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**Fremont County Planning  
& Zoning Regular Meeting Minutes  
March 22, 2010  
6:00 pm  
County Annex Building**

7 The Fremont County Planning & Zoning Commission met in a regular meeting on March  
8 22, 2010. They met in the County Annex Building. **Members in attendance were:** Glen  
9 Pond (Chairman), John Nedrow (Vice-Chairman), Sam Davis, Jim Gerber, Larry  
10 Singleton, Steve Trafton, Cindy Miller and Stephen Loosli.

11  
12 **Staff and others present:** Kurt Hibbert (Administrator), Joshua Chase (Planner), Molly  
13 Knox (Admin Asst.)  
14

15

1. Welcome

16 The Chairman called the meeting to order at 6:00 p.m.  
17 Welcomed everyone to the meeting  
18

2. Parker Reef Final Plat Discussion – Kendall Adams

19  
20 Mr. Pond The first item on the agenda is the Final Plat for Parker Reef discussion.  
21 Invited Kendall up to let us know what happened with the Commissioners and  
22 why the plat was not signed.  
23

24 Mr. Kendall Adams stated that at the Commissioner meeting last Monday, the  
25 commissioners did not sign the plat because they did not like the IDFG seven  
26 standards. They said that if IDFG was stricken from it they would have signed it.  
27

28 Mr. Pond responded that the commissioners had no problem with any other areas  
29 just the IDFG.  
30

31 Mr. Adams stated the most of the items are already state code. Such as, noxious  
32 weeds and they had a disagreement that they felt like they did not want to set a  
33 precedence to allow the Fish and Game to dictate what the county requirements  
34 are.  
35

36 Mr. Pond stated that we just took their suggestions off of their letter and  
37 unfortunately left their name on as recommending those items. I am going to  
38 open to the board to ask Kendall any questions or to discuss on what to do with  
39 those items on the plat.  
40

41 Mrs. Miller questioned Kurt, have we not sent proposals to the BOCC before with  
42 the Fish and Game recommendations on the plat or somewhere with those  
43 requirements before. This is not a first.

44  
45 Mr. Hibbert responded no but it was a first that it was on the front of a plat and  
46 that it came across as their requirements. If it was left as conditions of approval  
47 but place them on as our recommendations not the Fish and Games. You as a  
48 commission had an issue of making the public aware that these were requirements  
49 and that might be why it was placed on the front of the plat.

50  
51 Mr. Loosli stated that conditions of approval are outlined in our administrative  
52 procedures of our code, read from code paragraph J chapter 3. I bring that up  
53 because the South Fremont Zone does not have a wildlife protection component.  
54 The North Fremont and Island Park Zones do, but this does not. I would suggest  
55 that we amend the conditions to comply with our code, and move this back  
56 without those items on the plat. I make that a motion.

57  
58 Mr. Davis seconded the motion.

59  
60 Mr. Pond stated the we have a motion that has been seconded. Is there any other  
61 discussion?

62  
63 Mr. Gerber questioned why don't we just take off the title and take out the  
64 requirement that they are requiring it.

65  
66 Mr. Pond stated the because of the reasons that Mr. Loosli had just brought up.

67  
68 Mr. Loosli stated that if the applicants property was in Ashton this would be  
69 different. But it's not it's in the South Fremont Zone. I am unsure as to why the  
70 authors of this code had left it out but they did.

71  
72 Mr. Pond asked if Kurt had anything to say.

73  
74 Mr. Hibbert responded that it was a deliberate decision and it was about  
75 notification. From what I remember is the applicant had no issues with it at the  
76 original time it was deliberated. Most of which are state requirements, yet it was  
77 more for public notification then a requirement.

78  
79 Mrs. Miller agreed.

80  
81 Mr. Singleton stated that he would change the fencing issue.

82  
83 Mrs. Miller asked if he thought there should be any fencing requirements.

84  
85 Mr. Singleton I think that they should be able to put what ever fence they want up  
86 to get the job done.

87  
88 Mrs. Miller asked how the fencing was worded.  
89  
90 Mr. Adams read from plat on wording of fence.  
91  
92 Mr. Davis questioned how to let wildlife in yet keep livestock out.  
93  
94 Mr. Adams stated that I am unsure of how many antelope are in the area but I  
95 have never seen an antelope jump a fence, they go under.  
96  
97 Mr. Davis responded that the same fence to keep sheep in and wildlife out at the  
98 same time is impossible.  
99  
100 Mr. Loolsi stated that we are in the middle of re writing the code and currently we  
101 do not have a fence ordinance at all at this level. Currently we do not have  
102 anything that justifies those conditions to be on the plat. We could place them in  
103 the CC&R's.  
104  
105 Mr. Pond replied or we could place them on the plat, the applicant can put  
106 anything on the plat that he wants.  
107  
108 Mr. Loosli responded that the commissioners seemed pretty clear on their  
109 statement that they don't want to see this document reproduced on the plat.  
110 Kendall you were there is that a fair statement?  
111  
112 Mr. Adams responded that he was there and that is a fair statement.  
113  
114 Mr. Trafton stated that all of these details have already been approved, it's just the  
115 Fish and Game requirements that have to be dealt with. Unless we reopen the  
116 whole thing, and I doubt we want to do that. We just have to figure out a way to  
117 get Fish and Game out, right?  
118  
119 Mr. Davis stated that there is already a motion on the table that would do that.  
120  
121 Mr. Pond stated that it would be unfair to hold up the developer anymore than he  
122 has already been held up. We have a motion that has been seconded, could we  
123 please hear it again.  
124  
125 Mr. Loosli stated that the motion was to amend the conditions of approval for  
126 Parker Reef subdivision to omit the letter from the Fish and Game and then  
127 recommend the final plat back to the Board for final approval.  
128  
129 Mrs. Miller questioned if none of the requirements from Fish and Game would be  
130 included?  
131

132 Mr. Loosli responded that there is nowhere in the current code that allows us to  
133 have those as conditions. There is simply nothing to allow us to do that. There is  
134 in the other two zones but it is an interesting hole in the South Fremont zone.

135  
136 Mr. Nedrow questioned if this would open us up to have to go back and amend  
137 other plats?

138  
139 Mr. Hibbert responded that I'd really like to not get rid of it completely and think  
140 it should go into the CC&R's as one of you had brought up.

141  
142 Mr. Trafton stated that all of these conditions were agreed to by us.

143  
144 Mr. Loosli asked Kendall if his client agree to place these into the CC&R's?

145  
146 Mr. Adams responded that there are not any CC&R's. The plat stands as it is.

147  
148 Mr. Loosli questioned if there was a development agreement?

149  
150 Mr. Adams said no.

151  
152 Mr. Hibbert responded that it is because they already have their infrastructure.

153  
154 Mr. Loosli asked if Mr. Adams client appose so a separate recording of this letter  
155 that goes along with the plat as a public notice.

156  
157 Mr. Adams stated that they had no issue with it on the plat so I am sure they will  
158 not have a problem recording it as a public notice. I do not think they would be  
159 opposed to that at all. If I am correct in what I am hearing we would take the Fish  
160 and Game requirements off and record the plat and the letter as separate  
161 documents.

162  
163 Mr. Loosli replied that he would record the letter as he received it. I am sure Kurt  
164 would help see that this happened.

165  
166 Mr. Adams stated his concern with doing this and with going before the County  
167 Commissioners.

168  
169 Mr. Hibbert the conditions of approval only had pieces from the letter. We made  
170 them requirements. The Fish and Game had them as recommendations.

171  
172 Mr. Loosli asked, wouldn't that best have been done in a development agreement  
173 since it is outside the scope of this ordinance?

174  
175 Mr. Hibbert responded that it would be the only thing in the Development  
176 Agreement.

177

178 Mr. Loosli responded that's fine.

179

180 Mr. Hibbert responded that was fine and I can help prepare that.

181

182 Mr. Loosli stated that some of the components that came in from Fish and Game  
183 as I read them are not substantiated in the code as a requirement that can be  
184 upheld. Fremont County cannot tell your client what kind of fence to put in.  
185 That can only be done in the form of a Development Agreement if your client is  
186 willing to enter into one with the county. I amend my motion to remove the letter  
187 from the plat and you and Kurt create a Development Agreement with those  
188 essential terms and have that recorded.

189

190 Mr. Davis questioned why we are just moving it from one piece of paper to  
191 another? Why not just kick it out?

192

193 Mrs. Miller responded because we would like to see those recommendations taken  
194 care of on that particular piece of property because of the wildlife.

195

196 Mr. Davis asked what recommendations we are talking about. We have removed  
197 fencing because it is not going to work. What else are we talking about?

198

199 Mr. Pond stated that weeds, pets and wildlife are all state code.

200

201 Mr. Davis stated so why don't we just take it out?

202

203 Mr. Loosli stated that the original motion is back on the table without it being  
204 amended and we can discuss it.

205

206 Mr. Pond Asked for discussion.

207

208 Mr. Pond All in favor with Mr. Nedrow opposed. Motion carries; it will be  
209 removed from the plat.

210

211 Mr. Trafton stated that he wanted to discuss putting it somewhere else because he  
212 doesn't want us to lose the recommendations completely. I was not in on the  
213 original decision but I am sure that this commission made them for a reason.

214

215 Mr. Hibbert read from plat, the original seven items. Including Cindy's note  
216 concerning livestock.

217

218 Mrs. Miller asked which were state requirements.

219

220 Mr. Hibbert responded that none of those are state requirements, that list was  
221 picked up from the letter of recommendations. Number seven, the Egin Hamer  
222 winter closure needs to be recognized which is a County ordinance. Weeds is a  
223 county and state ordinance. Hay is a state ordinance. Fencing is not, pets to be

224 leashed are not a county ordinance. The feeding of wildlife is a state statute. They  
225 are really informational notes.

226  
227 Mr. Pond stated that there was concurrence with the developer when we did it and  
228 now he no longer agrees that they should be on there. Then once in front of the  
229 commissioners it was stopped. He could have told the County Commissioners  
230 that he was happy with this on there and to have them sign it. But he didn't. To  
231 me that says' he's not happy with them on there so take them off and let's move  
232 on

233  
234 Mr. Trafton asked if the client had issues with the requirements.

235  
236 Mr. Adams stated that he had no issues with the requirements. He stated that the  
237 BOCC did not like seeing the IDFG requirement on the plat. I was basically told  
238 that if that statement was not on there then they had no problem with signing the  
239 plat. If that statement was not on there they would have signed the plat.

240  
241 Mr. Pond asked if Mr. Adams would have said that he was fine with it on there  
242 that they would have allowed it to move forward. I asked them to strike it. They  
243 would not.

244  
245 Mr. Trafton asked do we need to make an official recommendation that this  
246 happened. I feel that we are going to lose the original intent of why this  
247 commission had placed it on as a condition of approval.

248  
249 Mr. Loosli stated that the Development Agreement is a perfect place for you to  
250 take his clients willingness to make that so. If they are okay with the guidelines  
251 then take him at his word.

252  
253 Mr. Trafton made a motion that the intent of the original seven (7) items be  
254 preserved through a Development Agreement with the applicant and the county.

255  
256 Mr. Nedrow seconded the motion.

257  
258 Mr. Adams questioned who was going to enforce this?

259  
260 Mrs. Miller stated that these are more recommendations then requirements. Our  
261 intent was to let the purchasers of the lots be aware of some of the things that are  
262 part of their property.

263  
264 Mr. Davis stated so you just put out a sheet of recommendations by the board or  
265 by the commission and leave the Fish and Game completely out of it.

266  
267 Mr. Singleton questioned if the fencing issue was left in or taken out.

268

269 Mr. Loosli responded that of the seven items, the only one that would have real  
270 world implications are the type of fence can be used. The others are county and  
271 state law.

272  
273 Mr. Trafton stated that I just want to try to preserve the original intent.

274  
275 Mr. Pond stated that Mr. Gerber, Mr. Davis, Mr. Loosli, Mr. Singleton opposed.  
276 Mrs. Miller, Mr. Nedrow, Mr. Trafton in favor. Which is 3 to 4 motion fails.

277  
278

### 3. City of Parker – Area of Impact Agreement & Map

279 Mr. Pond next is the City of Parker

280

281 Mrs. Gold stated that currently we have the map and are waiting on legal counsel  
282 for the document. We don't plan to impose any of our ordinances we want to  
283 keep it comprehensive. We had a very basic square around Parker but we had  
284 people within our new boundary that wanted to be part of it because they felt part  
285 of the Parker community.

286

287 Mr. Hibbert stated they took it over to where St. Anthony's impact area is and  
288 now it touches. Pointed out distances. Last week I gave a heads up to the  
289 commissioners that this was coming.

290

291 Mr. Davis questioned if it is the line St. Anthony wanted?

292

293 Mrs. Gold responded yes it was but we had people at our Public Hearing state that  
294 they wanted to be part of Parker and not St. Anthony. That is the only reason we  
295 went out that far.

296

297 Mrs. Gold stated that St. Anthony was at their Public Hearing and that they went  
298 to St. Anthony's as well.

299

300 Mr. Hibbert stated that there is consensus from the community that they would  
301 rather be part of Parker.

302

303 Mr. Singleton asked where the settling ponds were.

304

305 Mr. Hibbert pointed them out as being off the map.

306

307 Mrs. Gold stated that they had intentions to follow the canal and not get too close  
308 to the river.

309

310 Mr. Hibbert stated that it is so nice when sections and quarter sections are located.

311

312 Mr. Loosli asked if they already had their public hearing.

313

314 Mrs. Gold responded yes and that they had gone to the county website and pulled  
315 all of the county tax numbers and property owners and sent notice to all of them.

316  
317 Mr. Loosli asked if the city consensus is to approve the boundary.

318  
319 Mrs. Gold responded yes.

320  
321 Mr. Hibbert stated that they are waiting for the attorney to get them their  
322 agreement, which should be pretty simple because they are going to have all of  
323 the county ordinances be applicable in the impact area.

324  
325 Mr. Pond asked, so what we need is the agreement?

326  
327 Mr. Hibbert responded yes then we would have a public hearing on it. Many of  
328 the same people would attend.

329  
330 Mr. Nedrow stated that we do not make a motion to approve or deny tonight.  
331 This was just information for us.

332  
333 Mr. Hibbert I will get copies of this map made up and send out to you.

334  
335 Mr. Pond stated that the feeling he gets is that we are ready to move ahead and  
336 work on it with you.

337  
338 Mr. Loosli questioned Kurt if he thinks there will be a dispute with St. Anthony  
339 on the one area.

340  
341 Mr. Hibbert responded that he did not think so.

342  
343 Mr. Pond questioned if Parker was tied in with St. Anthony Sewer.

344  
345 Mr. Hibbert stated that there had been the discussions of not having a no mans  
346 land between the two due to a transmission line that belongs to the City of Parker.

347  
348 Mr. Pond okay for them to move forward.

349  
350 Joy Gold City Clerk/Treasure

351 Brand Hathaway Mayor

352  
353

#### 4. Development Code Discussion

354  
355 Mr. Pond move right into the Development Code.

356  
357 Mr. Hibbert I will turn the time over to Joshua, to discuss what he has handed out.  
358

359 Mr. Chase asked if all had a copy of wind energy ordinance appendix R. Outside of  
360 chapter 5 but has been on the table for a while and we need to finish it up. Explained that  
361 is has been modified. Reworked the purpose statement and added some definitions. It is  
362 broken down to two types large and small. I reviewed two documents that used those  
363 numbers. When we first received applications for small wind generators we looked at 50  
364 feet and you allowed up to two of those with a class one permit. That was the initial  
365 input we received from this body.

366

367 Mr. Davis asked what height before light needed to be on it.

368

369 Mr. Chase responded 200 feet. This goes into the FAA requirements for lighting.

370

371 Mr. Pond was there a 60 foot?

372

373 Mr. Chase responded you also told us to do some research and come back to you. This is  
374 what we have found. I am going to go thru this and then we can discuss. 100 feet is the  
375 tower height, which is not including the blade. Read from it and stated that he added  
376 visual resources and I would like some feedback on that. Limiting large systems to the  
377 rural conservation zone. Looking at the current zoning proposal because I don't think we  
378 could accommodate them anywhere else. Also limiting them to parcels that have 40  
379 acres or more. Setbacks and total height, which could be negotiable with neighbor thru  
380 easements. Limit access, electrical wires underground. And continued to read. Stated  
381 that we looked at other standards specifically Sugar City's code. They only permitted  
382 monopole structures, structures with no guy wires.

383

384 Mr. Pond asked out of curiosity on why a concern of guyed wires if they are to be  
385 contained within the owners property.

386

387 Mr. Chase responded that is open for discussion. One of the things that were brought up  
388 was the concern for sagehens and grouse for them to be marked.

389

390 Mr. Singleton questioned the height of the tower by the county line.

391

392 Mr. Chase responded 30 feet.

393

394 Mr. Davis questioned what the guy wire issues were.

395

396 Mr. Chase responded that it makes the tower cheaper with guy wires than the monopoles.

397

398 Mr. Chase read from document on requiring signage of the manufacture, and engineered  
399 drawings, notification from the utility company on the connection. We received good  
400 documents from Mr. Trafton on the large scale systems. Comments from Stephen might  
401 not adequately address the large scale. We discussed decommissioning the large systems  
402 and that it would be the owners' responsibility to remove the towers. There is a provision  
403 in the Idaho code on non conforming uses, which we modified our non conforming uses  
404 because of. Read about abandoning system.

405  
406 Mr. Pond asked how it will be known as abandoned.  
407  
408 Mr. Chase responded that in my mind we are only talking about the large scale systems.  
409 It is not as much as a concern for the small ones.  
410  
411 Mr. Trafton stated that the reason it has been brought up is there are other places in the  
412 country that this has been done. We need to know that they can financially remove these  
413 projects if abandoned.  
414  
415 Mr. Chase stated that also for us to have a security that they would be able to afford to  
416 take them down.  
417  
418 Mrs. Miller stated that she felt there were too many shall's, if's and may's. Where is the  
419 enforcement?  
420  
421 Mr. Hibbert questioned at what point does it become a nuisance?  
422  
423 Mr. Pond asked are we trying to protect the property owner, the public from the visual  
424 impact, what are we trying to accomplish? There are many abandoned homes and we  
425 never make them be taken out. Why make a property owner who has been left with  
426 towers from a failed project or a lease that has ran out be responsible both financially and  
427 personally for removing the towers.  
428  
429 Mr. Singleton stated that he thought that the 12 months is much too short of a time frame.  
430 It does not give you much time. Asked if there could be a 12 month extension placed on  
431 there or a 36 month time period.  
432  
433 Mr. Trafton stated that the reality of large scale wind tower development. Most of these  
434 are not Joe entrepreneur, they are big entities that are able to remove a dud if it ends up  
435 that way. This is much more than an abandoned trailer somewhere, it is a dozen 350 foot  
436 windmills.  
437  
438 Mr. Pond agreed but it's not the company who is stuck with it, it is the property owner.  
439  
440 Mr. Trafton stated that it is at this time that we can require this of the developer as we are  
441 writing the code.  
442  
443 Mr. Pond stated that if it goes bad I don't think the developer is going to stick around. I  
444 don't think you can make them bond for twenty years to protect yourself.  
445  
446 Mr. Loosli stated that we have a restriction of two small towers per applicant via a Class I  
447 permit. Do we have guidelines on how many units they can have on 40 acres? What are  
448 we classifying this as for buffering, industrial or commercial?  
449 Mr. Chase responded commercial.  
450

451 Mr. Pond stated that we need to separate the two, a small farm with a couple windmills  
452 and a large wind farm.  
453  
454 Mr. Chase agreed.  
455  
456 Mr. Pond asked how do you want to set your standards.  
457  
458 Mr. Chase responded that the ordinance we have only had one separation from small to  
459 large. I have two examples from Steve on the large farms that are 40+ pages.  
460  
461 Mr. Pond asked to have the large taken out of it and let us take the small and work on it.  
462 At another time we need to sit down and figure out how to manage large wind farms. But  
463 we should have something in place for the small ones to start from.  
464  
465 Mr. Hibbert responded even if it is in the same appendix we should separate small and  
466 large. I agree. The small turbines are allowed 2 per residential parcel. 50 are not  
467 allowed on residential parcel that crosses over from residential to commercial.  
468  
469 Mr. Chase stated that in the ordinances that he has looked at for large scale they have not  
470 put a number on how many to allow per acre.  
471  
472 Mrs. Miller asked when we talk residential parcel, what is the land mass? How many  
473 acres are we talking?  
474  
475 Mr. Nedrow responded that it did not matter if you want more than two it puts it into  
476 large scale.  
477  
478 Mr. Pond stated that we have to consider setbacks.  
479  
480 Mr. Nedrow stated concern about the height of 100 feet for a small residential tower. I  
481 thought we limited it to 60 feet.  
482  
483 Mr. Hibbert responded that those numbers were based on certain product. Some of what  
484 is out there can go from very small to huge! The higher they are the better the wind.  
485  
486 Mr. Chase responded that the one that we are all familiar with is 2.3kw, and we are  
487 talking about 100kw.  
488  
489 Mr. Loosli stated that some of which are made to look like antique towers, is that  
490 something that can be a requirement.  
491  
492 Mr. Hibbert responded that he was unaware of that but one consideration is what color of  
493 pole is it going to be, white or brown. What season is it going to show up during?  
494  
495

496 Mr. Davis asked do we have any wind charts around here to be able to see how much  
497 wind we actually get.  
498  
499 Mr. Chase responded that he had found several of those and we don't have good potential  
500 most of Idaho is not on the charts for wind.  
501  
502 Mr. Nedrow stated that if we had good wind we would have heard back from the  
503 companies with the test towers.  
504  
505 Mr. Chase asked how the commission would like to proceed.  
506  
507 Mr. Loosli responded that we should move forward on the small elements and maybe by  
508 the next meeting have the visual impact information for us.  
509  
510 Mr. Chase questioned when they would like to address the large scale turbines, please let  
511 us know. Questioned the members if they were comfortable in the numbers for height on  
512 the small scale turbines. Maybe you could consider if you allow them to go higher they  
513 will not need multiple towers. That may justify capping it at a specific number.  
514  
515 Mr. Nedrow stated that the taller towers could be self limiting on what a home owner  
516 could afford.  
517  
518 Mr. Chase stated that if anyone is interested in looking at the documents on the wind  
519 turbines to please let him know.  
520  
521 Mr. Davis reverted back to the two tower issue, he questioned if it is per individual or  
522 parcel. What are the parameters?  
523  
524 Mr. Chase asked what are the parameters you want.  
525  
526 Mr. Hibbert stated that at some level it passed a residential use and became a commercial  
527 use with more than two.  
528  
529 Mr. Pond questioned how it became a commercial use.  
530  
531 Mr. Hibbert responded that it was more about generation of power, rather than lighting of  
532 your home.  
533  
534 Commission discussed how wind turbines work with the property owner and the power  
535 company.  
536  
537 Mr. Davis questioned if the property owner owned noncontiguous ground. What do we  
538 do there?  
539  
540 Mr. Nedrow stated that one applicant should only be able to have two turbines and if  
541 there are any more then it becomes large scale.

542  
543 Mr. Hibbert stated that that person could have more then one home.  
544  
545 Mr. Chase questioned how much kWh a house uses on average.  
546  
547 Mr. Pond replied that 900kWh is an average.  
548  
549 Mr. Trafton read that a small wind energy system means a wind energy system that is to  
550 produce energy for private use. So it seems to me that if you get one or two and place  
551 them wherever you want to should be fine.  
552  
553 Mr. Chase stated that we permit two under a Class I and you could permit additional  
554 under a Class II if that's what you want to do.  
555  
556 Mr. Davis stated that if you have two homes you should be able to get whatever you need  
557 to run those two homes.  
558  
559 Mr. Chase responded two per residence is what we have.  
560  
561 Mr. Trafton questioned if he owned five homes if he could have 10 windmills?  
562  
563 Mr. Hibbert responded yes. You could have two side by side since we are going to allow  
564 two homes per parcel. Per residence  
565  
566 Mr. Pond questioned if you had a rural subdivision and all of the neighbors want to put in  
567 one big one and share.  
568  
569 Mr. Hibbert responded that would be commercial distribution and it would require a  
570 Class II.  
571  
572 Mrs. Miller asked if we should talk about the guy wires. If you had a 100 foot tower  
573 where would the wires go?  
574  
575 Mr. Chase responded that in most cases they would do a monopole. Outside of the rural  
576 infills you can do whatever; inside only monopoles will be allowed. Stated that we did  
577 have some language that talked about impact to wildlife such as marking the guy wires is  
578 there an interest in that?  
579  
580 Mr. Loosli questioned if we would want to have this coordinate with the cell tower  
581 appendix and have them more or less identical standards.  
582  
583 Mr. Chase responded yes it should.  
584  
585 Mr. Gerber stated that his concern was for sage grouse due to a study done that many  
586 birds have been killed due to guy wires. The adding of streamers so that they can see the  
587 wires.

588

589 Mr. Loosli stated that we can establish monopole only.

590

591 Mr. Davis questioned if the residential permits had to go through the commission.

592

593 Mr. Chase responded no that they were Class I, Administrative permits. You have to  
594 have a building permit with engineered drawings. We look at setbacks and the building  
595 official looks at the building aspect. These are done on a case by case basis. We can  
596 decide on if we want to mark our guy wires.

597

598 Mr. Pond said to leave it out.

599

600 Mr. Chase responded okay he would leave it out. We will limit this to the small scale and  
601 redraft it, if you want to look over the mitigation to visual impacts and have additional  
602 discussion on that we can bring you a new document.

603

604 Take a 5 minute break

605

606 Mr. Chase asked for the commission to look at FCDC Stream & Lakeshore Corridor  
607 setbacks, note the date. The first time I handed this out there were some things that were  
608 not working very well with the existing stream corridor and setbacks precluded all  
609 development within the 100 year floodplain on major rivers and lakes and reservoirs in  
610 the county. Despite that, the county platted subdivisions that had lots completely in the  
611 floodplain. With that we have created lots that are unbuildable under our ordinance. We  
612 have a floodplain ordinance that has been adopted by the county. That ordinance has  
613 referenced this section of our code as a higher standard than what FEMA requires. It is a  
614 separate component of our ordinance. We have called these Critical Areas historically  
615 and we have dealt with wetlands separately, we have encouraged or required setbacks in  
616 other parts of the code. Read from handout F.1.a; a table that will establish setbacks. He  
617 stated that he was pretty sure that this language had not been modified significantly. We  
618 are talking about irrigation works and then hydropower generation upon issuance of a  
619 Class II permit, it could be read that you will require a Class II for the irrigation  
620 component; I don't think that was the intent. This is the existing language, it has not  
621 been modified. Do you think that we need to issue Class II permits to put in irrigation  
622 components?

623

624 Mr. Davis responded no that the irrigation companies have rights to put in head gates and  
625 other irrigation needs. The county should not require any permits for them to be able to  
626 do their work.

627

628 Mr. Chase continued reading concerning roads, trails.

629

630 Mr. Davis stated that the irrigation canals have roads that run parallel also should not  
631 have to get permits to do what they need, they should be exempt.

632

633 Mr. Nedrow stated that he felt that any new roads that need to be constructed within the  
634 stream corridor should have permits and be required to meet the minimum setbacks.  
635  
636 Mr. Davis stated that we need to look at state code and laws on what is already allowed  
637 and exempt.  
638  
639 Mr. Chase read F.1.b and F.1 c.  
640  
641 Mr. Trafton questioned if there was any reason why that is not just a maximum number  
642 of feet.  
643  
644 Mr. Chase responded that is where it was before and now we have broken it into private  
645 and commercial and you would assume that commercial would have more frontage.  
646  
647 Mr. Singleton questioned if there was a 300 foot lot which could you have 30 feet or 24  
648 feet?  
649  
650 Mr. Chase responded 30 feet but 10% could be very large or very small. We need a  
651 minimum.  
652  
653 Mr. Loosli stated that you want it to say 10% of the frontage but no less then 24 feet.  
654  
655 Mr. Chase replied yes.  
656  
657 Mr. Nedrow responded no it should say at least 24 feet.  
658  
659 Mr. Chase stated that we want to place the 24 feet and the 10% in whichever is greater  
660 back in. read F.1.d.  
661  
662 Mr. Loosli asked if this is something that a person could ask for a variance on.  
663  
664 Mr. Chase responded that he thought so.  
665  
666 Mr. Trafton stated that the DEQ standard is 100 to 300 depending on soil types, is that  
667 correct.  
668  
669 Mr. Chase responded.  
670  
671 Mr. Loosli responded that that was reaffirmed.  
672  
673 Mr. Chase stated that this may require more or less per our ordinance. Stream corridor  
674 needed vegetation buffer shall be left in. This is existing language and I feel that this  
675 should be changed to maintained not left in. It sounds more appropriate. Continued  
676 reading concerning riparian vegetation and building setbacks.  
677

678 Mr. Trafton stated that we need to use native riparian vegetation in all locations because  
679 in some areas it just says native vegetation.

680

681 Mr. Chase read F.1.f., F.1.g

682

683 Mr. Loosli stated that it is hard to calculate. Try to visualize a steep and rocky slope.  
684 Someone has to visualize going into that slope and up into that slope to get the distance.  
685 Why can't we measure it as the land runs the distance from the point of demarcation,  
686 what ever the slope might be?

687

688 Mr. Chase stated that this is entirely new text and we have not clarified how it should  
689 read. Are there any recommendations?

690

691 Commission discussed how exactly this would be calculated.

692

693 Mr. Chase drew on the board to clarify to the commission.

694

695 They discussed more of the "triangle" for high water mark setbacks.

696

697 Mr. Trafton asked if there was a specific water quality and fish and wildlife geared  
698 protections and then there are aesthetics they are separate things.

699

700 Mr. Davis stated that he thinks that is where our variable will work into it.

701

702 Mr. Trafton question is if this is specifically aimed to protect fish and wildlife and water  
703 quality then this makes sense. But if it's for aesthetics are both standards going to be  
704 brought up or are there going to be two separate standards.

705

706 Mr. Hibbert answered that we are talking about two completely separate things; ridgeline  
707 development and a standard for that and building setbacks from the river corridor. The  
708 ridgeline and cliff development is the concern here.

709

710 Mr. Loosli stated that we have not talked about a setback from a steep slope.

711

712 Mr. Chase responded that no we don't and we have never addressed ridgeline  
713 development.

714

715 Mr. Loosli responded that you can see a particular parcel of ground and where does this  
716 guy get his economic benefit? If he is too far away he does not get to see the river that  
717 he has paid for and if he is too close the people on the river will be able to see him.

718

719 Mr. Chase stated that we could just scrap that and not have any kind on measurements  
720 like we have had before. Typically on a slope the other systems for establishing setbacks  
721 would make it further away. The intent was we want a horizontal measurement.

722

723 Mr. Trafton asked if it was not a cliff what if it was a 45 degree angle?

724

725 Mr. Hibbert replied that he would administer it is if it was a 200 foot setback  
726 unconcerned with the terrain and if it's a fixed setback or not.

727

728 Mr. Chase stated that if the topography was like that we would need a surveyor to  
729 measure it, our staff could not. We never addressed if it needs to be top of slope and toe  
730 of slope. Yet the building code does address that and we could look at that to see if it is  
731 going to be sufficient.

732

733 Mr. Loosli talked about in the past, flexibility given to the applicant on proximities on  
734 site constraints.

735

736 Mr. Gerber stated that he does not like 300 foot setback feels like it violates private  
737 property rights.

738

739 Mr. Davis stated that I also agree 300 feet is too much. I think 50 feet past the high  
740 watermark is good. If we start from the high watermark and go from there.

741

742 Mr. Trafton asked how that is different then what we have right now.

743

744 Mr. Loosli stated that it is what we have right now. With the exception of our current  
745 code says 50 feet from the annual average high watermark or 30 feet from the stream  
746 corridor which is defined as the stream channel and the 100 year flood plain and the  
747 riparian area all together so the 50 foot stretch never really applied.

748

749 Mr. Chase questioned how to proceed with this. Distances are important and we have not  
750 made it to that area yet.

751

752 Mr. Trafton I am open to the variable idea but we have to have a minimum that has to be  
753 more than 50 feet.

754

755 Mr. Chase stated that we came up with what we did with some good science and for  
756 administrative ease. We are a small staff. Read off different setback standards. What we  
757 have read is 50 feet is inadequate.

758

759 Mr. Trafton reminded the commission of the gravel pit discussion and the setbacks that  
760 were passed with those. 500 feet and some were pushing for 1000 feet from a highway to  
761 a gravel pit which would affect everyone from here to the Ashton hill. There were no  
762 hearts breaking about that decision and here we are talking about the most valuable asset  
763 in the county, stream corridors, and I think that 100 feet is hardly a stretch of a baseline.

764

765 Continued discussion on the setbacks and what each felt it should be, including placing a  
766 stake in the ground for people to know where it is.

767

768 Mr. Loosli made a motion amend the table labeled VI.1 in the draft to have the riparian  
769 buffer be an additive to the required building setback with a buffer of 30 feet for major

770 rivers and streams and for perennial and intermittent streams. And the required building  
771 setback be measured from the average annual high water mark of 100 feet as an absolute  
772 standard for both classifications or rivers and streams. 100 feet building setback absolute  
773 and a 30 feet riparian corridor buffer, which ever is more restrictive which is for both  
774 classifications  
775  
776 Mr. Gerber seconded the motion.  
777  
778 Mr. Pond stated it was time for discussion if any.  
779  
780 Mr. Nedrow stated the Kurt and Joshua put a lot into this table and I think its fine how it  
781 is.  
782  
783 Mr. Trafton asked what Mr. Nedrow suggests.  
784  
785 Mr. Nedrow responded to stick with what we have in front of us.  
786  
787 Mr. Davis stated that his experience is once you have it set it is pretty darn hard to have it  
788 changed. I think our stuff is fair.  
789  
790 Mr. Loosli stated that he spent the last week looking at various county policies that have  
791 significant rivers and the most restrictive is 150 feet in Teton County Wyoming from the  
792 Snake River.  
793  
794 Mr. Chase stated that Madison County Montana's setbacks were 500 feet from the  
795 Madison River.  
796  
797 Mr. Trafton stated that Madison County Idaho's setbacks were 200 feet.  
798  
799 Mr. Pond stated that we have a motion that has been seconded, Cindy Miller and John  
800 Nedrow opposed all others in favor. Motion passes.  
801  
802 Mrs. Miller stated that all of the wording needs to say native riparian vegetation what  
803 about all other streams and wetlands?  
804  
805 Mr. Loosli stated to just leave it because it is pretty much what we just did.  
806  
807 Mr. Davis stated that irrigation canals and ditches we don't have much authority over do  
808 we, we can cross it right off.  
809  
810 Mr. Hibbert responded that yes we do, we need to be really cognizant of the maintenance  
811 issue. State code says reads that which is necessary to maintain.  
812  
813 Mr. Davis stated that he thought it was 75 feet.  
814

815 Mr. Chase responded that it is variable, is there any other language that we need to go  
816 over? The best thing would be for me to take these changes and write them into the  
817 document for the next meeting.

818  
819 Mr. Trafton questioned if there was any language needed to address development during  
820 the time that setbacks were not enforced.

821  
822 Mr. Chase replied that right before the table, read F4 concerning that issue. I think that  
823 we will get into some variances because of where we are at with existing scenarios.

824  
825 Mr. Loosli stated that he had a question for Kurt that he and Mr. Trafton had discussed,  
826 does the building inspector measure from the home to the said “stake”.

827  
828 Mr. Hibbert responded yes they do and at times they have re-measured.

829  
830  
831

#### 5. Two points of access

832  
833 Mr. Hibbert read from Fire Apparatus Access Roads pages 2 & 3 D107.1 & D104.3.  
834 Kurt drew on the board to show examples. Read page 3 under exceptions. The document  
835 also listed different ideas on turn around. This is from the 2003 International Fire Code  
836 standards that have been adopted by the state.

837  
838 Mr. Nedrow stated that they only need two points of access if it is 30 or more units.

839  
840 Mr. Hibbert responded yes.

841  
842 Mr. Loosli asked if it was appropriately introduced to the Appendix B Road Standards.

843  
844 Standards that have been handed out and discussed are available in the office.

845

#### 6. Admin Report

846  
847 Mr. Hibbert updated the Commission that as soon as we get through Chapter 5 then we  
848 can go back through, chapter by chapter, to finalize this to get it to Public Hearing.

#### Loosli’s review of chapter five

850  
851 Mr. Loosli stated that this was his quick observation on chapter five.

852  
853 Mr. Gerber replied that he felt that if we are going to go through this page by page then  
854 we should all be able to bring our questions and concerns and discuss them at once.

855

856 Mr. Loosli Page 57 in the draft under short plat and under standard subdivision we have a  
857 required agency letter list. There are four required letters there. My question is why the  
858 Irrigation District has to sign off on a Preliminary Plat? That's new; it's not in our old  
859 code.

860

861 Mr. Nedrow stated that he believed that the reasoning for that and how he read it was that  
862 they didn't need to sign off on it but if a development affects their irrigation district we  
863 would want them to meet with that district to be sure that any concerns are addressed.

864

865 Mr. Loosli replied that that occurs in division three. My concern is this, when it states all  
866 required agency letters of preliminary plat approval. I understand Eastern Idaho Health  
867 District, the Fire District & the County and State for road approval. Those are all  
868 mandatory components. I have yet to run across an irrigation district that I think has the  
869 authority to tell me what I can do with the balance of the land that is not under their  
870 irrigation easement. There is already a state statute that protects their works on the  
871 property. We have never asked before for them to sign off on a preliminary plat. We  
872 certainly expect the applicant to work with the agency, but we have never required a  
873 letter. I bring this up for a personal reason; I can tell you right now that I am part of a  
874 reasonably sized litigation with Clen & Emma Atchley as individuals. If I was to take a  
875 project to Clen and the Marysville Canal Company he would not approve it and I would  
876 not be able to meet one of the requirements on this checklist because of a personal  
877 dispute. The same thing worries me about the fire department and if the developer and  
878 the fire marshal are buddies or enemies. That is my concern with asking for the letters.

879

880 Mr. Trafton stated that if I recall the Citizen Advisory Committee that Stephen and I sit  
881 on there seems to be an adequate checks and balances for water quality but not for water  
882 quantity. Water rights, at some point water supplies are going to be affected and how do  
883 we bring them into the process of evaluating what is going on.

884

885 Mr. Loosli stated that if that is the concern then we change who we want the letter to  
886 come from to the Idaho of Department Resources because they are the ones that have that  
887 authority. I love canal companies, I am a member of several but I would not label any of  
888 them as objective observers. They are entirely incorporated for their own benefit but to  
889 have them be the objective source of water supply when it is not even their water.

890

891 Mr. Hibbert explained as to why that wording was in the document and that it was  
892 redundant being that it is state code and that he had no problem taking it out. We are  
893 trying to get away from the administrative burden during short plats by making a  
894 statutory checklist that applicants have to go through.

895

896 Mr. Nedrow questioned if what was just discussed was the checklist.

897

898 Mr. Hibbert responded yes, it is and as of now we have to wait for a letter of approval  
899 back from this agency in order to continue on with this application.

900

901 Mr. Nedrow asked if it stated somewhere else of if the property has water rights or  
902 ditches through it that they have to meet with the appropriate individuals. My main  
903 concern is that the developer meets with the canal company and is working with them.  
904

905 Mr. Loosli also brought up on both short plat and standard plat that you have to have a  
906 minimum of 5 acres to be able to develop. I want to know why.  
907

908 Mr. Hibbert stated that it depended on the zone that it is in.  
909

910 Mr. Loosli my point is even if you are in a rural conservation zone and maintain 80 %  
911 you still have the possibility of two lots on 2 acres. It's potentially possible.  
912

913 Mr. Chase stated that he and Kurt had discussed this and they had scrapped it.  
914

915 Five acres is scrapped  
916

917 Mr. Loosli my next question is in a short plat under paragraph 1.2.3, under no  
918 circumstance will more than a single short plat application be permitted on a parcel of  
919 ground. A parcel of ground is hereby defined as all parcels of ground in the ownership  
920 and control of the applicant or in the applicants family that is in the third degree of  
921 consanguinity that are contiguous with the subject parcel. Informed the commission of  
922 what the third degree of consanguinity meant. But if a guy and his two unrelated  
923 neighbors each have 10 acres they each can have a short plat but if the guy across the  
924 street and his brother and uncle all have 10 acres each only the first one in can qualify for  
925 a short plat. I don't see that as fair or reasonable. I understand the point, but I do not  
926 agree with it because Fremont County families have chosen to live near each other.  
927

928 Mr. Hibbert responded that because of the transfer of parcels by illegal lot splits it would  
929 be an issue. We do need to leave the definition of family in.  
930

931 Mr. Loosli Stated to imagine the family feud you would start.  
932

933 Mr. Pond stated that removing the consanguinity language would be removed.  
934

935 Mr. Loosli stated that he had a concern on with creating minimum setbacks on the  
936 substandard lots.  
937

938 Mr. Hibbert stated that we need to talk about non conforming uses, legal and illegal.  
939

940 Mr. Loosli stated that we have brought up on page 73 of this bound book public facilities  
941 and central sewers. We state for subdivisions we don't qualify that must mean all  
942 subdivisions a central sewage system shall be required.  
943

944 Mr. Chase stated that it does not identify what it applies to.  
945

946 Mr. Hibbert stated that it is really important to differentiate central collection or central  
947 treatment too. We have separated it by zone and subdivision type. Whether it's a short  
948 plat or a full plat. We will develop a table for you.

949  
950 Mr. Loosli stated that lastly we need to adopt some standard. I do think that a key for this  
951 commission to take into consideration is public health welfare and safety and fire in this  
952 region is a big issue. Our fire protection agencies are good hearted people who have no  
953 idea in many cases what it takes to fight a fire in a house. I think we should adopt some  
954 standards that they will have to review an application against so we know that when we  
955 get the application we know it's an objective answer.

956  
957 Mr. Hibbert stated that it would be nice to have the three fire districts to go in and hire a  
958 Fire Marshall who specialized in development review that could give us a nice letter  
959 stating if there are any issues.

960  
961 Mr. Loosli discussed the email that he had sent out to the commission concerning the  
962 City of Ashton having issues with their sign ordinance and our sign ordinance is very  
963 weak. Make a recommendation that we appoint an advisory board to potentially work for  
964 us and some of these cities to try to develop a good set of policy recommendations on  
965 signs. Also to re-commission an advisory committee to wrap up this recreational parks  
966 and trail map.

967  
968 Mr. Hibbert stated to ask the commission to appoint an advisory board.

969  
970 Mr. Gerber questioned if the development code is the best format for that. We have a  
971 county Recreational Department, why don't we just put it to them to deal with.

972  
973 Mr. Chase stated that the Comprehensive Plan includes a policy level that discusses that.  
974 We initiated the process with parks and rec. and it was at a time that we just could not get  
975 that done. He feels that it needs to be a joint action that needs to be initiated by us.

976  
977 Mr. Loosli stated that it is a statutory obligation of the state for a Comp Plan and  
978 Development Code and that's what gives it the authority to the administrator to require  
979 information from the developer.

980  
981 Mr. Hibbert stated that it becomes a regulatory document in the sense that it is a future  
982 trails map and it gives me the ability to show the developer that if there is a trail between  
983 point a and b that I have the ability to keep the trail.

984  
985 Mr. Loosli Motioned to recommend to Board of County Commissioners the authorization  
986 of two advisory committees, one for the purpose of evaluating, discussing and proposing  
987 on policies, rules, and guidelines on our sign ordinance and that they try to get the cities  
988 to cooperate with us. And the second committee to be set up for the evaluation,  
989 discussion, and policy proposals for rules, guidelines, alignments, and maps of our  
990 standard County parks recreation and trails maps.

991

992 Mr. Nedrow seconded motion

993

994 Mr. Pond stated that we have a motion that has been seconded. All in favor motion  
995 carries.

996

997 Mrs. Miller Motioned for our Board of County Commissioners to look into the aspects  
998 and advantages for our county to have a County Fire Marshall.

999

1000 Mr. Loosli second the motion.

1001

1002 Mr. Pond stated that we have a motion that has been seconded. All in favor motion  
1003 carries.

1004

1005 Mrs. Miller motioned to have a second meeting on the 12<sup>th</sup> of April

1006

1007 Mr. Loosli seconded the motion.

1008

1009

## 7. Adjourn

1010

1011 Mr. Davis motioned to adjourn Mr. Singleton seconded, the meeting adjourned at  
1012 10:07pm.

1013

1014

1015