning Board. That's my thoughts.

12 MR. DAVID POOLE: Well since it's a Subdivision Ordinance

13 and some of those subdivisions may very well wind up in that

14 impact area then you might be right.

15 MR. BRAD HAWKINS-CLARK: My own thought is the by-law's are

16 the first item of discussion on September 15th. The Ordinance

17 that created the Commission really targeted the Commission to

18 the Comprehensive Plan. I mean, it does talk about Ordinances.

19

September 8 2008 meeting

20 REGULAR MEETING:

21 Item No. 3 - Items from the Planning Director/Administrator

22

23 MR. BRAD HAWKINS-CLARK: Commission, if you are so inclined

24 on this application that you just heard, the Gibson rezone, as

25 you saw in the staff report, it is my recommendation that you

□

29

1 just clean up the zoning map whenever possible. So if you want

2 more information, we can bring that to you. If you're

3 comfortable with just having a motion to direct us to rezone

4 that stretch of railroad and maybe we can just investigate.

5 MR. DAVID POOLE: Well that and the Development Agreement,

6 if it's going to help protect the neighbors, if we can do that

7 via a Development Agreement to make sure that whatever happens

8 with this piece of ground as far as the industrial area goes,

9 that those buffers get put in.

10 MR. BRAD HAWKINS-CLARK: The landscaping is definitely

11 already in the zoning.

12 MR. DAVID POOLE: But the problem that I'm hearing with

13 Unimin, which doesn't have a buffer, but I mean are our buffers

14 requiring enough? Are they going to give them enough buffering?

15 Anything else?

16 MR. BRAD HAWKINS-CLARK: On that motion on the railroad, if

17 you wanted to proceed with that --

September 8 2008 meeting

18 MR. DAVID POOLE: I don't know if we could add it to this  
19 one but if we're going to zone it, I think it's necessary that  
20 we include it.

21 MR. DAVID HARGRAVES: Probably the best thing to do, if you  
22 want us to initiate the rezone of the railroad property, if you  
23 would just pass a motion to that effect, then we could do that.

24 MR. DAVID POOLE: Okay. Should we do that after or before?  
25 We haven't suggested that we rezone that yet.

□

30

1 MR. DAVID HARGRAVES: It's up to you.

2 MR. DAVID POOLE: Okay. Anything else from you guys?

3 MR. BRAD HAWKINS-CLARK: We're working on the other changes  
4 to the Matrix on the Zoning Ordinance with Teri. That will be  
5 done next week or Friday. Then you have the Subdivision. So  
6 we're thinking just one more workshop to go over the Matrix and  
7 go over the Subdivision Ordinance and then go to a public  
8 hearing.

9 MR. DAVID POOLE: Okay. So when is this workshop? Is it  
10 going to be before the next meeting?

11 MR. BRAD HAWKINS-CLARK: Well, there's four days that  
12 Teri's available in September and unfortunately I forgot to  
13 bring those with me tonight. So we'll probably have to call you  
14 individually and try to work out the best time along with the  
15 two new Commissioners.

September 8 2008 meeting

16

17 REGULAR MEETING:

18 Item No. 4 - Items from the Deputy Prosecuting Attorney

19

20 MR. DAVID POOLE: David, do you have anything?

21 MR. DAVID HARGRAVES: I do have one thing that I just

22 wanted to bring up that has been on my mind lately because I've

23 been made aware of a couple court cases where courts take a

24 serious look at Planning and Zoning Commission findings and

25 findings by Board's of County Commissioner's in land use cases.

□

31

1 The courts can be kind of particular about those findings. So  
2 what I would just like to recommend is that any time you can be  
3 specific in your findings, that's helpful to Brad and it's also  
4 helpful in making your decision more legally defensible. I  
5 think what Brad is doing is good. Occasionally, he'll give you  
6 findings that kind of could go either way. So if you could kind  
7 of go through those and decide whether you feel strongly one way  
8 or the other and just make that clear and always include in your  
9 motion that you're adopting the findings of staff as proposed in  
10 the staff report, I think you do a pretty good job of that. I  
11 just bring it up because when I see some of these cases it kind  
12 of makes me think about what we have to do to make sure we don't  
13 get caught like some of these other agencies. What I may do is

September 8 2008 meeting

14 go through those cases and give you a copy so you can kind of  
15 see what the court's saying about the findings and maybe I can  
16 make more specific recommendations at a later time.

17

18 REGULAR MEETING:

19 Item No. 5 - Items from the Planning and Zoning Commission

20

21 MR. DAVID POOLE: Items from the Commission.

22 MR. DON WILKERSON: I have one thing. I want to apologize.

23 I misworded my motion on the subdivision.

24 I got my words messed up. So rather than muddy

25 the waters, I let Debbie and Dale bail me out.

□

32

1 I have one more item. On Item 5, Jennifer sent us a  
2 hillside subdivision for the next meeting. Can we get the name  
3 of it?

4 MR. BRAD HAWKINS-CLARK: Timber Butte.

5 MR. DON WILKERSON: Can you get us a better plat so we can  
6 read it?

7 MR. BRAD HAWKINS-CLARK: Sure.

8 MRS. DEBBIE ROUWENHORST: I just wanted to say it's been  
9 fun working with you guys. Maybe I'll come back.

10

11 REGULAR MEETING:

September 8 2008 meeting

12 Item No. 6 - Adjourn

13

14 MR. DAVID POOLE: Now to Item 6.

15 MRS. DEBBIE ROUWENHORST: I will make a motion to adjourn.

16 MR. DON WILKERSON: Second.

17 MR. DAVID POOLE: Motion carries.

18

19 (Motion carries unanimously.)

20

21

22

23

24

25