

**Fremont County Planning
& Zoning Commission
Minutes
April 21, 2008
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular session on April 21, 2008. They met in the County Annex Building. **Members in attendance were:** Kirk Mackert (Chairman), John Nedrow (Vice-Chairman), Larry Singleton, Joette Lookabaugh, Cindy Miller, Steve Pinther, Ron Kynaston, Vance Derricott, and Glen Pond.

Staff and others present: Joshua Chase (Planner I), Marla Vik (Public Works Director), and Letta Laux (P&Z Secretary).

1. Welcome

Mr. Mackert welcomed everyone to the meeting at 5:59pm, and stated there is a new agenda tonight with a presentation from Marla Vik.

2. Minutes

Mr. Mackert asked if the P&Z had looked over the minutes from March 10, 2008

Mrs. Miller pointed out a typo on page 6.

Mr. Derricott questioned if it was accurate that Lamont Land and Cattle owners are not the land owners. He questioned if it was accurate that the estimated lots were 2500-3000 for the Lamont Village, and if that included lots earned through bonus points.

Mr. Mackert stated those were correct statements.

MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM MARCH 10, 2008 AS REVISED. MR. POND SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Mackert asked the P&Z to look over the minutes from March 17, 2008.

MR. POND MOTIONED TO ACCEPT THE MINUTES FROM MARCH 17, 2008. MR. PINTHER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Mackert asked the P&Z to look over the minutes from March 31, 2008.

MR. NEDROW MOTIONED TO ACCEPT THE MINUTES FROM MARCH 31, 2008. MR. POND SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

3. Presentation Hebdon Mini Storage LSDS by Forsgren & Associates

Mr. Randy Johnson- Forsgren & Associates gave handouts to the P&Z with modifications to the water and sewer studies. Stated there were questions regarding the cost associated with the sheriff for these storage units, and the sheriff is working on a new formula to establish a cost estimate. There were also questions on the traffic count taken for the development. The numbers for travel estimates are very moderate. They were also questioned about the possibility of an overpass going into that road, and they found that there would be no impact from the development on those overpasses.

Mr. Derricott they originally said they did not need water out there, but changed the plan because they decided to add office buildings out there.

Mr. Johnson stated he would address that after they are clear on the trip estimate.

Mr. Singleton asked if they reduced the number of trips out to the development from the study.

Mr. Johnson stated they did not lower the estimate because it is not going to affect the study. They added some tables and ranges to the document so they can see the ranges of estimates. There was minimal impact; even when using a more moderate number it resulted in the same outcome. He discussed their findings for the water; they assumed that there would be two customers per vehicle and that they would use the restroom facilities each visit resulting in 800 gallons per day. That is an extremely high estimate and is not likely that that much water would be used. They estimated that they could possibly use 30 gallons per minute if they also irrigated up to an acre.

Mr. Pinther questioned if there were going to be an additional 4 office buildings?

Mr. Johnson clarified that there were going to be one office and a small bathroom in each of the 4 buildings. He stated that there is not an additional impact for water usage and no need for a hydro-geologic study.

Mr. Derricott stated that even though this is a commercial entity, it would still be classified as domestic.

Mr. Mackert questioned if they looked at that water usage and also the use for fire fighting supply.

Mr. Johnson stated that they did not; the fire fighting supply would be for a one-time usage, and they look at what the continual draw would be. The next issue they worked on was the septic system. They used the same estimate of 800 gallons per day that they used in the water study. They looked into the Department of Health and used their guidelines for the drain field. Their findings are that there is not an impact on the County.

Mr. Pond asked if they are required to have a reserve field available.

Mr. Johnson stated yes, and they doubled the area needed to come up with that number. It is included in the ¼ of an acre needed for both fields. They also looked at the loading density and it conforms to the standards.

Mr. Pinther questioned what the requirements were for a fire fighting well.

Mr. Johnson stated that the developer needs to meet the requirements from the fire chief, and is the developer's responsibility. It was not written up in the study because there were no additional impacts on the County. It will be between the fire Chief and the developer and the P&Z can approve it with the condition that the developer meets the requirements that the fire chief will place on the developer.

Mrs. Miller questioned where the drain for the septic system is located.

Mr. Johnson stated he did not pick a specific location, but he did assume that they will put it on the south side of the property, next to the buildings.

Mrs. Miller questioned they had recommended to the developer to have plenty of grassed area for storage of storm water, or was that for their information only.

Mr. Johnson stated that the recommendation is that the developer proves that they have a storm water facility and that they will manage that facility.

Mr. Pinther questioned if the storm water facility would have to be vegetation or would it function the same if it was changed to gravel.

Mr. Johnson stated gravel would not function the same way as the grass, but there are ways to accomplish the same thing with different techniques. They could bury culverts, or they could leave some grass before it hits the gravel, etc.

Mr. Mackert asked if the existing system would work.

Mr. Johnson stated they would have to check the grading. If there were some natural depressions in that 50ft. area, it would function. If they were going to change it, the best option would be to grow native grass.

Mr. Chase stated the next step in this process is for the P&Z to decide if the study is complete or not so it can move to the public hearing.

Mr. Pond stated he does not think it is finished until they have received the final document in hand, not just the draft.

Mr. Pinther questioned if they had been working with the developer on this study, and if Mr. Hebdon had any problems with the study.

Danny Hebdon stated he did not have any problems with Forsgren's study, and he apologized because of the confusion regarding his development. He had been in contact with Mr. Patlovich several times and he was frustrated by the miscommunication between him and the P&Z.

Mr. Mackert asked how long it would take to get the final draft to the P&Z.

Mr. Johnson stated he should have it done by tomorrow.

Mr. Mackert discussed the next steps for the development.

4. Sketch Plan-River Point-One Source Partnership, LLC

Mr. Mackert asked if there were any comments from Mr. Chase.

Mr. Chase stated that Molly Knox had put together the memo and he read from that report. There was a little discrepancy on the acreage amount. Molly had come up with approximately 116 acres based on the tax assessor's information and the application shows it is for 112 acres.

Mr. Mackert stated the average density would be 2.23.

Mr. Chase stated it exceeds the base density, and they are hoping for bonus points.

Terry Mortinson-159 E 3500 N Rexburg, ID gave a power-point presentation for River Point. They know that the public safety regarding roads is a big issue and he will be reworking their plan. They are very concerned about taking care to protect the wildlife and water resources. They are hoping for bonus points from clustering that would double their density. They will provide adequate on-site facilities and will cover the cost of those. The lands they want to develop failed the LESA test, and want to protect the productive crop land. They plan to leave adequate space for the recreational areas. They want to create neighborhoods, and not just subdivisions. He discussed the advantages of Coving as shown on the map.

Mr. Mackert asked what the setbacks are.

Mr. Mortinson stated they have not had a topographical study done yet, but they are estimating 175 ft. Mr. Patlovich had helped them come up with the estimate for bonus density points and that score was for 56 lots. They only want 52 lots.

Mr. Mackert asked what the estimated distance is from the access point on the property to the turn-around.

Mr. Mortinson stated it is around a half of a mile.

Mr. Pinther questioned where the County road ends in the development.

Mr. Mortinson showed on the map where the road stops.

Mr. Pond asked if the road to his property is up to County standards.

Mr. Nedrow stated it is not up to County standards. There is disagreement as to whether or not that road is a County road. There are no recorded easements from the bridge to his father's house. He discussed the history of that road and the easements on it.

Mr. Pinther asked if this information is sketch plan stuff or public hearing stuff.

Mr. Mackert stated this is just information.

Mr. Pond stated the access to the property is certainly part of the sketch plan.

Mr. Nedrow asked Mr. Pinther if he had a problem with him speaking up here.

Mr. Pinther stated he did not, but it sounds like there could be a problem because the information should be disclosed at a public hearing. He does not want there to be something that clouds the issue.

Mr. Mackert stated they will have to resolve the question if whether or not Vernon Road is a County road or not.

Mr. Mortinson stated that they will fix the road to County standards.

Mr. Pinther questioned if they are proposing to weave the County road through the development.

Mr. Mortinson stated they are, and will build and maintain it. He asked them what they would want to see on these roads.

Mr. Nedrow stated that the County had allowed him to limit the public traffic through there to foot and bicycle only. He contends that the County road ends at his house.

Mr. Mackert stated there are kinks in the access. The distance and the one access could be an issue. Are the easements available to those accesses?

Mr. Mortinson questioned if they were to straighten the road and have a U-shaped road would it then be a loop-system?

Mr. Mackert stated he needs to show two-points of access to a public road.

Mr. Pinther stated that neither one of his proposals show two-points of access. The road will be a big controversy to say the least.

Mrs. Miller stated she is concerned about the Vernon Bridge structure and if it can handle the weight of the construction trucks coming in and out.

Mr. Mortinson stated they will look into it and make sure it will handle the weight.

Mr. Derricott stated his concern with allowing them to reroute the County road.

Mr. Mortinson stated he would keep it the same if it is determined to be a County Road.

Mr. Pinther stated the road will be a controversy.

Mr. Mackert stated anything he can do to clarify the issues of the road would be helpful to him and the P&Z.

Mrs. Miller questioned where the 30% slopes were.

Mr. Mortinson stated once they have the building envelopes they will be shown.

Mr. Pinther clarified that the roads are going to be paved. Questioned what the 16ft. boulevards are.

Mr. Mortinson described what boulevards are; they are one-way roads with a turn-around.

Mrs. Vik stated that the County does not allow for one-way roads.

Mr. Pinther questioned if there was going to be requirements for keeping the building envelopes from being seen from the Henry's Fork. He recommended they include landscaping to break it up and low-profile homes with earth-tone neutral colors. He also questioned how he is clustering.

Mr. Mortinson stated he went off of Mr. Patlovich's opinion and recommendation. He showed on the map where the clustering zones were.

Mr. Pinther stated they are going to run into controversy with clustering as it is abuse of the definition for clustering.

Mr. Chase stated there are criteria for clustering. He asked them to read the criteria.

Mr. Pinther stated development is to be on a relatively small portion of the area.

Mr. Mortinson questioned if they view the common area as being open space.

Mr. Pinther stated that combined clustering has to be in relatively small areas. He feels the clustering is going to be more of a problem than the road issue.

Mr. Derricott stated the wildlife corridor looks to be bottle-necked with the steep slopes, and would not allow for the wildlife to migrate freely.

Mr. Mortinson stated they will look into changing that to meet their requirements.

Mr. Chase read from the code regarding the criteria for clustering. There are some provisions in the code that allow them to do a wildlife habitat plan for how they will manage the wildlife.

Mrs. Miller questioned if the land to the north-west of the power line was better for farming or is the ground pretty much the same.

Mr. Nedrow stated the soil might be a little better than and not nearly as rocky as the other part of the parcel.

Mr. Mackert asked what has been farmed in the past.

Mr. Mortinson showed on the map the area that had been farmed in the past. He showed where food plots had been planted for deer.

Mr. Mackert stated there could be a potential issue with the clustering as more than 50% of the property is being developed.

Mrs. Miller stated she appreciated their efforts to cluster.

Mr. Mackert questioned if they would consider central water?

Mr. Pinther stated with the density they are going to need central water.

Mr. Mortinson showed where the central sewer will be located.

Mr. Pinther stated including the septic system leaves him with no open space as it is considered part of the development.

Mr. Derricott questioned if there were existing water rights even though the irrigation had been taken off.

Mr. Mortinson stated they do have the water rights and the well right.

Mr. Nedrow stated that well is 720ft and will only pump at 500 gallons per minute and will not meet the requirements for fire suppression. He will need to get with the North Fremont Fire District to see what will be needed.

Mr. Pinther stated it is positive that Mr. Mortinson had addressed the policies that have not been adopted yet. He would like to see a project that would be beneficial to the County and to him.

Mr. Pond stated that the transition line going through the property could cause the property values to go down.

**MRS. MILLER MOTIONED TO ALLOW THIS SKETCH
PLAN TO MOVE FORWARD AT THE DEVELOPERS
RISK. MR. SINGLETON SECONDED. VOTE TAKEN:
ALL IN FAVOR. MOTION PASSED.**

Break for 5 minutes.

**5. Public Hearing-Cobblestone-Ken Phillips, Developer-Adams Surveying,
Kendall Adams**

Mr. Mackert asked if the proper notices had been posted, and if there were any conflicts with any of the P&Z members.

There were no conflicts, and the notices had been posted.

Mr. Chase read from the report and stated this application relies on the Loosli amendment (ordinance 2007-3). He encouraged the P&Z to try to determine if the applicant has met the requirements of the LESA amendment. He stated they have been diligent in trying to work with the Fremont Madison Irrigation district.

Mr. Mackert asked Mr. Chase to address the issues with the Loosli Amendment and explain to the P&Z for clarification.

Mr. Chase stated that the Loosli amendment (ordinance 2007-3) amended the County's LESA system and also the Fremont County Development Code (FCDC). Section II of the amendment modified the FCDC in chapter VI (Protecting Agricultural Lands and Open Space). This property was deemed to be productive cropland falling under the LESA and given a score of -2. He read part of the amendment and explained the formula for determining productive crop land, and how they can use the five different tools listed in paragraph e to off-set

the negative score and getting rid of the density restriction of 1 home per 40 acres. The developer is aware of the need to meet these requirements. He went through the tools that could be used to get a higher score. Stated the County does not have a working TDR system that is accepted by the State.

Mrs. Lookabaugh questioned why the back sheet was not filled out.

Mr. Chase stated it was not clear whether or not the developer had off set the 1 per 40 restrictions. It is going to be determined by the P&Z if they have met the requirements or not.

Mr. Pinther questioned if they can change the LESA scoring because the County Commissioners have told them they could not.

Mr. Nedrow stated his understanding that they can not change the score on the LESA, but they can require that they meet the standards that changed with the Loosli Amendment.

Mr. Pinther stated they can rescore the relative factors but not the LESA.

Mr. Chase stated the LESA originally did determine this to be productive crop land and if they do not meet the requirements to get this score from a -2 to a 0 then it would fail. The score sheet was not modified to add the line item after the Loosli Amendment was accepted.

Mr. Mackert stated for clarification that the one item missing on the score sheet and it is a stand-alone number not affecting the cumulative score of the project. The cumulative score is a 4, but that does not include the -2.

Mr. Chase stated the P&Z needs to determine whether or not they score a -2. In talking with the developer, he encouraged them to show the P&Z how they are going to meet the standards during the public hearing.

Mr. Mackert stated through the public hearing process, the developer needs to show how they have changed the score of -2 to a 0.

Mr. Lewies stated the P&Z has to determine first what that score is; if it is 0 or a -1 or -2. If it is negative score, the P&Z will have to determine if they have mitigated that.

Mr. Mackert asked the developer if they were aware that Mr. Chase had given them a score of -2.

Richard Phillips 1753 E 100 N Rexburg, ID-Developer stated that they were told a week ago about the -2 score, and Mr. Patlovich had told them previously that they were good to go.

Kendall Adams 253 Fort Henry Loop Rexburg, Id stated they had talked to Mr. Patlovich several times and he had never mentioned anything about the -2.

Mr. Mackert stated they finally were able to work through the Loosli Amendment at a work session so they understand how it works.

Mr. Phillips stated that he had worked with Mr. Chase and they decided that they were going to do item five; by reworking the three larger lots, they could come up with the 60% open space requirement resolving the concern with the -2 score.

Mr. Adams stated that would make lots 11 and 12 slightly smaller.

Mr. Phillips stated they also put a building envelope on lot 13 (16 acre lot).

Mr. Adams questioned if they could put a 1 acre building envelope on lot 12 (5 acres) as well as a 1 acre building envelope on lot 13 (16 acres) and still qualify for the 60% contiguous open space.

Mr. Pond stated he was not sure they could calculate that out right here.

Mr. Phillips asked Mr. Chase that would meet the requirement for 60% contiguous open space.

Mr. Chase stated it may need another building envelope on lot 11 to meet that requirement. But if the three larger lots were restricted by 1 acre, he does think it will meet the requirement.

Mr. Pond questioned if the calculation for open space includes the road.

Mr. Chase stated it does not. Open space is defined in the amendment. He read the definition for open space. The roads are viewed as “built”. Designated unbuildable land in a lot is included in open space.

Mr. Pinther stated the road between lots 11 and 12 breaks up the contiguous open space.

Mr. Phillips stated the road through lots 11 and 12 is just an emergency exit road. They would be willing to make lots 11 and 12 contiguous other than the emergency exit road.

Mr. Adams asked if the road counts as it is unbuildable.

Mr. Chase stated the road is considered developed land and is unnecessary to include the road in that 60%.

Mr. Adams stated that Mr. Pinther brought out the point that the road makes it not contiguous.

Mr. Pond clarified that they are suggesting including lot 11 to get to the 60%.

Mr. Adams stated or they could make lot 11 and 12 smaller and re-route the road. They are flexible to do whatever the P&Z wanted them to do.

Mr. Mackert asked how they would re-route the road.

Mr. Adams stated they would make the road two ninety-degree angles, and put two lots on the North side of the road.

Mr. Phillips drew on the board to show how they would change the road and the lots.

Mr. Chase stated he had spoken with a representative to the applicant about the possibility of extending the road and the possibility of granting an easement on the road for potential future development. There is a requirement in the Comprehensive Plan that requires site planning that integrates potential future development as well.

Mr. Pinther stated that road would break up the contiguous open space too.

Mr. Chase stated he did not think it was an issue.

Mrs. Lookabaugh asked what the norm is.

Mr. Chase stated they have not seen this before, and he did not think it was an issue.

Mr. Pinther stated this is the first time they have dealt with this because this is the first development under the Loosli amendment.

Mrs. Lookabaugh stated other areas have had to deal with this and whether or not a road breaks up the contiguous open space.

Mr. Pond stated the definition of open space clearly shows that a road is unbuildable and would be contiguous open space.

Mr. Lewies stated they need to consider that a six-lane road is not considered open-space, as it is a built structure.

Mr. Derricott asked if the road between lots 11, 12, and 13 is for future development, and questioned if it would break up the contiguous open space.

Mr. Mackert stated the first determination they need to make is if the road can be used as part of the open space calculation.

Mr. Chase stated the road does not need to be calculated as open space. The question is whether or not the road breaks up the contiguous open space.

Mr. Lewies asked if the Loosli Amendment changed the definition of open space.

Mr. Chase stated the LESA had a definition of how open space can be used, but does not define open space. He read from Chapter XIV.UU in the FCDC. He also read the definition for Open Space from the Loosli Amendment.

Mr. Lewies stated the County Commissioners had discussed whether or not open space includes the space in lots that is not built. The Loosli Amendment did address that and there is a conflict in the definition of terms.

Mr. Mackert stated there is a definite conflict in the definitions. Under the Loosli Amendment they can put building envelopes on each lot allowing them to meet the open space requirements.

Mr. Nedrow stated they still need to decide if it is contiguous or not.

Mr. Lewies stated the problem is they added the new definition with out deleting the old definition leaving two definitions.

Mr. Phillips stated they also have a question about clustering based on what they were told by Mr. Patlovich vs. what they were told by Mr. Chase.

Mr. Chase read from FCDC and stated he is not sure they can combine the criteria and they are only allowed to use one. They could look at the criteria for clustering, and see if they meet it.

Mr. Mackert stated they are limited to using 1 item from the list of 5.

Mr. Nedrow questioned if they were going to require an access road for future use.

Mr. Chase stated that was recommended by Marla Vik and read from FCDC VI.W (Connections) as the basis for that suggestion.

Mr. Nedrow asked if they had required that in the past.

Mr. Chase stated it is an absolute standard and there are no bonus points available. They need to decide if it applies in this situation.

Mr. Phillips read from VI.T.5 (Land Use Compatibility Routing Traffic) and stated it seems like there is conflict with that requirement.

Mr. Pinther stated that the directing of traffic in high density areas refers to apartments.

Mr. Nedrow showed on the board how they could achieve the contiguous open space.

Mr. Phillips stated that they would prefer his way when thinking of future development.

Marla Vik-Fremont County Public Works Director stated her concern is that they want to limit accesses off of public roads whenever possible, but this proposed design leaving an easement would work.

Mr. Pond stated all they are requiring of them is to leave an easement and if the other property owner ever wants to develop, the easement is there allowing them an access to the north.

Mr. Pinther stated he can see problems with the maintenance on that section of the road.

Mr. Pond stated there is nothing to maintain.

Mr. Adams stated that possibly the County will take that road over eventually.

Mrs. Vik stated the maintenance is an issue that would need to be decided at that time.

Mr. Kynaston stated that based on the Gun Barrel issue, the attorneys have already stated that you can not make people in the new development pay for a road going through the old development.

Mr. Pinther stated the way to resolve it is for the County to make the determination to make the road a County road. He asked if they can make the developers put a road through their property.

Mrs. Vik stated the code would seem to require that.

Mr. Adams asked if they could get a plat note that says only the County could have that right-of-way.

Mr. Mackert stated that would defeat the purpose. At this point, the County does not accept roads to maintain.

Mrs. Vik stated the County would plow and grade the road, but not the paved part due to the price of oil. This is not so unusual, and she has seen other developments leave connective corridors for possible future development.

Mr. Mackert stated the grey area is if another development comes in they need to share the maintenance costs and not make the original landowners pay the cost for the new development.

Mr. Pinther stated the developers have the option to do it, but the P&Z can not require them to do that.

Mr. Mackert stated it would give them the option to move forward.

Mr. Adams asked if the right-of-way would require them to have a variance at some point. They would not have a problem with the easement unless it kills the project or makes them loose more lots. They do not have a problem with the easement unless it takes out a couple of the lots.

Mr. Pinther explained the easement would go to the north and would be contiguous.

Mr. Phillips asked if they build a large enough cul-de-sac could they negate the other road.

Mr. Adams stated it is too long.

Mr. Pinther questioned if the entire road will be built to the appendix B standards.

Mr. Adams stated they would prefer to build it 16ft. rather than 24ft.

Mrs. Vik stated it does have to be built to appendix B standards.

Mr. Adams stated that road would not be used that often, and he asked if they had allowed other subdivisions to have narrower roads.

Mr. Mackert stated that was a decision made by the County Commissioners not the P&Z.

Mr. Nedrow stated they could get the 60% open space adding in those other lots.

Mr. Phillips stated he did talk with Fremont Madison Irrigation District and they received a checklist and will have no problem meeting those requirements.

Mr. Mackert stated they could add that checklist being done as a condition for approval.

Mr. Pinther stated he would be opposed to that.

Mr. Mackert stated that they agreed to this checklist as part of the process moving forward, and that they are not going to discuss that right now.

Mr. Phillips stated that he received a letter from Rocky Mountain Power and they will provide power so long as they get a 10ft. easement along the road. They did talk with the fire chief and they will be required to meet the Wildland-Urban Fire Interface-Overlay (WUFI) requirements including a water source that is capable of supplying 500 gallons per minute for not less than two hours. The fire chief does not know if that is even possible, but there is a possibility of having a pond out there for fire fighting.

Mr. Mackert stated they would be looking for approval from the fire department.

Mr. Phillips stated they did contact District 7 and drilled test holes that Mr. McLaughlin would speak about later. They also have a draft of the covenants. He gave handouts of the covenants to the P&Z board and read them. There will be the need for individual wells and septic systems, and each lot will have a proportionate share of water rights granted to each lot for irrigation.

Mr. Mackert asked if there was a delivery system for the water rights.

Mr. Phillips stated they have not determined what that will be yet, but will have them when that decision is made by the canal company.

Mr. Mackert stated they would need to see that before they could approve it. He opened the floor for public hearing. He will ask that they limit any emotional comments and keep to compliance issues.

Chan Atchley 4070 E 1300 N Ashton, ID stated that last June the Commissioners passed the Loosli amendment against the advice of County Attorney. He heard that the applicants have not been told that this could go to litigation. His written comments were turned into the County record.

Sharon Orme stated the Phillips have been good neighbors and friends. Subdivisions placed in farming community are not a good idea. The issues are the ground water and the water quality. The nitrates and other contaminates are already being found in neighboring communities. The other issue is for the safety of the roads. The dogs get to be a real problem. Ken Phillips dogs had killed several of their sheep. There are 3 ranchers that have livestock and they are very noisy, and they will be getting a lot of complaints. They do not want lawsuits or complaints. They are asking that it be on record if this development is approved, that the new owners have been rightly informed by the Phillip's that they are coming into a farming community and have to respect that.

Mr. Mackert stated there is a Right to Farm document, and would get a copy of that to Mrs. Orme.

Mrs. Orme stated they are going to have to have a law that protects productive farm ground or it will all be gone from the area. Her written statement and signatures backing that was turned into public record.

Bill Hirschi 1725 E 100 N Rexburg, ID (Fremont County) Stated he hates people and development and he is the rancher that kills neighbor's dogs. He is concerned about all the dogs that harm his cattle. With this subdivision there will be at least 24 more dogs and 50 kids on each side. He would be liable for the kids' safety, and for the water shares. Stated the P&Z should be liable for those lawsuits because they are the ones approving these subdivisions. He has issue with the water rights and that has to be measured. He does not think there is enough water for the amount of lots out there. He is concerned with the drain ditches, and also where the water will come from to fill the fire fighting pond. There is a time that the lawsuits are coming.

Mr. Derricott stated for clarification that there are 6 shares of water going down the ditch and they only have rights for 2.

Mr. Hirschi stated he knows how that will be measured as he has dealt with that before. He questioned how far away from property lines does the road have to be? That would also take more ground out of the Open Space equation.

Thomas Goe-stated his concern is that there will not be two points of access. There are wetlands on that property and asked if anyone has actually been out there and look at the ground as there is a lot of sub-water. He gets a lot of water in his basement, and the incoming owners would have to be informed that there is sub water. He wants the heights of the homes to be kept low so as not to restrict the views. He discussed another subdivision that is an eyesore. What kind of people will come into this subdivision? He has no problem with growth, but they need to be on larger lots. They are very concerned with the safety of the ground water. One acre lots are not adequate for the safety of the drinking water. They need to make mandates that require 5 acres per lot. This is not a good subdivision.

Mr. Owen McLaughlin stated the property is suitable for individual septic systems. It is likely they will have to be complex systems and he will not know that until they see how high the sub water is.

Mr. Derricott questioned if they were doing test holes when the sub water is there during July and August.

Mr. McLaughlin stated that he would like to see those test holes in the irrigation season. They would need some type of complex system if that was the case.

Mr. Pinther questioned if there are any lots that do not have the potential to meet the requirements for septic.

Mr. McLaughlin stated he thinks that every lot can get a septic system and some might require a complex system.

Mr. Derricott questioned how they will be able to ok it if there is the potential for a problem for high sub water.

Mr. McLaughlin stated when there is concern of high sub water, they will issue a permit for the most restrictive system.

Marla Vik stated the County has started an investigation with an on-site citizens committee to discuss the septic system issues in the County. They had the DEQ engineer point out that there should be a min of 2 to 2&1/2 acre for septic systems. They are also having a lot of failure rates with the complex systems as people do not know that they require bi-annual maintenance. There are also studies that show there are some that require more like 5 acres per lot.

Mr. Mackert stated they were given this information two years ago, and it fell on deaf ears, and the P&Z was very concerned with that and they were told that their hands were tied.

Mr. Derricott questioned if they are suggesting that they require a central sewer system for these subdivisions?

Mrs. Vik stated the committee is not ready to give there final recommendations to the P&Z yet.

Mr. Pinther asked if she was recommending that they deny based on this. The only option that he sees is to get the FCDC changed or to get the irrigation district to put the requirement in their standards.

Mr. Mackert stated they have been told that they can not supersede what the health department has on their books; they have to accept it.

Mr. Nedrow asked when this committee comes to the P&Z with the recommendations they will take it to the County Commissioners; does it need to go to the state as well.

Mr. Mackert stated they can make the regulations more stringent than the State.

Mr. McLaughlin stated they have standards and if those are met, they have to issue a permit.

Mr. Pond questioned Mr. Lewies about the legal ramifications regarding the Loosli Amendment as pointed out by Mr. Atchley. Should they consider this legal issue when they make their decision in order to protect the county?

Mr. Lewies stated on this particular question, the County Commissioners have decided to process these applications as though the Loosli Amendment is valid. Whether or not it was ever valid is the question.

Mr. Pond questioned if he advised them against doing that.

Mr. Lewies stated they did not take his advice and they have hired a new attorney. Smart Growth Coalition could press a lawsuit.

Mr. Derricott stated the developers have been told that they proceed at their own risk.

Mr. Lewies stated it is not just the developer who is at risk; the County could also be responsible because the developers are proceeding in good faith that it was properly adopted and it could be the County's liability.

Mr. Singleton stated that this land went through the flood and wondered what the flood damage was on this ground.

Mr. Adams stated he did work for BLM and the Teton Dam break did affect the soil. Mr. Patlovich was very aware of that when they went through the scoring.

Mr. Phillips gave the rebuttal and stated that land is rocky and it is very unproductive as farm ground. The application was submitted under the Loosli Amendment and they have been told to treat it as it is valid as indicated by the County Commissioners. One complaint from the public is that the aquifer is low and yet another one stated there is problems with sub water. They have standards in the covenants that will limit the numbers of animals allowed and they must be kept in the property lines. These covenants are far stricter than the Morning Star Subdivision. The water rights concerns will be addressed as they work with the canal company. If the two shares are enough to water it now, it should be enough later on. He would like to see the documentation that shows the percentage of failure in the septic systems in the area. He is not a fan of government regulations.

Mr. Mackert asked about the concerns with the new neighbors understanding that this is a farming community and all the noise and smells because of that. They will have to sign off that they know what the existing farming/ranching operations are there first and have the right to continue.

Mr. Chase read from the code regarding the right to farm.

Mr. Mackert stated they can have a plat note that indicates that type of activity is going on so the buyers know before they come in for a building permit.

Mrs. Miller asked that they show that the building code and their covenants require homes to be less than 30ft in height.

Mr. Mackert asked if they would be opposed to having the covenants put in the County record.

Mr. Phillips stated he would agree to that.

Mr. Mackert asked if they would comment on the wetlands concern.

Mr. Adams stated there is no FEMA recorded wetlands on their property.

Mr. Derricott stated he would have liked to see more maps of the surrounding areas.

Mr. Pond stated the CC&R's are only as good as they are enforced. The other thing is that sometimes people will force the animal owners out even if they were there first.

Mr. Lewies reminded the P&Z to look at land use compatibility.

Mr. Adams stated to remind them that it is in a mosquito district.

Mr. Pond asked Mr. Hirschi about the farmability of the ground that the developer says is not good for farming.

Bill Hirschi stated that ground is very rocky, but it is farmable.

Mr. Mackert asked the P&Z to notice the three letters that were turned into the record for public comment, and asked if the developer has fulfilled the requirements of the Loosli Amendment.

Mrs. Miller questioned if the reevaluation of the open space by Mr. Chase should be a condition for approval.

Mr. Nedrow stated they should table it and have a work session on this giving Mr. Chase the time to come back to them with more information.

MR. NEDROW MOTIONED TO TABLE THIS UNTIL MONDAY, APRIL 28, 2008. MR. KYNASTON SECONDED. VOTE TAKEN: THOSE OPPOSED: POND. THOSE IN FAVOR: LOOKABAUGH, SINGLETON, MILLER, PINTHER, NEDROW, KYNASTON, AND DERRICOTT. MOTION PASSED.

6. Presentation from Marla Vik, Public Works Director, regarding FCDC Section KK, IP-Section FF, SF-Section II, NF-regarding Access

Mrs. Vik gave handouts to the P&Z and stated they will continue this discussion next Monday.

Meeting adjourned at 10:12 pm.