

October 14 meeting 2008

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GEM COUNTY ZONING COMMISSION PUBLIC HEARING

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Date: October 14, 2008

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Time: 7:00pm - 10:16pm

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Place: Gem County Courthouse

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MEMBERS PRESENT:

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Don Wilkerson, Will Maupin, Fran Yett, Reisse Perin and Dale Reynolds.

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MEMBERS ABSENT WITH PRIOR NOTICE:

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David Poole.

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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

3

4

CONSENT AGENDA:

5

Item No. 1 - Approval of the Minutes of August 11, 2008 and

6

September 8, 2008 .....Page 4

7

8

PUBLIC HEARING:

9

Item No. 1 - (Continued) Rezone #RZ-08-003 - Craig Gibson

10

.....Page 4

11

12

Item No. 2 - Rezone #RZ-08-004 - Terri Barrus

13

.....Page 5

14

15

Item No. 3 - Preliminary Plat (Timber Butte Subdivision)

16

#PP-08-002 - Robb Menlove .....Page 9

17

18

REGULAR MEETING:

19

Item No. 1 - Discussion of Proposed Ordinance Amendments

20

.....Page 34

21

October 14 meeting 2008

22 Item No. 2 - Items from the Public .....Page 49

23

24 Item No. 3 - Election of Officers .....Page 49

25

□

3

1

2 ITEMS REFERENCE PAGE

3

4 REGULAR MEETING:

5 Item No. 4 - Items form the Planning Director

6 .....Page 50

7

8 Item No. 5 - Items from the Deputy Prosecuting Attorney

9 .....Page 51

10

11 Item No. 6 - Items from the Zoning Commission

12 .....Page 51

13

14 Item No. 7 - Adjourn .....Page 51

15

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PROCEEDINGS

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Gem County, City of Emmett, October 14, 2008

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CONSENT AGENDA:

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Item No. 1 - Approval of the Minutes of August 11, 2008 and

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September 8, 2008

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9

MR. DON WILKERSON: Good evening. I'd like to open the Gem

10

County planning and zoning meeting for October the 14th. So the

11

first item on the agenda is approval of the minutes of August 11th

12

and September 8th of 2008. Does anybody want to make

13

corrections or approve the minutes?

14

MR. WILL MAUPIN: I'll make a motion that we approve the

15

minutes of August and September 2008.

16

MR. DALE REYNOLDS: I second it.

17

MR. DON WILKERSON: Those in favor say I. Those opposed?

18

19 (Motion carries unanimously.)

20

21 PUBLIC HEARING:

22 Item No. 1 - (Continued) Rezone #RZ-08-003 - Craig Gibson

23

24 MR. DON WILKERSON: The first item on our public hearing

25 agenda for tonight is the continuation of Rezone 08-003 by Craig

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5

1 Gibson. We received an e-mail from the Gibson's that their item

2 be removed from the agenda.

3

4 PUBLIC HEARING:

5 Item No. 2 - Rezone #RZ-08-004 - Terri Barrus

6

7 MR. DON WILKERSON: So the next item on the agenda is

8 Rezone 08-004, Terri Barrus. So the applicant can come forward

9 now. You need to state your name and address for us.

10 MR. MATT HEATH: Matt Heath, 332 South Fernan Lake Way in

11 Star. I'm representing Jeff and Terri Barrus with JTB

12 Enterprises. They have 17 acres out here on the corner of

13 Jackson and Black Canyon. It is A-1, Prime Ag, with 40 acre

14 minimum lot size. They'd like to rezone that to A-2 with a

15 minimum 5 acre lot size. It, already, is a farming lot. There

16 is a building permit available on that 17 acres. According to  
17 the 2007 Comprehensive Plan, this is in the priority growth area  
18 3, which allows a density of 1 unit per 5 acres. The properties  
19 around the 17 acres, which are rezoned, the residences range  
20 anywhere from 2 acres to 268 acres. Properties just to the east  
21 of them run from 2 acres to 20 acres. The Southwest District  
22 Health shouldn't be a problem. Emmett Irrigation, we have  
23 letters from them saying exactly what they would want in the  
24 time when the property was to be submitted for a subdivision and  
25 those all would be taken care of at that time.

□

6

1 The right-of-ways for the Highway Department, I pulled  
2 those. As far as the maximum that would be required for that,  
3 that would be about 48,471 feet. An acre of ground is 43,560.  
4 So the right-of-way for the Road Department, we would still have  
5 plenty of room there. Kim Reed from the Gem County Road and  
6 Bridge thought it would be best that the driveways would all  
7 come off of Jackson. The CIP would be 7,201 dollars per  
8 building lot.

9 MR. DON WILKERSON: That would all pertain if the  
10 subdivision were done. You don't need to address it if you  
11 don't want to.

12 MR. MATT HEATH: Okay. This property here, they just got a  
13 field. Where it is right now, it's already a nonconforming lot

14 and I think it would be a great place to be able to rezone and  
15 put a subdivision in.

16 MR. DON WILKERSON: Any questions from the Commission for  
17 Matt? Okay. Thank you. Before we have any public comment I  
18 need to back up first. I need to ask the Commission if there's  
19 any conflict of interest or ex parte communication on this  
20 application. Then also we're going to let Brad give the  
21 presentation that they put together on this application.

22 MR. BRAD HAWKINS-CLARK: Actually, Matt did a good job of  
23 giving you what they're asking for. What I'll give you is just  
24 some site photos. As Matt mentioned, the property is on the  
25 north side of the Black Canyon Highway. This is Jackson running

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7

1 north/south. Here's Black Canyon Highway running north/west.  
2 This is the out parcel here. That does have 2 residences on it.  
3 So the 17 acres that they're looking at is all of this farm  
4 ground that surrounds that.

5 You're all probably familiar with the area. It is largely  
6 agricultural today and is in the 40 acre zone, A-1. The  
7 Comprehensive Plan, that County Residential Area has it  
8 designated as Priority Growth Area 3.

9 This is just a little larger vicinity map. You can see  
10 some of the parcelization around the area. There's smaller lots  
11 over here to the east and much larger land holdings to the west.

October 14 meeting 2008

12 There are a couple of other smaller lots down here to the south.

13 Here's a couple of site photos. This is looking east, down  
14 their north boundary. There's a little bit of an incline coming  
15 up here off their property.

16 This is looking south along Jackson Avenue. There is an  
17 existing barb wire fence and you can see the power does run  
18 along that east side of Jackson.

19 This is down at the other end of the property. That  
20 out-parcel with the 2 houses is right behind where this picture  
21 is being taken. You can see there is the existing irrigation  
22 supply ditch running along here between the site and Jackson.

23 This is moving away onto Black Canyon Highway looking  
24 north. There's a reference in the staff report to the gradient  
25 coming off of Black Canyon. It's a little tough to tell but

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8

1 there is a pretty significant site grade difference when you  
2 come off of the shoulder of the road. Again, that's where the  
3 Road Department is recommending, in the future, if they do  
4 subdivide, that there be no access. So, in some ways, that  
5 would not factor in if the Commission upholds that.

6 We'll show you a quick 360. This is taken up on Black  
7 Canyon. You can kind of see the 360 of the area, particularly  
8 on the south side of the road. That's coming around and looking  
9 west, directly down Black Canyon Highway. Looking south, you

10 can see there are a couple of structures.

11 In the staff report that you have it does recommend  
12 approval of the rezone. We found the 5 required findings for a  
13 rezone have been met. Just as a reminder, the Commission is a  
14 recommending body on these rezones, not a decision. So you  
15 would make a recommendation, if you were prepared tonight, to  
16 the Board. Thank you.

17 MR. DON WILKERSON: Any questions from the Commission for  
18 Brad? Thank you, Brad. At this time, we'll open up to the  
19 public. Those who are in favor of the application please step  
20 forward. Those that may be opposed to the application step  
21 forward if you want to speak. I guess there's nothing to rebut.  
22 So, at this time, we'll close the public portion of the hearing  
23 for this application and open discussion among the Commission.

24 MR. WILL MAUPIN: I'll make a motion that based on the  
25 staff report finding of fact, we recommend this to move forward

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1 to the Board of County Commissioners for approval of the rezone.

2 MR. DON WILKERSON: And referencing to the 5 required  
3 findings in staff analyzation is what you're looking at.

4 MR. WILL MAUPIN: Right.

5 MR. DALE REYNOLDS: Second that.

6 MR. DON WILKERSON: We have a motion and a second on this  
7 application. Any questions or discussion on this motion? If

8 there's none, those in favor of the motion say I. Those against  
9 the motion? So it passes unanimously.

10

11 (Motion carries unanimously.)

12

13 PUBLIC HEARING:

14 Item No. 3 - Preliminary Plat (Timber Butte Subdivision

15 #PP-08-002 - Robb Menlove

16

17 MR. DON WILKERSON: Next item on our agenda is a  
18 Preliminary plat 08-002 for Robb Menlove. Before we start, on  
19 the Commission, has anybody had conflict of interest or ex parte  
20 communication? Okay. Brad, do you have a presentation on this?

21 MR. BRAD HAWKINS-CLARK: I do. What you have before you on  
22 this application is a preliminary subdivision plat, proposed  
23 name is Timber Butte Subdivision. This is for four buildable  
24 lots and one common lot. This is 54 acres located at 11660  
25 Timber Butte Road. The property is on the very eastern edge of

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1 the County at the eastern terminus of Timber Butte Road. As you  
2 can see by this vicinity map, it's a very hillside area, very  
3 rugged, and sparsely populated. The Timber Butte Road shows up  
4 here on the bottom edge of the screen.

5 One of the property features is Timber Creek, which begins

6 to the east in Boise County and flows in a south-westerly  
7 direction and kind of bisects the property about in the middle.  
8 The area is all zoned A-3, which is a 5 acre minimum lot size.  
9 There are very few 5 acre parcels, but that is the zoning that  
10 was put in place in 2001 when the Commission and the Board  
11 changed County-wide zoning in Gem County. There is no rezone  
12 request. They are just asking for the subdivision.

13 Here's the plat. More of a topo plat that kind of gives  
14 you a sense of the topography in the area. The wider the  
15 contour lines up here, the less slope. Then you can see as it  
16 comes down toward the creek, the contours come closer together.  
17 So that's kind of the natural gradient to the property.

18 A few site photos to further orient you. This is down at  
19 the low end of the property, along Timber Creek itself. This is  
20 on the north side of the creek. You can see quite a bit of  
21 vegetation. This is a near one of their proposed building pad  
22 sites, which is up on the north end. You can see it does raise  
23 in elevation quite a bit.

24 This is also on the north end of the property, another  
25 potential building pad site kind of in this area.

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1 As you probably read in the staff report, it is a hillside  
2 subdivision, which means they have to do some engineering  
3 reports. I believe there were like five test pits that were dug

4 by their engineer. This is one of those areas, which would be a  
5 potential building pad site in their subdivision.

6 This is looking south. This is the Menlove's existing  
7 home. Timber Butte Road kind of runs down here. You can kind  
8 of see where the existing road is starting to wind around the  
9 property there.

10 MR. DON WILKERSON: Is that existing road approximate  
11 location of their access to lots 4 and 5?

12 MR. BRAD HAWKINS-CLARK: It is.

13 MR. DON WILKERSON: Okay. Thank you.

14 MR. BRAD HAWKINS-CLARK: Here's another shot of that  
15 driveway that is adjacent to the north side of Timber Creek.

16 As proposed, this would be a driveway and not a private  
17 road. There would be potentially three houses that access it.  
18 One of those houses is in Boise County. It's on the other side  
19 of the county line. Depending on which map you might be looking  
20 at, you can see one of those maps has drawn in the road  
21 location. I believe it was the one that Leavitt Engineers  
22 prepared. So that kind of gives you a sense of where it winds  
23 out of the County and comes back into Gem County.

24 As far as staff's analysis goes, we couldn't find if one of  
25 the houses is outside the County, do we count that towards the

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1 maximum number or not. The way that it is drafted, we would

2 not.

3 As a private driveway, this would not have to comply with  
4 the 24 foot standard, which would be if it was a private road.  
5 It would have to comply with the private driveway standard,  
6 which would basically be Gem County Fire District No. 2. As you  
7 heard tonight from Rick, they're looking at 20 feet for all  
8 their driveways. That's Fire District No. 1. Fire District No.  
9 2, to my knowledge, has not adopted any standards yet. We did  
10 not receive any written comments from Fire District No. 2.  
11 Generally, they are looking for a minimum of 14 feet of drivable  
12 surface from edge to edge. Typically, we have left that up to  
13 the Fire Department.

14 MR. DON WILKERSON: Brad, is this the road that the land  
15 owner or the home owner uses to access their house, at this  
16 time?

17 MR. BRAD HAWKINS-CLARK: Yes. Well, to clarify, there is  
18 no house on the Boise County side but there could be.

19 MR. DON WILKERSON: On one of these maps they gave us, on  
20 the top of lot number 5, that road looks like it ends up at an  
21 L. Is there a house clear up there on the top?

22 MR. BRAD HAWKINS-CLARK: No, there's not. The only house  
23 on the property is the Menlove residence. As you can see, this  
24 is fairly close to Timber Butte Road and the County line is  
25 right about in this area. So that is the only residence on the

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1 54 acres. Those were just potential building pad sites.

2 This is the existing driveway. You can kind of see the  
3 Sweet valley down in here. This is Timber Butte Road following  
4 up and then this is the driveway. So there would be this little  
5 section, which is probably 30 feet, would potentially be shared  
6 between lots 4 and 5, which would go winding around as you saw  
7 in those other pictures and the Menlove residence, which takes  
8 off on this Y right here. The other lot 3, I believe it would  
9 have it's own separate driveway kind of over where these corrals  
10 are or they would have the option to go wherever they want on  
11 that.

12 MR. DON WILKERSON: That would be lot 2.

13 MR. BRAD HAWKINS-CLARK: Oh, lot 2. I'm sorry.

14 MR. WILL MAUPIN: I had another question for you, Brad. I  
15 think you mentioned there's a lot in Boise County, or  
16 potentially another house.

17 MR. BRAD HAWKINS-CLARK: Potentially in the parcel  
18 adjacent; not in this subdivision.

19 MR. WILL MAUPIN: But the road does go into Boise County  
20 and then back into this.

21 MR. BRAD HAWKINS-CLARK: Yes.

22 MR. DON WILKERSON: Kim Reed mentioned there's supposed to  
23 be a turn around there and he thinks a portion off to the side  
24 of the road may be on private property.

25 MR. BRAD HAWKINS-CLARK: I think we might have to ask the

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14

1 applicant to address that because I don't think there is. It's

2 not constructed. Their plat shows a 60 foot easement.

3 This is about 1.3 miles to the west. This is at the

4 intersection of Timber Butte and Liberty. So this is the

5 nearest intersection of another public street and I think it was

6 about 1.3 miles or so from this intersection, driving east

7 towards Boise County. This is at the that intersection. It is

8 all gravel roadway until you get to Kirkpatrick, which is where

9 the asphalt stops. So it is all asphalt from Black Canyon

10 Highway, going up Sweet/Ola, then going to Kirkpatrick. Then

11 where Kirkpatrick gets to Liberty, you have the gravel. So

12 there are a few miles of gravel roadway that serves this area.

13 This is just another view near the lots 4 and 5. This is

14 along the west fence line. I think that's all the photos.

15 MR. DON WILKERSON: Do you know if Timber Butte Road goes

16 on into Boise County and comes out in some location?

17 MR. BRAD HAWKINS-CLARK: It does. It narrows significantly

18 at the county line. It is not maintained. I did not call Boise

19 County but it's quite evident that it's not regularly

20 maintained.

21 I'll just point out a couple of other issues in the staff

22 report that you received. One is on the top of page 2. It

23 notes that the applicant proposes to create two new building  
24 lots. Just to clarify, it is a 4 lot subdivision. They have 2  
25 parcels today. One of those parcels has the residence on it and  
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1 then there's another parcel that is legal but does not have a  
2 residence on it. So they could, potentially, come in for a  
3 building permit on that other parcel. So there are really two  
4 other existing building parcels. So by this, it's just stating  
5 to create two new lots. That would be two additional building  
6 permits.

7 They are proposing individual well and septic for the new  
8 building lots. The bottom of page 3 on the staff report is  
9 where you see the surrounding uses and surrounding Comp Plan.  
10 It is agricultural natural resources in Gem County. Boise  
11 County has a designation somewhat similar, agricultural related.  
12 All of the zoning in the area surrounding it in Gem County is 5  
13 acre minimums and is largely dry land pasture, non-irrigated  
14 land.

15 I apologize that you didn't get a final staff report. That  
16 section D has several blanks in it and would need to be  
17 completed. The main reason that it's not complete is there's  
18 some pieces of information on page 5 that staff would like to  
19 see addressed tonight. That's A through G on page 5. So we are  
20 recommending that before closing the public hearing and making

21 any recommendation to the Board, that you address these issues  
22 with the applicant tonight and get any other additional  
23 information that you feel that you need to make a final  
24 recommendation.

25 These are fire protection. As I mentioned before, there is  
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1 no letter at this point. That is certainly not the fault of the  
2 applicant. We did send it to Fire District No. 2, we just did  
3 not get a response. We think that's an important issue since it  
4 is a remote area.

5 The Keller Associates letter is B. We do have with us  
6 tonight Justin Walker who is with Keller and he is the County  
7 Engineer. He did a review of this plat. The letter that you  
8 received from them just kind of represents one of those issues  
9 where we didn't communicate all the best we could but they  
10 thought this was going to be a private road. Assuming the  
11 Commission agrees with staff's analysis, that would be a private  
12 driveway. So there would be several items in the letter that  
13 would not apply. So we did receive an addendum tonight from  
14 Keller. So I might just ask Justin to come up and walk you  
15 through that.

16 MR. DON WILKERSON: Any questions for Brad from the  
17 Commission? Thank you.

18 MR. JUSTIN WALKER: My name is Justin Walker. Brad

19 introduced me already. I'm with Keller Associates. As Brad  
20 mentioned, we did receive some additional clarification after  
21 our original letter. So based on that, we issued an addendum.  
22 In short, really the only changes occurred in the first element,  
23 the subdivision element. The change really reflected item C was  
24 removed, which is not required for a private drive. In addition  
25 to that, item 3, roadway section on the original letter was

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1 renamed to driveways and essentially all the item requirements  
2 removed with the exception of an easement or some kind of  
3 agreement to authorize both property owners for lots 4 and 5 to  
4 utilize that private driveway and there would be some agreement  
5 to maintain and operate it. So those were the only changes made  
6 to the original letter.

7 MR. DON WILKERSON: When you say an agreement, maybe a home  
8 owners agreement between them and the new property owners for  
9 the maintenance of that driveway.

10 MR. JUSTIN WALKER: There needs to be some agreement to  
11 authorize both property owners to drive across the other  
12 property owners property. So an easement could work between  
13 property owners and then there should be some kind of agreement  
14 on how the driveway will be maintained.

15 MR. DON WILKERSON: Maybe the subdivider should provide  
16 access. That's workable.

17 MR. WILL MAUPIN: In your opinion, is that best done in a  
18 road maintenance agreement or should they make a common lot for  
19 that portion?

20 MR. JUSTIN WALKER: I think it can be handled with a road  
21 maintenance agreement. I presume a common lot would be probably  
22 the most cleanest and clearest. I think there's some cumbersome  
23 things about creating a common lot too. In short, I guess a  
24 road access agreement could properly handle that.

25 MR. DON WILKERSON: Any other questions for Justin? Thank

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1 you.

2 MR. BRAD HAWKINS-CLARK: Mr. Chairman, I forgot to just  
3 mention to you on item F, on page 5, states we did receive some  
4 additional information from Gem County EMS. The applicant  
5 wouldn't have gotten this because it wasn't in writing but I did  
6 call Gem County EMS and asked them about their response times up  
7 in this area. I have asked for a letter and I think that would  
8 be another valid reason for you to keep the hearing open. In  
9 summary, they do have three certified emergency responders in  
10 the area. There is not, of course, an ambulance barn up there  
11 at this time. So in terms of actual transport vehicles, that  
12 does have to originate in Emmett. They are in the process --  
13 they have already purchased an emergency kit, which is used for  
14 responders. That would be located in Sweet so that any of those

15 three personal could go and access that at some common area and  
16 take that. That has been purchased and they are locating that  
17 up there in the next month or so.

18 The other comment they had relates to the concerns with  
19 being able to get to that area. The number one thing, I think,  
20 to consider is there are already some residences up there and so  
21 they are within the emergency services district and they have to  
22 respond. So, I think the question is adding two more building  
23 permits a potential safety threat or not. That's there for you  
24 to discuss. Is this a concern for them to recommend denial?  
25 They did not think so. They did not think that would be a

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1 reason. Just to note for you, those were the issues that they  
2 had.

3 Finally, that item G that relates to ground water. A  
4 neighboring property owner submitted a letter and ground water  
5 is a concern for them as well as a number of other issues.  
6 Ground water quantity is not specifically listed in the  
7 Subdivision Ordinance as a finding. It's just related to ground  
8 water quality. Certainly, I think if you find there are issues  
9 with ground water quantity, that is a valid point of discussion.  
10 I think that concludes staff's comments.

11 MR. DON WILKERSON: Brad, will the Gem County EMT's or Fire  
12 District No. 2 provide emergency services for the house that

13 could be located off of this road in Boise County.

14 MR. BRAD HAWKINS-CLARK: There is what I think they call a  
15 joint powers agreement between the two Counties. I believe Gem  
16 County can respond faster than Boise County to this area.

17 MR. DON WILKERSON: And this area where the Menlove's live  
18 now is within Fire District No. 2?

19 MR. BRAD HAWKINS-CLARK: Yes.

20 MR. DON WILKERSON: Any questions from the Commission for  
21 Brad? Thank you.

22 At this time, we will open it up to the applicant. I'd  
23 like you to state your name and address for us please.

24 MR. ROBB MENLOVE: I'm Robb Menlove. We live at 11660  
25 Timber Butte Road. Brad's done a good job of explaining

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1 everything. I think it's pretty clear just what we're trying to  
2 do. We moved here just 2 and a half years ago and knew we were  
3 coming to Gem County and spent a lot of time looking at where  
4 exactly we wanted to be. When we found this spot we really fell  
5 in love with it immediately. We're very determined and  
6 committed to maintain the integrity of the land. So where we  
7 could break this up into ten 5 acre pieces, that's really not  
8 what we're trying to do at all. We love it and we want to be  
9 able to stay forever and this would be a good idea for us  
10 financially to be able to have these pieces in place and sell

11 them if we needed to.

12 You had a couple questions. You mentioned there was the L  
13 at the top there. That is the plat that was drawn up by Levitt  
14 and Associates. The engineer's drew an idea of what you could  
15 do with the road. Where there's that L, there would be a hammer  
16 head turn around for the fire trucks that come in there. So  
17 that's what you're seeing, is a proposal for that.

18 Timber Butte Road does continue up and continues on. Like  
19 Brad pointed out, it's not maintained, as well in Boise County.  
20 It comes out on Dry Buck Road and you can come out on Banks  
21 Grade or go all the way up to High Valley.

22 You talked about the turn around right there where Gem  
23 County ends. There is a turn around. The snow removal trucks  
24 come and turn around right there all winter. So it works out  
25 really good. Right at the start of our driveway is right where

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1 they maintain up to and then they turn around.

2 MR. DON WILKERSON: Does a school bus come to that  
3 location?

4 MR. ROBB MENLOVE: It doesn't. Brad had a picture at where  
5 the road forked at where Liberty runs into Timber Butte. The  
6 bus comes right up to there in that spot.

7 There was some discussion about the road and whether Timber  
8 Butte Road is up to par. If you go left, there's twelve homes

9 there now that go that direction and we counted six for sale  
10 signs of other pieces of land. So there could be a potential of  
11 eighteen going up this other way. Going up our way there's just  
12 six, counting our house. So the roads in great shape. We feel  
13 pretty fortunate. We think Gem County does a good job keeping  
14 it in good condition. I think it would be okay to add the two  
15 more plots. I don't think it would be too much of a burden on  
16 Timber Butte Road.

17 MR. DON WILKERSON: Questions that the Commission has for  
18 Mr. Menlove.

19 MR. WILL MAUPIN: Referencing your map, you come in off of  
20 Timber Butte Road and it looks like there's a 40 foot road and  
21 utility easement that splits lot 2 and 3 --

22 MR. ROBB MENLOVE: That's correct.

23 MR. WILL MAUPIN: -- near the vicinity of L 22. That looks  
24 like where the private road takes off and winds into Boise  
25 County. How wide is that road?

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1 MR. ROBB MENLOVE: Not quite. It's not quite to County  
2 road yet. That's where it also crosses Timber Creek. That's  
3 where they put in a really large hammer head turn around. So  
4 it's big right there. From there, you're very correct. That's  
5 where it does change. Right now it's probably just 14 feet now  
6 but certainly would require more work before it's ready to have

7 people go up into those other places.

8 MR. DALE REYNOLDS: I have a question on the water rights.

9 I read in there somewhere that the new lots will not have any  
10 water rights; do I understand that correctly?

11 MR. ROBB MENLOVE: There are no water rights to either  
12 parcel right now as far as irrigation.

13 MR. DALE REYNOLDS: Do you have water rights?

14 MR. ROBB MENLOVE: No.

15 MR. DON WILKERSON: The reason I ask where Timber Butte  
16 Road terminated on the other side in Boise County is in case you  
17 have to have an extra access to get to and it sounds like you  
18 do.

19 Is the road from where Mr. Maupin said L 22 is, up into  
20 Boise County and back to lots 4 and 5, is that road in?

21 MR. ROBB MENLOVE: It's been just scratched in with a  
22 bulldozer but not brought in. Brad had a picture on there and  
23 you can see where the road has been pushed. Then when it leaves  
24 our property, the owner of that land has put down some road base  
25 and is starting that.

□

1 MR. DON WILKERSON: So you would have to build it in Boise  
2 County back up to lots 4 and 5 then.

3 MR. ROBB MENLOVE: That's correct. When we actually  
4 purchased the land, the people we purchased it from, they build

5 roads and so that was part of the arrangement and that's in  
6 writing that they will do that for us.

7 MR. DON WILKERSON: I noticed in the staff report, if  
8 that's the access you have to lots 4 and 5, you'd be looking at  
9 an easement the rest of the way plus on the property that's in  
10 Boise County. Do you see any problems with that?

11 MR. ROBB MENLOVE: Well that's kind of how this whole idea  
12 came to be. When they bought that piece of land up there, they  
13 talked about how do we get to it. It was land locked and they  
14 don't have access to Timber Butte any other way. So when they  
15 came to us and asked for an easement to get to their land, we  
16 weren't very thrilled with that at first but then we realized  
17 what if we granted that easement, if you would then grant an  
18 easement across your land back so that we could come back and  
19 they said sure. It benefits both of us and that's how it came  
20 about. We discussed there would need to be some sort of plan to  
21 maintain that road. We would certainly pursue that.

22 MR. DON WILKERSON: Have you ever entertained the idea to  
23 access lots 4 and 5 off the end of your driveway without going  
24 into Boise County.

25 MR. ROBB MENLOVE: We did look at that quite a bit. It is

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1 so steep it would really require a bunch of switch backs going  
2 back. We talked about it with the engineer's and it would

October 14 meeting 2008

3 really put so many switch backs going up on that we thought that  
4 was a scar on the land that we didn't want to make. That is a  
5 possibility but both for cost and what we would look out our  
6 back window at, nobody wanted to do that.

7 MR. DON WILKERSON: In the staff report, Brad's made a  
8 special consideration about this meeting tonight and there's  
9 item A through G that we may have to look at. Also, have you  
10 seen the letters from Brad Little?

11 MR. ROBB MENLOVE: I have.

12 MR. DON WILKERSON: Can you address anything concerning the  
13 fencing? I would think that where your land is private land,  
14 they shouldn't be grazing cattle on your land; should they?

15 MR. ROBB MENLOVE: Well, it's cattle. We understand that.  
16 Cattle aren't very obedient to fences all the time and so they  
17 certainly come in on our land.

18 MR. DON WILKERSON: But his comment was secured substantial  
19 fencing should be constructed and maintained by the home owners  
20 or the home owners association to protect the homes from our  
21 livestock. To me, that would be several miles of fencing.

22 MR. ROBB MENLOVE: I don't think it would be miles. It  
23 would certainly be a big undertaking. Now, there is the  
24 existing fencing on the west border that goes all the way up and  
25 on top of the north. So the only thing we would have to do is

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1 that east side. This year just hasn't been a problem. We see  
2 the occasional cow making it's way across but it hasn't been a  
3 problem. I don't understand those laws with the open range, if  
4 that's what we have to do, is to build those fences.

5 MR. DON WILKERSON: I don't know the laws either but I  
6 would say if you're involved with open range, I know if you hit  
7 a cow and wreck your car, you pay for it.

8 MR. ROBB MENLOVE: And that's understandable.

9 MR. WILL MAUPIN: David can correct me if I'm wrong but my  
10 understanding is you are required to fence to keep the cattle  
11 off your property if you don't want them on there.

12 MR. ROBB MENLOVE: We would understand that and we can make  
13 that clear.

14 MR. DON WILKERSON: I guess what you could do is fence the  
15 building lot area and let the cattle graze on the rest of it.  
16 There's ways to solve the problem. Any other questions for the  
17 applicant from the Commission? Thank you.

18 MR. ROBB MENLOVE: Thank you. I appreciate your interest  
19 in this.

20 MR. DON WILKERSON: Brad, you mentioned Justin would have  
21 some questions on the water quantity or quality. Do you want to  
22 address it at this time?

23 MR. BRAD HAWKINS-CLARK: I was just throwing that out  
24 there. You don't see to many of these hillside subdivisions and  
25 there are a whole 'nother set of rules mainly related to

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1 grading, re-vegetation, stabilization of the slopes, etc. and  
2 that's why we require the Levitt study.

3 MR. DON WILKERSON: Was there any studies done on the  
4 quantity of water?

5 MR. JUSTIN WALKER: There is no requirement in the code for  
6 a water study to be done. I will say a few things in regards to  
7 water rights. The State of Idaho, as you probably know, is a  
8 first in time first in right, which means if you have a water  
9 right, the oldest water right takes priority. Having said that,  
10 I think that any time you talk about water rights it's a very  
11 important issue to property owners. So there's alarm all the  
12 time, whether it's warranted perhaps or not, I think we're all  
13 concerned about water. Most of the jurisdictions that we work  
14 with really rely on the Department of Water Resources to  
15 evaluate both water quality and water quantity issues because  
16 it's such a geographical issue and it's very difficult to  
17 evaluate that because it's so regional. I guess I offer those  
18 comments to you. Again, there is currently no requirement that  
19 I'm aware of for a water study to be conducted. Certainly,  
20 property owners have the ability and the right to make a claim  
21 to the Department of Water Resources if they feel there's been  
22 damage to their water rights. The Department will respond to  
23 those but beyond that they usually wait for a request.

24 MR. WILL MAUPIN: I have one question for the applicant.

25 The Idaho Department of Lands has requested an access point to

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27

1 the southern boundary of that property. The land owner in Boise

2 County, the one you're going to have the road maintenance and

3 agreement with, will they be willing to amend that easement to

4 allow this use?

5 MR. ROBB MENLOVE: We haven't talked with them and asked

6 them that specifically. That's one thing we would certainly do.

7 We know him somewhat. From what I know of him, he works for

8 National Parks and understands federal lands and state lands

9 very well. I don't see him having a problem with that but

10 that's a good question that we will ask him.

11 MR. DALE REYNOLDS: Do you have trouble with your domestic

12 well now producing enough water for you at your household?

13 MR. ROBB MENLOVE: When we drilled it, it went right around

14 130 feet before we hit water and not a lot, like 4 gallons a

15 minute. We were hoping to hit more and continued to drill down

16 another 200 feet and did not hit more but it's a constant

17 flowing water that we've hit. It's not just a reservoir

18 underneath. So it's constantly running in and filling the extra

19 hole that we've done then we also put in a thousand gallon

20 cistern that stays full. We haven't had any problems with the

21 water at all.

22 MR. DON WILKERSON: By our sign in sheet, there was no  
23 individuals that wanted to rebut the applicant's request.

24 MR. BRAD HAWKINS-CLARK: There was one.

25 MR. DON WILKERSON: Okay.

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1 MR. JUSTIN DRUFFEL: My name is Justin Druffel. I represent  
2 Highland Land and Livestock Company. I just wanted to go on the  
3 record as stating that I think a lot of the things that we  
4 brought up to the Commission in our letter have been addressed  
5 tonight.

6 I think we wanted to get on record that we are concerned  
7 about Timber butte Road. That has come up several times  
8 tonight. Although the road is maintained year round on the Gem  
9 County side, it is not plowed in the winter on the Boise County  
10 side, which does create some access issues in between where the  
11 County line is and where it needs to get you down on the Dry  
12 Buck side.

13 As far as the emergency access, I believe that's already  
14 come up tonight. That was definitely a concern of ours, being  
15 on the edge of the County, having to access that from Emmett is  
16 quite a ways.

17 We were also a little bit concerned about the -- even  
18 though it's not a lot of traffic, the increased use and  
19 maintenance cost of that road and making sure that increased

20 maintenance cost was not going to be a burden on any of the Gem  
21 County taxpayers.

22 I think that if this is approved, we just want to make sure  
23 that our road improvements, all the emergency access that's  
24 required for services, and proper fencing for livestock, per the  
25 open range laws, is put into the development. That's all I had

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1 tonight.

2 MR. DON WILKERSON: I have a question. You're probably the  
3 expert. Explain the open range.

4 MR. JUSTIN DUFFEL: Mr. Maupin actually addressed it  
5 perfectly. If you're in an open range scenario, then as a  
6 property holder it's your duty to protect it from the livestock.

7 MR. DON WILKERSON: Where they have maybe 15 acres they  
8 could only fence off their house and that would be considered  
9 okay under the open range laws.

10 MR. JUSTIN DUFFEL: I think we'd have to look at if it's at  
11 the property boundary or the interior to the property boundary.

12 MR. JAMES JARDINE: My names James Jardine. I live at 25  
13 Pine Gap Road in Horseshoe Bend. I represent Timber Butte LLC,  
14 not to be confused with Timber Butte proposed subdivision.  
15 Timber Butte LLC owns the property adjacent to the Menlove  
16 property on the east in Boise County. We have a grazing  
17 association. We are in complete support of Mr. and Mrs.

18 Menlove's application. I could also add that our property is  
19 going to be traveled through by the driveway in question and we  
20 support and are willing to grant easement to the Menlove's for  
21 access through Boise County.

22 I would also mention that I have personally met with the  
23 District 2 Fire Department in Gem County to discuss their  
24 suppression coverage for our Boise County property and it has  
25 been granted to us. They are in agreement that they will cover

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1 our property in Boise County.

2 MR. DON WILKERSON: Thank you for your comments. We'll  
3 close the public hearing and open up for discussion among the  
4 Commission members.

5 MR. DALE REYNOLDS: I wondered if we could have some input  
6 on E from David on the letter from Kim Reed. Are you aware of  
7 that?

8 MR. DON WILKERSON: It has your name on it here. It says  
9 input from the Prosecuting Attorney's office.

10 MR. BRAD HAWKINS-CLARK: I think I could give you a summary  
11 on that. The Road and Bridge Department is recommending denial  
12 of the subdivision. They have a letter in the record stating  
13 their reasons. The question that I had put into the staff  
14 report relates to when you're making your deliberations, help  
15 for you, in terms of how much weight you put on them. I'm not

16 by any means trying to discredit or question Kim Reed's  
17 comments. Mostly, it was in regards to what the conditions you  
18 put on a project have to be in relationship to the impacts. I  
19 was just wanting the Commission to have maybe some better  
20 understanding of when you have a 4 lot subdivision, yes we have  
21 a substandard road. Timber Butte is 18 feet wide. Our standard  
22 thin County is 24. However, Timber Butte Road exists today as a  
23 public road and the property in question fronts on about 400  
24 feet on a 1.3 mile long road. So on the one hand, the County  
25 has to look at the impacts on the public and how much the public

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1 is going to take on in terms of taxpayers because of a new  
2 subdivision. On the other hand, there's the property rights  
3 issue and they have the right to file. So the finding you have  
4 to make is that the impacts on the public placed by this project  
5 are not greater. You've heard David talk about this before as  
6 far as mitigation. That was really the reason for that comment  
7 was just to give the commission a better understanding on how to  
8 frame the Road and Bridge Department's letter since they are  
9 recommending denial. It is two new building lots. You figure  
10 most new residences at about 10 trips a day. However, in rural  
11 areas that's typically less because of the distance that they  
12 have to travel. So traffic engineer's drop that number.  
13 Generally, the further you get from an urban area you usually

14 don't see people coming and going from their houses as  
15 frequently as you do if you're 3 miles from town. So the number  
16 of trips per household would probably drop and I think that's  
17 one argument that would say the impacts are less.

18 MR. DON WILKERSON: You have the 1,800 dollar fee per  
19 building permit and say this generates 3 years from now another  
20 subdivision up there; 20 lots. My question is if the  
21 subdivision's in Boise County, is this the way their going to  
22 access it? So could there be a stipulation brought up that if  
23 there's more development up there that causes Timber Butte Road  
24 to be improved, that the people that live in this subdivision  
25 we're purposing tonight pay their fair share of those

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1 improvements even though it may be 2 years after they move  
2 there. I've seen that in other entities. You go in and build  
3 something and the first people don't pay anything then you have  
4 to improve it and they still pay their fair share. I don't know  
5 if that's something you can do because I don't think it would be  
6 fair that somebody new go up there have to pay a large amount of  
7 money to improve the road where the people that buy these lots  
8 get the use of that new road don't have to pay anything other  
9 than that 1,800 dollars per lot.

10 MR. WILL MAUPIN: Brad, in a situation like this specific  
11 situation, if they are using Timber Butte Road as access for a

12 subdivision in Boise County, wouldn't they have to run that by

13 Gem County first if that's the access to Boise County?

14 MR. BRAD HAWKINS-CLARK: No. I mean we get noticed,

15 usually, if it's a big project. Public road system. Counties

16 are responsible and if you think there's a problem, then the

17 County has the authority to shut it down if it's a health and

18 safety issue.

19 MR. WILL MAUPIN: So we could deny access unless they

20 wanted to pay for the improvement.

21 MR. DAVID HARGRAVES: I'm sure Gem County would be given

22 notice and we'd have an opportunity to give input on the impact

23 of the road and even testify at the hearing if it was in Boise

24 County.

25 MR. WILL MAUPIN: The County line is so close, it's

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1 literally a property line on this particular subdivision. So

2 the impact that Don is talking about may not even be brought on

3 by our County. I mean, we don't have control over that anyway.

4 MR. DON WILKERSON: Okay. If there's no discussion, I

5 think we need to look at item number 6, items of special

6 consideration, that appears the applicant needs to address

7 through various contacts prior to us making a final ruling on

8 this application. So if that's the thought of the Commission,

9 then we need a motion to continue and if you want to add

10 something, this is the time to add it. Then the applicant would  
11 have to look at that prior to coming back before us.

12 MR. DALE REYNOLDS: I make a motion that we continue this  
13 hearing until we can get further input from the Fire District  
14 and get a letter from the Emergency Services.

15 MR. DON WILKERSON: Items A through G.

16 MR. DALE REYNOLDS: Pretty much items A through G.

17 MR. DON WILKERSON: At the November 10th meeting.

18 MR. WILL MAUPIN: I'd like to add to the amendment that we  
19 get in writing permission to modify the easement on the  
20 neighboring Boise County property for IDL access to their land.

21 MR. DON WILKERSON: Sounds like that's been addressed. So  
22 you want to amend your motion to include that?

23 MR. DALE REYNOLDS: Yes, to include Commissioner Maupin's  
24 statement about the access for the Idaho Department of Lands.

25 MR. DON WILKERSON: Okay. Robb, do you understand what

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1 we're talking about with items A through G? We're looking for  
2 some answers in writing instead of in verbal from the Emergency  
3 Services, the Fire District, the Department of Lands, and  
4 especially how you're going to access. If you have any  
5 questions you can refer them to Brad's office.

6 We have a motion before us presented by Commissioner  
7 Reynolds and the addition by commissioner Maupin. Discussion on

8 the motion.

9 MR. WILL MAUPIN: Second.

10 MR. DON WILKERSON: Seconded by Commissioner Maupin. Those  
11 in favor.

12 MR. BRAD HAWKINS-CLARK: I think you closed the public  
13 hearing.

14 MR. DON WILKERSON: Public hearing is open and continued.  
15 Thank you.

16

17 (Motion carries unanimously.)

18

19 REGULAR MEETING:

20 Item No. 1 - Discussion of Proposed Ordinance Amendments

21

22 MS. TERI OTTENS: Let's start with the Zoning Ordinance.

23 So, on the Zoning Ordinance, on page 9, we had two different

24 definitions for accessory buildings, some alternate language.

25 So they had me combine those into one definition and that's what

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1 we came up with. You'll want to review that.

2 The next change was on page 15. I think we did discuss

3 this one. The Planning Commission is actually a joint Planning

4 and Commission. So they had me add the city of Emmett,

5 the City Council as part of the members.

6 Then on page 25, occupancy standard. We talked quite a bit  
7 about the occupancy standard. They felt since it was a standard  
8 it needed to go into the performance standard and not in the  
9 definitions, which is kind of the tact we've been taking. So we  
10 just kind of listed it here and said see chapter such and such.  
11 So then you go back to that chapter and it refers to the  
12 occupancy standard.

13 MR. DON WILKERSON: I have a question. Brad e-mailed us  
14 something here called dwelling secondary and it's got the same  
15 chapter 11-6-5.

16 MS. TERI OTTENS: I've got about five different changes  
17 that are going into the Ordinance that haven't made it in there  
18 yet and that you're going to get a copy of. It will be  
19 renumbered. So that new wording from Brad, I got all of that.  
20 So you're going to get a new version of this and it also will  
21 include some changes that you made not to long ago and you've  
22 already approved those changes.

23 Original parcel is still highlighted because there's still  
24 some issues on that. I think the County Commissioner's agreed  
25 with this 'upon which was recorded,' rather than the signatures.

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1 I think they don't have any problems with that. I think,  
2 legally, we need a ruling on that because previously it said  
3 that it didn't have to be recorded. The signatures just had to

4 be notarized. We want to make sure we're not taking away any  
5 property rights.

6 The next change is on page 30. The County Commissioner's  
7 weren't very happy with the 11.5 feet as defining a story. They  
8 wanted to know what the building code said. So I quoted the  
9 alternate language that you see here, which comes directly from  
10 the building code that you've adopted. So we're going to have  
11 to, at some point, decide which of those definitions. I will  
12 tell you that the Commissioner's didn't seem to like the 11.5  
13 feet.

14 Page 38. I'm going to tell you that the County  
15 Commissioner's do not like the lot splits at all. They didn't  
16 take it out, they said send it back to the Zoning Commission  
17 and have some more discussion to figure out what you want to do  
18 and what you don't want to do with that. Their concern is if  
19 you go through your public hearing and it goes through their  
20 public hearing and then they end up changing it, that means  
21 they'll be sending it back to you. So they wanted to give you a  
22 recommendation from them that they don't really like the lot  
23 splits. They like the Ordinance the way it is. They feel the  
24 lot split causes subdivisions. If someone wants to subdivide,  
25 they can go in and rezone and subdivide. So at our next meeting

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1 when we go through all our final changes we do have to decide on

2 that.

3 They did change your Subdivision Ordinance on page 13.

4 They changed the subdivision definition to actually allow for a

5 three tier subdivision definition. So if the tract of land was

6 to divide into two or more lots, it is a subdivision unless the

7 parcels are 5 acres or larger without development capacity, then

8 it's not a subdivision. Then they did say on parcels that are

9 40 acres or larger, there's actually a third tier that you can

10 subdivide up to five lots before it became a subdivision. They

11 could define a subdivision as you could subdivide a 40 acre

12 parcel once without having to file a subdivision plat. So you'd

13 have to allow for that in a Zoning Ordinance because that

14 particular zone says minimum lot size of 40 acres. So there's

15 got to be a way that you allow for that smaller lot size in that

16 40 acres, which then goes back to lot splits.

17 MR. DAVID HARGRAVES: One of the reasons that the

18 Commissioner's, and the reason the Subdivision ordinance was

19 adopted the way it is, to make everything a split, is because it

20 became a little challenging to track how many times a parcel's

21 been split. So, kind of, the consensus was we'll just make less

22 than five splits a little bit easier to do. That was partially

23 at the request of the Assessor's Office as well for getting

24 correct legal descriptions from parcels that have been split

25 off. So there were a number of factors that went into creating

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1 that definition to make every split a subdivision.

2 MS. TERI OTTENS: Page 58. Like you, the Commissioner's  
3 didn't like that agricultural buildings for habitation purposes.  
4 So that's still in there but I happened to be in another County  
5 and they've adopted an Ordinance that's quite extensive on  
6 what's an agricultural building and what's not. I thought  
7 I'd give you an example of what they've done and you can look it  
8 over. They talked about the codes that they've adopted, what  
9 each of the codes say about agricultural buildings, and what  
10 habitation is and what it's not. Then they kind of kept that  
11 out of their Zoning Ordinance and put it somewhere else so it  
12 wasn't a Zoning Ordinance issue, it was more of a building code  
13 issue. That way it's not really your issue. It becomes the  
14 Building Department's issue.

15 The next change is on page 59. We spent all that time on  
16 those frontage lots and if the County asks for dedication for  
17 road right-of-way, they should have smaller than 5 acre lots.  
18 They didn't say they wouldn't approve this. They just said they  
19 had some concerns about it because they feel it gives an unfair  
20 advantage to those developers and that they should take into  
21 account that if they're doing their development, that the County  
22 is probably going to have to widen the road and they should take  
23 that into account when they put their plat together.

24 Page 61. This was your change on swimming pools. You

25 asked me to look at what the swimming pool regulations were.

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1 It's about 3 pages long. So we just refer to it because the  
2 County has adopted the International Residential Code. It just  
3 refers to the section barrier requirements that they would have  
4 to comply with. So I referred to the proper code rather than  
5 try to repeat it all in the Zoning Ordinance.

6 Flag lots. The County Commissioner's had some questions  
7 about that. Mainly, their questions had to do with the limit of  
8 the size of the flag. Their question was why do we care how  
9 wide or long the flag is. They had issues with the 30 foot wide  
10 because right now the Ordinance says the easements are 40 foot  
11 wide. Brad explained to them the whole issue with the Fire  
12 Department and we would try to get an answer back to them on  
13 that. So that's why that is still highlighted for your  
14 consideration.

15 Page 64. In response to our discussion, although I know  
16 you had more discussion today with the Fire Chief, I just  
17 changed the requirement for dead end access roads to 'in  
18 accordance with the appropriate Fire District. That way if  
19 your three Fire District's adopt different standards, it's up to  
20 them to impose these standards on dead end roads within  
21 subdivisions.

22 MR. DAVID HARGRAVES: The legal issue that raises is if the

23 Fire District may adopt a standard and we haven't adopted their  
24 standard by Ordinance, Local Land Use Planning Act requires you  
25 have a public hearing when you adopt standards. In this case,

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1 we're just saying it's whatever the Fire District adopts and  
2 there's no public input.

3 MS. TERI OTTENS: Do you have to adopt the standard if  
4 you're not the one enforcing it?

5 MR. DAVID HARGRAVES: It's a tricky legal issue. If you  
6 want to try to enforce it, that's one of the arguments. They  
7 say well, it wasn't adopted by statutory process.

8 MS. TERI OTTENS: The other option is to leave it the way  
9 you've got it and just list the standards of all three  
10 department's. In other words, if you're in this District,  
11 here's the standard. I think, originally, that's what you were  
12 trying to do until we figured out we've got more than one Fire  
13 District and we might have more than one standard.

14 Page 72. You made the change on No. 1, home occupations.  
15 Originally, it said no other persons besides family members can  
16 be part of home occupations and you guys talked about it might  
17 be all right to have a few employee's that aren't family members  
18 as part of the home occupation. The County Commissioner's said  
19 they'd really have to think about that. They'd really like it  
20 be restricted to family members. There were a lot of minor

21 changes that they made. They didn't change any of the content.

22 Page 109. We gave you some alternate language on  
23 manufactured homes and we do have to make some decisions on  
24 that.

25 We did get some changes from Justin. He gave us some

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1 changes that he'd like to see in the Subdivision Ordinance.

2 In the Subdivision Ordinance there's not that many changes.

3 So we are talking page 13 on the Subdivision Ordinance. Right

4 now it looks like there may be three tiers of subdivisions.

5 One, you're dividing for development purposes, less than 5

6 acres, you've got a subdivision. Two, you're dividing over 5

7 acres, not for development purposes, you don't have a

8 subdivision. Three, you're dividing over 40 acres for

9 development purposes and at 5 lots you've got a subdivision.

10 The only other change is on page 56. I just wanted Brad to

11 check out that language. So Subdivision Ordinance is really in

12 pretty good shape.

13 Finally, the Matrix. 'A' will be allowed and 'X' will be

14 not permitted. The other thing I think we're going to add at

15 the end of this Matrix is that any use that's not listed here,

16 but is deemed similar by the Administrator of the Commission,

17 may be allowed. So we have the codes here. I went through your

18 current Matrix. There were a couple of things I had difficulty

19 with. What I tried to do as much as possible is take what you  
20 had in your current Matrix and match it to these definitions and  
21 what you permitted and what you said was a special use permit.

22 MR. DAVID HARGRAVES: What are the numbers in front of the  
23 description of uses?

24 MS. TERI OTTENS: That's the SCC Code. It's a national  
25 data base and it codes the types of use. The advantage to this

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1 is that you look up this code and it has a full description of  
2 what each one of these is so you don't have to describe it in  
3 your Ordinance. What I struggled with was trying to keep it as  
4 simple as possible.

5 So, what I did is single family residence permitted in a  
6 public zone. That was one of my questions. I think I added  
7 that. The only reason I put it as permitted is because my  
8 feeling is your public zone is an overlay. Isn't your public  
9 zone an overlay or is it it's own zone?

10 MR. BRAD HAWKINS-CLARK: It's separate.

11 MS. TERI OTTENS: Okay. So single family residence allowed  
12 in all the zones except in a mixed zone and your industrial  
13 commercial zone.

14 MR. BRAD HAWKINS-CLARK: Needs to be a special use for the  
15 mixed zone, according to the Comp Plan.

16 MS. TERI OTTENS: Okay. Multi-family household units. You

17 didn't have it broken down. The way your Matrix was, it's like  
18 it's permitted in all three zones but I don't think you want it  
19 in your R-2 and R-3, which are single family zones. I don't  
20 know if you want it as a special use permit in a single family  
21 zone but I put it as an SUP in your mixed use zone.

22 MR. DAVID HARGRAVES: When we grant special use permits,  
23 the Commissioners usually require that all the conditions are  
24 met and then is subject to annual review. The problem I have  
25 with having a special use permit for a multi-family is what if

□

43

1 the Commissioner's review it and say you haven't met condition  
2 X, Y, and Z so we're pulling your special use permit and then  
3 you've got all these structures that are built. So the  
4 temporary nature of it, we have to kind of resolve that.

5 MS. TERI OTTENS: I agree with you. I think that if it's a  
6 single family zone, it should be a single family zone. If they  
7 want a temporary permit for that extra residence, we've talked  
8 about this. I'm going to take the SUP's off of R-2 and R-3 for  
9 now.

10 Group home, less than eight residents per the Idaho Code.  
11 They're permitted in all zones that you permit a single family  
12 zone. So it would be SUP in a mixed use zone. A group quarters  
13 with over 8 residents, that's the one that could be any kind of  
14 group home, I put as a special use permit in all the zone.

15 Residential hotel, to me, is like an SRO. You have halfway  
16 houses that are special use permits in all your residential  
17 zones. You have halfway houses that are special use permits in  
18 your agricultural zone. Rehabilitation shelter homes, special  
19 use permits. So residential hotel not in your single family.  
20 If you're not going to allow multi-family, you shouldn't allow a  
21 residential hotel. So permitted in your mixed use and mixed  
22 residential.

23 MR. DAVID HARGRAVES: If you look back in the text that  
24 actually describes the zones, there's some good guidelines in  
25 there when we're looking for places to stick things. To me, it

□

44

1 looks like C-2 Commercial was kind of planned for the motel  
2 because it says uses would provide general retail and travel  
3 needs within the community bordering highway's.

4 MS. TERI OTTENS: C-1 is kind of a commercial residential  
5 zone and C-2 is your commercial highway zone. As I explained,  
6 under 19, the three uses that you have there were listed in your  
7 current matrix and I added them because I felt like we didn't  
8 want to lose those references.

9 Planned unit developments. You allow them in every zone  
10 except for you don't allow them in commercial or industrial. So  
11 I added those. The reason I added them in your industrial,  
12 commercial zone, and even in your high tech zone is that a

13 planned unit development as defined by your Ordinance doesn't  
14 have to be residential even though it's under this residential  
15 zone. It could be a mixture. So it seems, to me, you don't  
16 want to discourage planned unit developments in your zones. Do  
17 you do planned unit developments by special use or is it a  
18 planned unit development application?

19 MR. BRAD HAWKINS-CLARK: It's separate but it's similar.

20 MS. TERI OTTENS: So it seems that you want to say we're  
21 open to any application like that in any zone because we get to  
22 decide if it's appropriate or not. Bed and breakfast, you had  
23 that on your list and you allowed special use permit in the  
24 residential zones and permitted use in the commercial zones.

25 Recreational vehicle parks, special use in the two zones

□

1 and I think I added the special use in the commercial zones.

2 Then we jump to manufacturing. Manufacturing in your  
3 current thing only had a few manufacturing plants as allowed in  
4 the A-1 zone and I had a question as to why you don't allow in  
5 your A-2 and A-3. I know those are smaller lots and it might  
6 not be as compatible but it's a special use permit so you could  
7 always look at the circumstances. Right now, if you have a food  
8 processing plant, it can only go in an A-1 zone and you may want  
9 to keep it that way.

10 MR. DAVID HARGRAVES: If I could just go back, Brad and I

11 were discussing the planned unit development requiring a special  
12 use permit. If we could just highlight that, we're going to  
13 have to flush that out a little bit.

14 MS. TERI OTTENS: Yeah because you do have a separate  
15 application process.

16 23, apparel, special use permit in a mixed use. Now even  
17 though this is manufacturing, it seemed that in a mixed use zone  
18 it might be appropriate because you might be talking about  
19 somebody that is making clothes. So I put it as a special use  
20 permit but also as a permitted use in both manufacturing zones.

21 Lumber you permit only in your manufactured areas.

22 Furniture. Once again, I added the SUP in the mixed zone  
23 but is permitted in the manufacturing zones.

24 Paper and allied products is manufacturing. So it's SUP in  
25 the light industrial but permitted in the heavy industrial.

□

1 Printing is SUP in mixed but permitted in the two  
2 industrial zones. I don't know about the commercial.

3 MR. BRAD HAWKINS-CLARK: Maybe we could ask the  
4 Commissioner's what do you need to help make this process easier  
5 and simpler. I heard a legend was one thing, putting the A's  
6 in, and I heard maybe putting a little more definitions.

7 MR. DON WILKERSON: Another thing I'd like to see on this  
8 Matrix is definitions of zones on the Matrix itself. It's in

9 the book here but if you just had this Matrix in front of you  
10 and it says M-1, then you can look back here and see what M-1  
11 is. I'd like to recommend we as a Commission take it and each  
12 of us look at it because I see quite a few things on our old  
13 Matrix that I can't find on here.

14 MS. TERI OTTENS: And you're not going to. I circled all  
15 the ones on your old Matrix that I didn't think fell into any of  
16 these categories. If you're going to go to this kind of Matrix,  
17 you want to stay away from those little individual listings.  
18 You want to see where they're included under the regular  
19 listings. So what I can do is a little research and see if  
20 there is an NAICS code for bed and breakfast that just wasn't in  
21 our original list. Let me just mention where it differs from  
22 your current code under professional schools.

23 MR. BRAD HAWKINS-CLARK: What category.

24 MS. TERI OTTENS: 35, professional, scientific,  
25 controlling, and optic. That, to me, seems like it fits right

□

1 into your high tech district and yet it wasn't on your Matrix so  
2 I put it as an SUP in your high tech district. I mean it should  
3 probably even be a P.

4 Transportation was a really hard category for me. I can  
5 understand why you would want to say what zones a rapid rail  
6 transit system and a street railway system might be in because

7 you want to have control over that, and even air craft  
8 transportation. They had things listed like roadways and over  
9 passes and things like that and I took them all out.

10 MR. BRAD HAWKINS-CLARK: They're going to be in every zone.

11 MS. TERI OTTENS: That's a whole different plan. That's a  
12 transportation plan. It's approved in a whole different manner.

13 I added boat docks because those weren't in there.

14 53 and 54, under your current Matrix, those are permitted  
15 in mixed use, C-1, and C-2 zones.

16 Retail. Eating and retail, which is number 58 and number  
17 59. I put in the SUP's for R-3 and M-R. The reason I did that  
18 is because you're seeing a lot of that trend now where small  
19 eating establishments are in residential areas to serve those  
20 particular residences.

21 On the next page are salvage yards and sewage lagoons. I  
22 added those in because those were on your current Matrix and  
23 salvage yards are always a big issue. I'm going to try to find  
24 a code for those.

25 MR. DON WILKERSON: Could you have sewage lagoons in M-1

□

1 and M-2 because they're out in the County?

2 MS. TERI OTTENS: I wondered about that to because there's  
3 nothing more heavy industrial than that.

4 Under 71, cultural activities and nature exhibitions. To

5 me, this all matches with the high tech zone. The high tech  
6 zone could be a place where you might have a cultural activity.

7 That's an addition. That's different than your current thing.

8 The one thing I had a question on is you have schools  
9 permitted in all the residential zones and the mixed use zones.

10 I can understand why you wouldn't want it in your industrial and  
11 commercial zone but what about your high tech zone; maybe as an  
12 SUP.

13 The last thing is agricultural related activities. 82. I  
14 think I added it in your mixed use zone and the reason I did is  
15 because mixed use, to me, means mixed use and there may be some  
16 agricultural use s that may be appropriate in a mixed use zone.

17 So this is my first shot. That's where we're at. What I  
18 anticipate is we will add all the changes into the Ordinances  
19 and we're going to need one more meeting. I would hope you look  
20 at all the changes and then present a draft to the public.

21 MR. DON WILKERSON: I do have some questions. On G, the  
22 design I'd like maybe you to consider is adding siding type when  
23 you say siding. I see a conflict between your maximum size in  
24 J-B. It says the secondary dwelling unit is restricted to the  
25 maximum size allowed per the development standard. So say

□

1 somebody's out here and they're in an R zone, which it says is  
2 allowed on 2 acres and they have a CC&R that says they have to

3 have a 12 hundred square foot home.

4 MR. BRAD HAWKINS-CLARK: The reason that bottom was  
5 highlighted was just for discussion. This is kind of pieced  
6 together from three different codes.

7

8 REGULAR MEETING:

9 Item No. 2 - Items from the Public

10

11 MR. DON WILKERSON: The next item is items from the public.

12

13 (There were no items from the public.)

14

15 REGULAR MEETING:

16 Item No. 3 - Election of Officers

17

18 MR. DON WILKERSON: Next item on our agenda is election of  
19 officers. Right now the Chairman is David Poole who is not here  
20 and the Vice Chairman has moved on to the Planning.

21 MR. WILL MAUPIN: I volunteer for the chairman position.  
22 The only thing I need to say to the Board is next spring I will  
23 be working out of state and will be 2 weeks on and 2 weeks off.

24

25 (Will Maupin was voted unanimously to be the new Chairman.)

□

October 14 meeting 2008

1 MR. DON WILKERSON: The next nomination is for Vice  
2 Chairman.

3

4 (Dale Reynolds was voted unanimously to be the new Vice  
5 Chairman.)

6

7 REGULAR MEETING:

8 Item No. 4 - Items from the Planning Director/Administrator

9

10 MR. BRAD HAWKINS-CLARK: The Planning Commission has met  
11 once. They have their second meeting next month. They are  
12 meeting regularly now every month. They meet on Monday's in the  
13 morning. Their priority right now is the Comprehensive Plan,  
14 putting together the last 5 chapters.

15 The Board of County Commissioner's has been working on the  
16 Merrill rezone. They closed the public hearing today and they  
17 expect to make a decision next week. At this point, the  
18 indications are they will approve it but they have not made a  
19 motion.

20 Design Review Committee. There is a Design Review  
21 Committee that has been meeting largely with city members and  
22 this is mainly for the buildings along the highway for new  
23 construction to have some kind of standards. So there's a draft  
24 of an Ordinance that would probably be a joint Ordinance. It  
25 probably wouldn't effect you to much but you would certainly

□

1 want to see that Committee's recommendations if it comes to you.  
2 They're very close to finishing their work. While a lot of this  
3 will be the City, there will be some County that will be  
4 impacted because there are parts of 52 that are not in the city  
5 yet. So we'll get you a copy of that as soon as it's drafted.

6

7 REGULAR MEETING:

8 Item No. 6 - Items from the Zoning Commission

9

10 MR. DON WILKERSON: Any items from the Zoning Commission?

11

12 (There were no items brought up by the Commission.)

13

14 REGULAR MEETING:

15 Item No. 5 - Items from the Deputy Prosecuting Attorney

16

17 MR. DON WILKERSON: Items from the attorney.

18 MR. DAVID HARGRAVES: I just want to let you know we have

19 an open door policy if you have any questions.

20

21 REGULAR MEETING:

22 Item No. 7 - Adjourn

23

October 14 meeting 2008

24 MR. DON WILKERSON: Meeting's adjourned.

25