

**Fremont County Planning  
& Zoning Commission  
Minutes  
February 12 2007  
6:00 pm  
County Annex Building**

The Fremont County Planning & Zoning Commission met in regular session on February 12, 2007, in the County Courthouse. **Members in attendance were:** Evan Worrell (Chairman), Ron Kynaston, John Nedrow, Vance Derricott, Kirk Mackert (Vice Chairman), Cindy Miller, Steve Pinther, Kip Martindale and Cindy Roberson

**Staff and others present:** Jeff Patlovich (P&Z Administrator), Molly Knox (P&Z Secretary), Owen McLaughlin (District 7 Health Dept.), Joshua Chase (Planner II), Blair Jones ( Fremont County Road and Bridge)

The chairman called the meeting to order at 6:00pm

**I. Minutes**

January 8, 2007

**CINDY ROBERSON MOVED TO ADOPT THE MINUTES FOR THE REGULARLY SCHEDULED HEARING ON JANUARY 8, 2007 AS WITH THE CORRECTIONS NOTED. SECONDED BY RON KYNASTON. MOTION PASSED.**

**1. Preliminary Plat Continued – Center Court LLC.**

Mr. Worrell The next item on the agenda is the Preliminary Plan continuation of Center Court LLC.

Mr. Patlovich this was denied by the planning commission and I have drafted the Facts Findings and Conclusions of Law and Order is for your approval to deny the project.

Mr. Derricott I make a motion to approve the Facts Findings and Conclusions of Law and Order for denial of this project.

Mr. Mackert seconded the motion.

Mr. Worrell. We have a motion that has been seconded, all in favor, motion carries.

## 2. Public Hearing – JS Estates – Steve Mortensen, Developer

Mr. Worrell The next item on the agenda is the Public Hearing for JS Estates, Steve Mortensen is the Developer.

Mr. Patlovich stated that this is a new hearing as if you had not heard any thing from last month. This is due to the sign was posted a day late. I feel that it is okay if someone stands up and states that they testified last time and would like that to be part of the record for them to state that.

Mr. Worrell questioned if the notices had been provided?

Mr. Patlovich responded that yes it had been posted on time but that he was notified this morning that the sign had been taken, that is not a flaw in the noticing as it was posted on time.

Mr. Martindale stated that in effort for the Planning & Building office to avoid improper legal procedure, I suggest we reopen discussion concerning proper legal procedure of the Mortensen property as it relates to an improper legal determination. January 8, 2007 of an “Appeal of LESA” December 4, 2006 when in actuality it was brought to Public Hearing as a “Variance”. The Planning & Building Administrator and Commission must follow proper legal procedure. I suggest we correct this by making a motion to deny the Appeal/Variance application and allow Mr. Mortensen to resubmit his application properly.

Mr. Pinther questioned why he was requesting this?

Mr. Martindale stated that it was heard incorrectly, it was heard as an appeal when it was a variance.

Mrs. Miller questioned Mr. Martindale in his stating that granting the variance was wrong.

Mr. Martindale stated it came out as a variance but was heard incorrectly.

Mr. Pinther stated that we admitted that a mistake was made. But that the time period had lapsed for anyone to appeal that.

Mr. Martindale stated that 28 days laps and that it should not be discussed.

Mr. Patlovich stated that from a practical stand point nothing happened and there is not legal precedence that this can take place. It could happen to any project. Perhaps there was a mistake made in the notice but the time has lapsed for anyone to appeal. If you do this as Mr. Martindale is requesting someone could do this at any time even after a possible million-dollar project is completed.

Mr. Martindale stated that I agree with Mr. Patlovich and I feel that we need to abide by state and county law and abide by the code.

Mr. Pinther stated that at this point in time do we have the legal ability to do so now? Or will that be a violation?

Mrs. Miller stated that I think that we are still a learning board, this is something that we find very serious and in the future we will be more careful.

Mr. Martindale responded that I feel that we should do away with the 28 days to appeal.

Mr. Pinther stated that if we did make an error someone will hire a lawyer and let us know.

Mr. Matindale responded that he felt we did make an error and that he is trying to correct it.

Mr. Derricott stated that if they were going to hire a lawyer they would have done so by know or they will in the future. I am concerned about the future.

Mr. Pinther asked if it is a question of a legal matter,

Mr. Martindale responded that this sets precedence for others to come.

Mrs. Miller questioned if it were terms that were wrong.

Mr. Worrell tried to explain what was wrong.

Mr. Patlovich explained what took place with the Appeal application form being the same as the Variance application form. There was a mistake made but no one can challenge that and no has challenged that.

Mr. Martindale I challenge that.

Mr. Mackert questioned if the variance on the four-lot subdivision was granted?

Mr. Patlovich stated that what was applied for was granted which was a change in the LESA score.

Mr. Mackert questioned that with all of the information that was given saying that a variance was granted?

Mr. Patlovich stated that it starts with a bad application form from many years ago. That is not going to happen again due to we have changed them to two forms.

Mr. Mackert stated that the wording of a variance being allowed for four lots which is in all the documentation.

Mr. Patlovich even though no procedural steps were taken this was four months ago and it has not been appealed.

Mr. Martindale made a motion of in effort for the Planning & Building office to avoid improper legal procedure, I suggest we reopen discussion concerning proper legal procedure of the Mortensen property as it relates to an improper legal determination. January 8, 2007 of an "Appeal of LESA" December 4, 2006 when in actuality it was brought to Public Hearing as a "Variance". The Planning & Building Administrator and Commission must follow proper legal procedure. I suggest we correct this by making a motion to deny the Appeal/Variance application and allow Mr. Mortensen to resubmit his application properly.

Mrs. Roberson seconded motion.

Mr. Patlovich Discussion between Mr. Patlovich and Mr. Martindale

Mr. Martindale withdrew his motion

Mr. Pinther I do not feel that we can deny a variance that has already been granted.

Mr. Martindale responded even if it is improper procedure? You haven't read your code then.

Mr. Pinther stated that I feel that we need to proceed forward hope it never happens again.

Mr. Patlovich stated that this application was before you last month and we found that we had a posting problem and we have redone it all to make it proper.

Mr. Pinther stated that there is no legal standing to reverse an appeal or variance or whatever.

Mr. Mackert stated but it all depends that it was an appeal or a variance is it this or others? Confusion of which it was, an appeal or a variance.

Mr. Patlovich stated that we cannot change minutes but can put something in their file supporting that.

Mr. Mackert stated that I am not asking for the decision to be changed just what it was.

Mr. Derricott question as to which should be done.

Mr. Patlovich stated that these minutes will make everyone real clear that something was done wrong.

Mrs. Miller questioned of an amendment of minutes.

Mr. Worrell Cindy Roberson and Kip Martindale in favor of motion all others not in favor. Motion fails. Questioned if the board had a conflict of interest? Jeff please report.

Mr. Patlovich reported on proposal on 19.56 acres being subdivided into 4 lots. It is not in any migration routes or visually sensitive areas, and it has been determined by you do be unproductive cropland. Included additional letters that were received.

2-2-07 IDFG

2-5-07 Fish and Wildlife

1-29-07 IDT

2-4-07 Cecil Kary

Mr. Worrell questioned if there were any other questions for Jeff?

Mr. Patlovich stated that again the sign that had been posted had been taken.

Mr. Martindale questioned if the staff analysis was the same as the board analysis on ground not being productive.

Mr. Patlovich stated that that is the same and that was decided at the earlier meeting.

Mr. Worrell questioned the REA letter of utilities not being acceptable, read from code. He questioned if there was a correction letter on that.

Mr. Mortensen stated that he had met with them and says that they stated that they needed easements in the final plat stage.

Mr. Worrell responded okay thank you

Mr. Martindale stated that at some point the water supply needed to be addressed.

Mr. Worrell asked if there were any questions and opened to public hearing

Alan Packer St Anthony ID – stated that he would like to reiterate some things, there were a few mistakes made, farmed in last 30-35 years not 60 years. Since the flood property has not been reclaimed and according to the records it has not been reclaimed. I have been to several meetings and one thing that I have learned is that it to be around the same. The homes are there from no later then 30 years ago. Mile in a half there are more then 100 homes in the area. Determined that the ground is not productive farm ground. Each piece needs to stand on its own. Nothing has changed.

Brent Kerbs 240 N. 2500 E. St. Anthony – stated that he knew of none of this until two weeks before by a notice of a Class II permit. If a Variance hearing would have been done then we would not have been here. I feel for the Mortensen's and all that they have had to do. I would like to clarify a few things. Questioned storage water?

Mr. Mortensen stated that that he would leave all water rights to the people.

Mr. Kerbs I feel that the storage water is an issue, and that it should. LESA and how it was passed. We would like to see it sold, a lot split and that is it. Read from FCDC address the board in the Class II standards.

Mrs. Miller questioned the 18 pair of cattle.

Mr. Kerbs stated that the information that was given before on the cattle.

Mr. Kynaston questioned storage water and Farmers Friend Canal.

Mr. Kerbs responded that the majority of water rights were 1892. In 1908 no natural flow due to reservoir not there. Most will start in 1931. Drought year we are in 1984. If there are people who put a horse on the property. Water rights and natural flow, storage water can be bought or sold. We as neighbors would like to see the land sold a lot split to be done and have two homes be put on it if that is what needs to be done. Read Class II permit procedure.

Mr. Martindale questioned to clarify that the storage water goes with the new lot owners.

Mr. Kerbs responded that is up to the developer, but that is what would be best for the new land owners.

Mr. Kerbs also issue of damming off of drainage ditch. Water rights are the most important thing. According to law Shane Potter has the right to force a right of ways. He gave an Idaho Code reference of § 42-1403 Lateral Ditches - Maintenance - Cost

Mrs. Miller questioned if that was not something that the canal company had to address.

Mr. Kerbs stated response.

Larry Singleton 266 N 2400 E stated that he had the opportunity to pull up his crop reports. Says that it is non Ag. (handed out to board). Stated concern of water rights and two thirds it is not the Mortensen responsibility. Ground was totaled in 1976 (due to the flood) and there has been top soil brought in after that. Melvin Harris gave me the right to speak for him tonight. Water issue and part ownership. If we need it switched around we will do it. A lot of Madison-Fremont water is leased. If the Mortensen's run out of water then we will almost all be out of water. I have known about this for two years or more. I would like to reiterate that not all of us are against of this. We are not worried about the ground but worried about you as a board caving in on this.

Mr. Martindale questioned do you know why this is not Ag?

Mr. Singleton stated that yes it is because it is not farmed and there are no crop reports.

Mr. Martindale stated that the reason is because the owner decided to not give the USDA information on it.

Mr. Singleton stated that prior to five years ago it was rented to the Davis's, I rented it some and it is not productive. It is not eligible for any programs that are offered.

Mr. Martindale stated that it is not eligible because they did not apply for anything.

Mr. Pinther questioned the photo of the ground and who owns what ground. Also questioned of only putting cows on it and why not farming due to farm all other ground

Mr. Singleton responded that it is very uneven ground and has clover and quack grass.

Mr. Derricott questioned what was meant by statement of openly endorsing this.

Mr. Singleton stated concern of why should you throw this out in fear of what is coming down the road in the future?

Mr. Mike Davis 2495 E. 300 N. St. Anthony – A lot of information commented on. What Mr. Kerbs has stated is what I would comment on. Please take Kips information into consideration, it is up to the property owners to sign up for such things. It is up to the board to look down the road and consider what is going to happen in the future. The ground in question has never been worked on weather by choice or otherwise. I know what the ground surrounding it is able to do. Stated concerns that he had when he was on the board. The time element does not apply when the improper procedure has been completed.

Garrin Abegglen 271 N. 2500 E., St Anthony stated his concerns of his and other well water and issues of aquifer. Continually see property tax increase and if this is deemed a subdivision and if we surrounding it would be harmed because of it. Concern of looking down the road and what will come down the road from other property owners. This could set precedence. Mr. Mortensen stated that there could be four ratchets then how could it be non productive ground. The ground next to me has been laser leveled and it is productive ground with crops being taken off of it. Yes subdivision ground is worth more then farm ground.

Mr. Pinther stated that one of your concerns is that the ground could be divided again?

Mr. Abegglen responded yes it is.

Mr. Pinther stated that before Mr. Mortensen stated that he would put that plat note that the ground could not be split again.

Mr. Patlovich described the process of a plat amendment for changing the plat notes to the public. Stated that it can be done.

Mr. Abegglen stated is that legal and can that be done.

Mr. Patlovich stated the conditions of approval for a subdivision.

Leslie Mortensen – passed.

Jack Brock Mortensen – Owner of property in question and stated that he was strongly opposed to more lots out there. I have the same concerns that the neighbors have.

Steve Mortensen 5022 Vintage Lane Ammon ID when I met with the committee applying for an appeal on the LESA. If one cow or horse eats the grass it is considered productive Ag land. You choose well then and now. Mr. Kerbs stated that as far as water access and water rights, it happens to all. We will put it as a plat note to not develop it further. We need to judge this on its own merits not for the property down the road. The smallest property size will be 4.3 acres. Larger then most home owner's property around there. It is our intention to honor all the regulations that he county sees fit to have us do and make it an enhanced area in the county. I hope that you set aside worries for the future to the future.

Mr. Mackert questioned the bridges being placed – also questioned the Resource Management Easements.

Mr. Patlovich described that it was discussed before and described what it was.

Mr. Mackert concern of plat note for the storage water and it staying with the property.

Mr. Mortensen stated that that would not be an issue and that it would be done.

Mr. Kerbs comment to Larry that it is not Shane's problem but it is an issue that is supported by Idaho law and that the water needs to go somewhere. In the county in the Assessors office as per Bruce Hill you are taxed as a subdivision as \$7,000.00 an acre or \$500.00 an acre if you are as Ag, if you make \$1,000.00 off of it and have proof you can to the \$500.00. I feel that Mr. Pinther stated that and that the whole issue is how much per acre. It was a gift deed not bought or sold.

Mr. Brock Mortensen stated that the ground he bought ground from grandfather with a bull riding check asked if grandfather on his deathbed would quick deed the land to him.

Mr. Steve Mortensen questioned logic of Mr. Kerbs argument.

Mr. Mackert stated that looking at this going forward, we know that Alan and his daughter are looking at two of those lots. Are you going to put in anything stating that they can't have junk cars and such.

Mr. Steve Mortensen responded that that will be taken care of in the CC&R's.

Mr. Patlovich passed out aerial of property in 2004.

Mr. McLaughlin stated that he looked at property awhile ago and that they have seasonal groundwater. I will require a test hole on each lot and I feel that a septic system could be placed.

Mr. Blair Jones stated that there are no issues with Road and Bridge on this project.

Mr. Worrell said the Public Hearing is closed and now it is time for the board to discuss.

Mr. Pinther stated that he wanted to make sure that the water rights are placed on there.

Mr. Patlovich stated that item #6 talks about protecting irrigation systems. I am unsure of what else you might want on there. This is a page right out of the Fremont County Code.

Mr. Martindale stated to look at page 22-23.

Mr. Patlovich stated that you want him to voluntarily put that there will be no further division of land. There is nothing in the Code that says he can't do this, he has offered to do this, let him do so and we will see in the Final Plat stage.

Mr. Pinther stated that I feel that we have been protective of the surrounding landowners and the people who own the land. Was it not last month that property that was a mile down the road and it was denied, we are looking at each individually.

Mrs. Miller responded that I think that we need to be careful, we cannot take away their rights to do what they do with their personal property.

Mr. Pinther I make a motion that we approve this 06-375C2 provided that the developer does include in the plat notes that there be no further division of land of these four lots, and the conditions that have been discussed.

Mr. Worrell any discussion.

Mr. Nedrow questioned if this issue of could be looked at a later or if we can wait for the 60 days.

Mr. Patlovich responded that the board could do that if they wish, they could deliberate at a later time.

Mr. Kynaston seconded the motion.

Mr. Worrell we have a motion that has been seconded Mr. Kip Martindale, Mrs. Cindy Roberson and Mr. Vance Derricott were against. All others in favor, motion carries.

### 3. Sketch Plan – Conant Creek Estates – Royce Klingler, Developer

Mr. Worrell the next item is the Sketch Plan for Conant Creek Estates, Jeff will you discuss

Mr. Patlovich this is a proposal to subdivide 115 acres into 17 Single Family lots and no one will be building on the slopes. There will be building envelopes added in the Preliminary Stage. Two sections of the code need to be addressed sections VII.II and VII.JJ, please look at those. Discussion of the property located to the west to possibly be developed and that the road will be addressed at that time. To get to the actual property it is 4 miles off of Hwy 32, that being the only way in and out. This could be next year or twenty years from now. The lots will be served by individual wells and septic.

The board asked for the LESA to be discussed amongst themselves.

Mr. Patlovich stated that the LESA was scored a 31 and a 14. Soil types are all that is looked at, and the site is what is looked at and that so much of that is the edge and cannot be nor will ever be farm ground. Stated that he felt it was not the boards place to re-evaluate the LESA scores. Stated that case in point Rolling Aspens and Bills Island both were denied due to the road issue.

Mr. Pinther stated it is a disservice to the developer to make them go so far if they are not going to pass the LESA. As for the road in VII.II.3 the loop system says it has to come back to a public road.

Mr. Mackert stated that he could tell us about it and discuss what he wants to do. At this point the road does not meet the Code. Even with the proposals from tonight. We cannot use the LESA because it is not here.

Mr. Royce Klingler stated that he had not had the chance to state my case. I have gone through the LESA and have been scored on it and passed it. So I am to this point.

Mr. Pinther we have to abide by rules as we are here. Presenting a sketch plan to us and we can see that he is not going to fly due to the road, and if the information is given to us that the LESA will not pass either. Even though I do not agree with it I do not think that he will pass page two. I do not want him to spend the money on this and then we say no, sorry.

Mr. Mackert we should say that there are concerns with page two of the LESA.

Mr. Royce Klingler I feel that I need to rework the road but I think that it will protect migrating routes and I have spoken to the neighbors. It is in CRP and it is cut up by Rails-to-Trails and the ridge. Where the soils are taken it would be a difficult area to farm due to the. Open space so that it is not impeding views of the public. I feel that the LESA will hold up once you take a look at what is out there. Almost more then half of that type that cannot be developed. Minimize building envelopes of larger lots. Required setbacks. I think I will take my chances on it. Test holes and required to have test holes, setbacks for creek beds to have septic. Spent day walking property with Idaho Fish and Game Regional Biologist and he gave me a wish list and I have met that. I felt that the road would comply but from what I have heard tonight, it will not work. There are no wetlands in the area according to the current maps. The 100 year flood plain is in the bottom of the creek. Have gone through this checklist and if the LESA is going to be Mrs. Miller questioned the Rails-to-Trails application

Mrs. Miller questioned the Rails-to-Trails and what permits had to be taken to cross that?

Mr. Klingler stated that he had spoken to Garth and that the subdivision would be allowed to cross that.

Mr. Pinther stated that we are going to have to have a signed statement from the State Parks and Rec. saying that.

Mr. Patlovich stated that there are some state agencies that will not do that until you approve your application.

Mr. Klingler questioned if the letter could say that this permit is contingent upon your approval?

Mr. Patlovich responded that some agencies may do that.

Mr. Derricott stated that he felt that the developer had done a good job in his attempts to protect the area.

Mr. Pinther stated that I agree with what Vance said that and you did a good job.

Mr. Pinther explained the road of two points of access to be able to get back to a public road. There has to be two methods to get to the public road.

Mr. Klingler stated that there is a farm to market easement on the property, showing the board what is being though of. With the farm to market easement and the loop does this work?

Mr. Pinther stated hat the roads have to meet county specs as a full blown road. Second page is something to be looking at to disqualify you at the next stage.

Mr. Klingler stated that with the land that is there I feel confident that this will be okay.

Mr. Derricott I make a motion that with the chance of a positive rescoring of the LESA, road issue, complete set of permits from Idaho Parks and Rec. and you may continue to Public Hearing.

Mr. Pinther seconded the motion.

Mr. Worrell stated that we have a motion that has been seconded Mr. John Nedrow in opposition, all others in favor, motion carries

#### 4. Sketch Plan – Rich Schoenberg, Developer – Rick Byrem, Surveyor

Mr. Worrell the next item on the agenda is the Sketch Plan for Rich Schoenberg.

Mr. Patlovich stated that the LESA is in your packet and you can look at it and it is not productive cropland. It is a 4 lot subdivision on 1200 East and on the Warm River Butte map does not have it on it and the data is not on there to use for visually sensitive areas. My only concern is the length of the cul-de-sac and that is all.

Mr. Byrem P.O. 249 Swan Valley – I must have misread the schedule B and that is an easy fix that I will have to talk to my client of that.

Mr. Martindale stated that it is fenced and pasture land and has been used as that.

Mr. Byrem stated that it is woodland and that it had gone through the LESA and it is not productive cropland.

Mr. Worrell questioned who the owner of the property was?

Mr. Byrem stated that all of the information from the realtor was submitted and that it was a woman from Minnesota and that the Developer is from Wisconsin.

Mr. Worrell questioned if the board have any other additional info.

Mr. Derricott stated that it is a nice area and I move that we let this move forward.

Mr. Mackert questioned if the surrounding land was Ag or not? And if the same person owned it.

Mr. Byrem responded that yes it is Ag and no it is not the same owner.

Ron Kynaston seconded the motion.

Mr. Worrell all in favor motion carries.

5. Variance Public Hearing – on lot in Rancho McCrea – Rick Byrem, Surveyor

Mr. Worrell stated that the next item on the agenda is the Variance Public Hearing on a lot in the Rancho McCrea Subdivision, Rick Byrem is the Representative.

Mr. Patlovich stated that the property is on 0.52 of an acre with two garages and one cabin there will not be any other improvements on it. Unfortunately they are doing this for family reasons being that there was a death in the family. I have recommended denial due to it is a self imposed hardship. Additional testimony that have come in since the packets have gone out.

2-3- Loserto opposition

2-5 Lopes opposition

1-31 Pricilla

2-7- Neil Soderquist

2-1 Woods

1-29 IDT no comment

2-5 IDFG no comment

As you see those photographs (in the record) coming around there are two garages and a home.

Mr. Byrem the rear garage was built by a brother in law to store boat in. Two garages that don't make sense and they want to sell front house and garage. Leaving the garage for the brother in law. A deed will be attached to property stating that and that no other structures can be built on the property.

Mr. Derricott questioned access to rear garage.

Mr. Byrem stated that it is not going to be an issue, you access the rear garage from the rear street.

Mr. Pinther stated that he thought that all three were built with in the last 10 to 15 years.

Mr. Byrem stated that the large garage that is the piece trying to be broke off is the newest piece.

Mr. Worrell open to public hearing – no one signed up and no comments from Owen or Blair Public Hearing is closed.

Mr. Pinther stated that he felt it did not fit the standards of a variance. I feel badly but we would be creating a problem.

Mr. Worrell asked Jeff if he recommended denial?

Mr. Patlovich responded that yes he did due to it was a self imposed hardship.

Mr. Mackert questioned why the three structures? And if they were all permitted.

Mr. Patlovich stated that yes they were all permitted.

Mr. Derricott motioned to deny project based on the Findings of Fact and Conclusions of Law in the staff report and testimony tonight.

Mrs. Miller seconded motion.

Mr. Worrell all in favor motion carries variance is denied.

#### 6. Public Hearing – Louise Hobbs Subdivision – Rick Byrem, Surveyor

Mr. Worrell next is the Public Hearing for the Louise Hobbs Subdivision. Jeff please report.

Mr. Patlovich 19 acres in size to be split in two, came in to do administrative split but to them they already did that due to the cell tower.

Mr. Martindale questioned the split of the property for the cell tower?

Mr. Patlovich stated I am unaware as to why they did that instead of just leasing them the land.

Mr. Patlovich stated that the Idaho Code says that you can split up to 4 times before doing a subdivision or do more and Fremont County has chosen to do it differently being one administrative split then a subdivision process.

Mr. Mackert stated that is why they have to do this?

Mr. Chase any division of an original parcel of land (read lot split) page 83 Mr. Chase page 72 lot splits.

Mr. Worrell any questions for Jeff, Rick would you like to speak.

Mr. Byrem stated that there is an existing house, well, septic on the original parcel. Access is off of an existing county road, they did split off the land for the cell tower using their only administrative split so we are here. They want to split the remaining property into two pieces 10 acres and more for a granddaughter.

Mr. Worrell open to public comment

Todd Brower here for the word subdivision, I understand that there can be more splits, how many could there be?

Mr. Patlovich stated that if they agree to a plat note that they will not subdivide any further.

Mr. Brower stated that I understand what they are trying to do but I would like to see them have that as a plat note. I have a map from the Assessors office, which shows the wrong information apparently. Also questioned with the water split.

Mr. Kenny Gardner stated that there is no water on it.

Mr. Brower questioned if there is anything else.

Mr. Gardner stated that he has all of the water in his name.

Mr. Tim Cox 4108 Pintail Lane Nampa ID. Thank you for your comments that is how we feel about it as well. I hate to have guidelines placed on me but I will do that if that is the only way to do so. We would never to it for personal gain if we ever had to develop this.

Mr. Derricott questioned what is grown on there, weeds, rocks?

Mr. Cox responded yes it is for all intentional purposes it is wasteland.

Mr. Worrell any rebuttals?

Mr. Byrem stated that he would recommend that we do not place this stipulation on him for reasons of neighbors not liking it.

Mr. Patlovich read letters into record.

2-2-07 IDFG

2-5-07 F&W

1-29-07 IDT

Mr. Worrell questioned Owen if there were any issues?

Mr. McLaughlin responded that there were no problems.

Mr. Jones stated there were no problems.

Mr. Worrell stated that if there were no other public comments then it is for the board to discuss.

Mr. Nedrow asked Jeff if there were any letters in opposition.

Mrs. Miller motion to approve 07-005 subject to the conditions attached in the Facts and Findings and Conclusions of Law and Order.

Mr. Pinther seconded.

Mr. Martindale would like to make a motion to include no other divisions as a plat note.

Mr. Kynaston seconded the plat note of no further divisions.

Mr. Mackert questioned for weed control and water, this is land that I would rather see developed then other land.

Mr. Patlovich questioned the board of which would you like to be further developed this or other land.

Mr. Martindale I agree with that but I feel for the neighbors.

Mr. Patlovich I understand the neighbors concern.

Mr. Worrell any further discussion on this motion to add plat note of no further development has been moved and seconded Mrs. Roberson, Mr. Kynaston, and Mr. Martindale in favor all others opposed, motion denied.

Back to the original motion any more discussion on it, moved and seconded it all in favor with the exception of Mrs. Roberson, Mr. Kynaston and Mr. Martindale that were in opposition. Motion carries.

7. Public Hearing – Centennial Shores Division #2 – Centennial Mountain Properties – Mitch Jacobs, Developer

Mr. Worrell The next item on the agenda is the Public Hearing for Centennial Shores Division #2 Centennial Mountain Properties Mitch Jacobs as the Developer and Rick Byrem as the surveyor.

Mr. Patlovich This is a class II to divide 4.8 acres and the second tract would have a no build statement on it due to there is only one development right on it. The application the original parcel was located in the same visually sensitive area as this one is. This is what they have proposed until they can find a development right to transfer in. If you look at page two of the staff report this subdivision is way farther then 660 feet from a public road. If there are more then one entrance into the subdivision then that will remedy this problem.

Mr. Worrell any questions to Jeff?

Mr. Nedrow questioned of if a development right is found does it come to the board again or is it an administrative thing?

Rick Byrem said from a background of point that is surrounded by subdivisions and sold off interest in guest ranch and idea of lodge on the parcel. To address questions of access is a year round county maintained road to county specs. Access to overall project one where main gate is and second access is South Shore Drive. Was approved for a lodge

site but not to do that at any time and now want one parcel with boat ramp that is available to the subdivisions residents. Would be called lot 42 due to it is part of the original subdivision.

Mr. Kynaston questioned if this is the boat ramp for the internal lots to get to the lake.

Mr. Byrem stated that yes it is and that would stay there that one acre would be for that use. The boat ramp would stay no matter what.

Mr. Pinther in the sketch plan you said that you would have that as common area, are you retracting that?

Mr. Byrem stated that not necessarily that ground will remain open space and possibly at some time could be developed.

Mr. Pinther questioned if they find a development right then the common area will be gone?

Mr. Byrem responded that no it will remain there the 1.89 acres would not be built on.

Mr. Pinther questioned if at any time you could walk in here and do that through the office?

Mr. Byrem stated that their intentions are to leave the strip for the boat ramp and parking if they find the development right to develop the other part of the property.

Mr. Pinther questioned of the property that was sold was intended to be common ground for the use of everyone? Was it represented as being available to all?

Mr. Byrem stated that no, it is a piece that was retained by the developer.

Mr. Pintehr questioned access to the property.

Mr. Byrem stated that there is very detailed deeds to allow the property owners to be able to come into the subdivision.

Mr. Pinther questioned the distance to a public road?

Mr. Byrem responded that it is about a half a mile.

Mr. Pinther questioned if the new homeowners would be part of maintaining the roads.

Mr. Byrem stated that the person who would purchase this lot would be subject to pay all of which that the current owners pay to the home owners association.

Mr. Worrell opened the public comment.

Mr. Patlovich read into the record the letters received after the packets.

IDT 1-29

IDFG 2-5

Fish & Wildlife 2-6

Mr. Kirk Jacobs we have decided to make this into a regular lot instead of a lodge B&B to simplify things. It will just be another lot to sell. The boat ramp is available to everyone inside of Centennial Shores and a park in there and another ramp that is also there on the property. Two entrances gated and fire gate.

Mr. Pinther stated that this is not like in original plan to have common area and parking.

Mr. Jacobs stated that there is boat storage and parking in other locations of the current development. No desire to pursue that?

Mr. Worrell questioned Owen. Mr. McLaughlin stated that it is okay for a septic.

Mr. Worrell Blair? Mr. Jones stated that there are no problems it is in a private subdivision.

Mr. Worrell public hearing is closed.

Mr. Nedrow questioned Jeff if was okay with the access?

Mr. Patlovich responded that it is okay.

Mr. Martindale recommended including the BOR recommendations to the plat.

Mrs. Miller read from letter language of plat. Find letter and copy

Mr. Pinther questioned density of 2.09 acres.

Mr. Patlovich responded that when it goes into the subdivision it will fall into the overall Centennial Shores.

Mr. Kynaston motioned to accept the two-lot subdivision that will become Division #2 of Centennial Shores with the plat note that was recommended by Kip.

Mr. Derricott seconded motion.

Mr. Worrell motion that was seconded Steve Pinther against all others in favor.

## 8. Administrators Report

Josh discussed meeting to be held on Feb 26<sup>th</sup> at 6:00pm

Discussed creating sub committees and to be able to capture the farming community.

Kip discussed proposal of moving to adopt a moratorium to Mr. Chairman I move to adopt an INTERIM MORATORIUM for an update period for Fremont Counties Comprehensive Plan and Development Code as is required by Idaho Statutes, TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS, CHAPTER 65, of the LOCAL LAND USE PLANNING, IDAHO CODE 67-6524 for the period of one calendar year. I make this motion because the pace of current projects would not be in compliance with the new Plan. Members of the Planning & Zoning Commission cannot appropriately evaluate each project as well as make revisions to the Comprehensive Plan & Development Code. For example we have TDR's in our code that have not been often used. When used properly, TDR's in other states and counties have brought private property owner's \$75,00.00 to \$200,000.00 per acre.

Mr. Patlovich stated that it had to be on the agenda before taking a formal action.

#### 9. Adjournment-

Steve I make the motion to adjourn.

Ron I second the motion.

Mr. Worrell we have a motion to adjourn that has been seconded. We adjourned at 10:20