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**Fremont County Planning
& Zoning Work Meeting Minutes
November 14, 2011
6:00 pm
County South Bridge Street Meeting Room**

7 The Fremont County Planning & Zoning Commission met in a special meeting on
8 November 14, 2011. They met in the County South Annex Building. **Members in**
9 **Attendance were:** Cathy Stegelmeier (Chairman), John Nedrow (Vice Chairman), Rod
10 Nichols, Sam Davis, Larry Singleton, and Jim Gerber. **Excused:** Patti Crapo,
11 Cindy Miller, and Layne Hepworth.

12
13 **Staff and others present:** Stephen Loosli (Administrator), Greg Newkirk (Planner/GIS
14 Specialist), and Kaylie Bowman (P&Z Secretary)
15

16
17
18

1. Call to Order and Welcome

16 Ms. Stegelmeier called the meeting to order at 6:01 p.m. She then excused the
17 Commissioners that were not in attendance.
18

2. Approval of Minutes October 24,2011

19 Ms. Stegelmeier asked if there were any additions or corrects to the minutes. She asked
20 for clarification on page 8.

21 **Mr. Davis moved to approve the October 24, 2011 minutes. Mr. Nichols**
22 **seconded. All in favor, motion carried.**
23

3. Old Business – Continuation of Public Hearing – Singleton Gravel Mine & Manf.

24 Ms. Stegelmeier stated that the applicant failed to show ownership, and so he will have to
25 reapply. She asked what the commission thought. She explained the information they
26 had from the County attorney.
27

28 Mr. Gerber said he agreed.
29

30 Mr. Nichols said he agreed also.
31

32 Mr. Gerber asked what parcel of property the applicant doesn't own.
33

34 Ms. Stegelmeier said it is the land swap portion, the west side.
35

36 Mr. Nichols said that the way the application stands they don't own the property, so this
37 application can not go forward. It is not correct.
38

39 Mr. Gerber asked if they could ask Mr. Singleton a few questions.
40

41 Ms. Stegelmeier said they could, but because of the information we have the application
42 is incorrect. He will have to reapply.

43
44 Mr. Gerber said he would like Mr. Singleton to clarify.

45
46 Ms. Stegelmeier asked Mr. Loosli if she needs to open a new hearing.

47
48 Mr. Loosli said no they just continue the hearing they already started.

49
50 Ms. Stegelmeier reopened the hearing, and stated that this is a continuation of the
51 application for the Singleton Gravel Mine and Manufacture. She asked the Commission
52 if there are any conflicts of interest. She then asked if any one had any ex parte
53 conversations on this application. She asked Mr. Singleton to come forward to answer
54 some questions.

55
56 Mr. Gerber asked Mr. Singleton if he heard the comments about him not owning the land.

57
58 Mr. Singleton said that he owns his land. He asked if they meant the land that was to be
59 exchanged.

60
61 Mr. Gerber said the 67.13 acres.

62
63 Mr. Singleton said he owns 67.13 acres. He said his question is has anyone looked at
64 this. He said that his original development would cut the Hathaway ground off to
65 irrigation. He explained the reason for the land exchange. He explained that he was not
66 informed that the agreement had to be notarized until the last meeting. He said he didn't
67 have a notarized copy of the agreement, so this went back to the original land he started
68 with. He explained that he had gone through the Department of Lands and they have
69 approved this.

70
71 Mr. Nichols said he knows that he owns the 67.13 acres, but does the legal description on
72 this application include the land from the Hathaways.

73
74 Mr. Singleton said you have an update on this. This application has the land exchange
75 because that is what we planned; it didn't go through so you go back to the original one.

76
77 Mr. Nichols explained that on the application they were hearing the legal description
78 included the land from the Hathaways and that this is the application they have to go by.
79 He said they have to go by the original legal description.

80
81 Mr. Singleton said that the Department of Lands has come out and looked at this since
82 there is no land exchange and has said it is still alright with the land I own.

83
84 Mr. Nichols said it is not the same piece of ground; it is the same acreage, but not the
85 same piece of ground.

86

87 Mr. Singleton said it is a continuation.
88
89 Mr. Nichols said no it isn't. He explained that the Department of Lands has nothing to do
90 with the Fremont County development code. He explained that Mr. Singleton proposed a
91 specific piece of land, and now he is trying to propose a different piece and it isn't the
92 same.
93
94 Mr. Singleton asked if this means that he will be denied.
95
96 Mr. Nichols said he hasn't voted yet, but it is a possibility. He explained what the
97 County's legal counsel said.
98
99 Mr. Singleton asked if this advice came after the last meeting.
100
101 Mr. Nichols said yes.
102
103 Mr. Singleton said he found this information out this afternoon.
104
105 Mr. Nichols said as a commission they found out a few days ago, and because of ex parte
106 they couldn't come and talk to Mr. Singleton about it.
107
108 Mr. Singleton explained they were talking about the north piece of ground.
109
110 Mr. Nichols said that the application has the Hathaway's ground in it.
111
112 Mr. Singleton said only part of the ground is the Hathaways.
113
114 Mr. Nichols said by law they can't do just part of an application, and then explained why.
115
116 Mr. Davis said you can't alter an application after we have heard it.
117
118 Mr. Singleton said the south half of this property is still on the application.
119
120 Mr. Nichols said you will have to do a new application with the right legal description for
121 the land you want to use.
122
123 Mr. Davis said the description you brought to us on the application is what we have to go
124 by. He said if you alter it in anyway it is no longer an application
125
126 Mr. Singleton said he will alter it as an amendment.
127
128 Mr. Davis said the only thing that can be done is to reapply.
129
130 Mr. Singleton asked if it is still under the old code.
131

132 Mr. Davis said no the 2011 development code. He explained that the application can not
133 be changed, because it was sent out for everyone to review.
134
135 Mr. Singleton asked why he couldn't have been informed about this earlier so he had
136 time to change it.
137
138 Ms. Stegelmeier said they didn't know it either.
139
140 Mr. Davis said this is why the application was tabled at the last meeting to look into this.
141
142 Mr. Nichols pointed out the it wasn't until the last meeting that it came to their attention
143 that the land swap was not complete, and Mr. Singleton didn't own the ground.
144
145 Mr. Singleton said that he owns his ground and they own their ground.
146
147 Mr. Davis said that the legal description has been altered from this application.
148
149 Mr. Singleton asked if he is no longer in the old code.
150
151 Ms. Stegelmeier said he would have to reapply under the new development code.
152
153 Mr. Singleton said this is a railroad.
154
155 Mr. Nichols said it is not good, but this is where it is legally.
156
157 Mr. Singleton asked if he is bared out of the thing. He explained that he is doing this to
158 survive, and that he doesn't get a penny of the money. This is why he is upset.
159
160 Ms. Stegelmeier said that Mr. Loosli would help him with a new application. She
161 explained that the legal description doesn't match, and so proper notice would not have
162 been filed. This would leave the County open to a lawsuit.
163
164 Mr. Loosli asked if he could clarify for the record. He explained that when Mr. Singleton
165 first came in and applied for this using the land he owns he was issued permits 10-055
166 and 10-056. He stated that Mr. Singleton then came in changed the land he was applying
167 for to include the land from the Hathaways. He said they didn't amend the existing
168 permits we issued new permits 11-031 and 11-032. He said that 10-055 and 10-056 have
169 died since he reapplied for the new permits. He explained that the permits they are
170 hearing tonight are not going to work because the Hathaways are not going to go through
171 with the land swap. He said the County is happy to help him reapply, but they will have
172 to sit down and go over the new rules. He said the old permits were done away with, by
173 Mr. Singleton opting to apply for a new permit using this other land.
174
175 Mr. Davis said that Mr. Singleton should have the option to reapply.
176
177 Ms. Stegelmeier closed that hearing and opened it up for the discussion.

178 Mr. Loosli said that for the record he submitted the information that the Commission
179 requested. He read them into the record. (Exhibits A-F)

180

181 Ms. Stegelmeier asked if there were any objections. She then said so added.

182

183 **Mr. Davis moved to deny the permit on the grounds that the application has**
184 **changed in the application process and would have to apply again. Mr.**

185

Gerber seconded. All in favor, motion carried.

186

4. Sketch Plans

187 None

5. New Business

5.1 Public Hearing – Hungry Bear Market – Woodies Properties

188 Ms. Stegelmeier moved onto the public hearing for the Hungry Bear Market. She
189 explained what the application is and asked Mr. Nichols and Mr. Davis to stand as
190 sergeants in arm. She then asked Mr. Loosli if proper notice has been given.

191

192 Mr. Loosli said yes, and explained where it was posted.

193

194 Ms. Stegelmeier asked each member of the Commission questions regarding conflicts of
195 interest. She read from Idaho Code 67-6506.

196

197 Mr. Nichols said no

198

199 Mr. Davis said no

200

201 Mr. Nedrow said no.

202

203 Mr. Gerber said no.

204

205 Mr. Singleton said no.

206

207 Then she asked regarding ex parte conversations.

208

209 Mr. Nichols said no

210

211 Mr. Davis said no.

212

213 Mr. Nedrow said yes, he explained that he received a telephone call from Mr. Doug
214 Drake at roughly 12:15 Friday November 4th. He told me that Mr. Woodie was pouring
215 concrete and didn't think that he could do this until after this public hearing. I told him I
216 didn't know whether this was true or not and referred him to Mr. Loosli. I then called
217 Mr. Loosli myself and talked with him about it.

218

219 Mr. Gerber said no

220

221 Mr. Singleton said no.
222
223 Ms. Stegelmeier asked Mr. Nedrow if he felt he needed to step down.
224
225 Mr. Nedrow said no, unless another Commissioner felt he should.
226
227 Ms. Stegelmeier asked Mr. Loosli to present the application.
228
229 Mr. Loosli explained where the property is and the zoning. He explained why the County
230 is hearing the application even though it is in the area of impact for Island Park. He then
231 turned it over to the applicant.
232
233 Ms. Stegelmeier reminded the public how the hearing is going to be run.
234
235 Mrs. Kim Woodie said that she is the owner of the Hungry Bear Market. She stated that
236 they are here to sustain their business and are seeking a Class II permit to add a repair
237 shop and a snowmobile rental. She explained that the development code allows them to
238 do so.
239
240 Ms. Stegelmeier asked if there are any questions.
241
242 Mr. Nichols asked how many employees they have and how many this will add.
243
244 Mrs. Woodie said they have thirteen and then they would add two more.
245
246 Mr. Nichols asked if this number includes her and her husband as employees.
247
248 Mrs. Woodie said yes, they have 11 employees and her and her husband, and will add
249 two more jobs.
250
251 Mr. Gerber asked if they are asking for auto repair or diesel repair.
252
253 Mrs. Woodie said diesel repair some auto, and snowmobile rentals. She said that she has
254 some letters from the community that she would like to submit it into the record. She
255 also had ten pages of signatures saying we are an asset to the community.
256
257 Ms. Stegelmeier asked if anyone in the commission had a problem with this.
258
259 Mrs. Woodie gave the commission the letters and signatures. (Exhibits H-J)
260
261 Ms. Stegelmeier asked Mr. Loosli to present the staff report.
262
263 Mr. Loosli explained that the property is legal nonconforming. He explained what this
264 means. He explained the application process on this since 1992. He explained the
265 development codes that were in place at the time of the first application. He said that
266 now that it is here and legally nonconforming they are under the expansion of uses. He

267 read from the staff report regarding changes of use on page 5. He said that in evaluating
268 this staff needed to identify if this change of use is possible or not, and it was decided that
269 this is possible. He then explained what the applicant has done to get to this point
270 tonight. He talked about the ordinance regarding the Island Park area of impact. He
271 talked about the old code, and how visual impact was enforced. He explained that new
272 code regarding commercial zoning. He read from the staff report. He explained that a
273 concern from the sketch plan was the fact that this property is accessed from highway 20
274 directly. He explained that the commission had a copy of a letter from ITD stating they
275 have no concerns with the access to highway 20 (Exhibit H). He said this was the only
276 other thing the Commission asked them to look into.

277

278 Mr. Nedrow asked about the staff analysis regarding the additional daily trips that would
279 occur due to the new businesses.

280

281 Mr. Loosli said that is a great question. He said that they wrote the development code
282 together and what did we mean for it to say. He asked if they meant less or more as
283 pertaining to the base line, or did they mean cumulatively.

284

285 Mr. Nedrow said that there is an eight or nine percent increase in average daily trips.

286

287 Mr. Loosli explained that if they use cumulative no one would ever reach the standard,
288 because even one more additional trip would be more intense.

289

290 Mr. Nichols said he didn't mean cumulative. He meant that if a new proposal was more
291 intense then the existing proposal then it couldn't be done, not cumulative.

292

293 Mr. Nedrow said he was just asking for clarification.

294

295 Mr. Loosli said it was a great question, he pointed out that someone needs to highlight
296 this so that when the one year review is done there can be some clarification made on
297 this.

298

299 Ms. Stegelmeier explained what she thought the additional trips meant.

300

301 Mr. Loosli said the trip chart is a range.

302

303 Mr. Nedrow said that this is why they took this out of the new code, because it could be
304 manipulated in too many different ways.

305

306 Mr. Loosli said that it came back into this because this is the tool we used to measure.
307 He said that ITD chart is arranged to take into account location, corners. Etc. He said one
308 of the highest uses is a gas station/convenience stores because they get so much traffic.
309 He said this is a point to deliberate when you get to it, is how to read this paragraph.

310

311 Mr. Gerber said that when they came in tonight they had a letter from a Douglas and
312 Deborah Button.

313

314 Mr. Loosli said that they haven't gotten to that part of the hearing yet, but they can
315 discuss what it means at the end of the hearing.

316

317 Ms. Stegelmeier asked if there were any other questions

318 Mr. Gerber asked if there are gas pumps there.

319

320 Mr. Loosli said yes, but he doesn't know how many. He then read a letter in for the
321 record (Exhibit K).

322

323 Ms. Stegelmeier opened it up for the public to comment. She explained how the hearing
324 would be run.

325

326 Mr. Paul Kern 8786 Oak Valley Sandy, UT. He said he owns cabin on Aspen Ridge. He
327 also lease the four and a half L shaped acres that are immediately adjacent to the Hungry
328 Bear, so that would make him their next door neighbor. He said his experience with the
329 Hungry Bear has been mixed. He said Paul is a gifted business man and runs his
330 operation in an admiral way, that visually it has improved over time, and that Paul is a
331 decent human being. He said the reason he is opposed to this is because the effect on him
332 would be cumulative. He said that he is the neighbor who picks up the garbage from the
333 grocery store. He said that when the fireworks were going off, he became aggregated
334 because some of the fireworks hit his pasture and there were scorched areas that could
335 have lit the whole area on fire. He said that he and his family have picked up a pickup
336 load and a half of debris from the fireworks, and this doesn't include the garbage that
337 they pick up from the grocery store. He explained that this is a nuance to him and costs
338 him quite a bit of effort to keep the place clean. He said according to his lease he
339 maintains the fences, he puts up and takes down the fences on the surrounding area. He
340 said that the increased traffic to the Hungry Bear has increased the snowmobiler traffic.
341 He said that they break his fence posts and barbwire. He said that each year they spend
342 hundreds of dollars on fixing the fence. He said that he is the face of the neighbors. He
343 said this will have a cumulative effect on him, and explained how. He stated that he
344 would not recommend that this go forward.

345

346 Mr. Singleton asked what he proposed to do with his land over the next fifty years.

347

348 Mr. Kern said for the rest of his life and into his children lives it will be for cattle and
349 livestock grazing.

350

351 Mr. Singleton asked no building.

352

353 Mr. Kern said absolutely not, the buildings will have to go somewhere else. Henry's
354 Lake Flat was not put here for buildings and especially not for shopping centers.

355

356 Mr. Nichols asked about the fireworks whether it is a random thing or is it a planned
357 thing.

358

359 Mr. Kern said that this was on two different occasions. He said one on the fourth of July
360 and then again during winter fest. He said twice a year.

361
362 Mr. Nichols asked if this is a community event and the Hungry Bear just sponsored it.

363
364 Mr. Kern said he believes so he hasn't ever attended he just cleans up the aftermath. He
365 explained that the fireworks launching pad is right on the property line, and the garbage
366 goes over in his area.

367
368 Mr. Nichols asked if this is still going on.

369
370 Mr. Kern said it hasn't happened in the last couple of years, but he is still picking up the
371 remnants of that. He stated that there was so much of it he is still picking it up, it is not
372 all the way gone.

373
374 Mr. Ron Kynaston 4766 Elk Drive Island Park, Idaho. He said he feels Mr. Woodie has
375 miss spoke and he would like to give his clarification on how. He said that the City of
376 Island Park has a development code and they have Henrys Lake Flats as visually
377 sensitive. He said that this did not just come out of chance, the community feels that this
378 is one of the places that people come to visualize and see, along with the fishing. He
379 explained that this area is unique because in the spring the blossoms are so beautiful, and
380 then in the spring/summer the hundreds of cattle that are there are a site to behold. He
381 said if this permit is allowed people will stop coming to see the area. The whole area will
382 be turned into commercial like entities. He said that the community is not saying it will
383 be an asset to the community, because if Island Park is allowed to become
384 commercialized the tourists will no longer come. He said that some business will come
385 to Hungry Bear but the rest of the community will suffer. He said Mr. Woodie said there
386 is no diesel repair from down in the valley up to Bozeman. He said this is not true, Mr.
387 Woodie has a diesel repair shop in Valley View, and he is just bringing it down to the
388 flat. He said that the property he owns on the west side of the road is going to be used for
389 snowmobile racing. He said this will add a lot of traffic to this area. He explained all of
390 the businesses that are being running out of the Hungry Bear. He said the community is
391 concerned about this. He said this is no different then if someone came in and killed all
392 of the fish in the river.

393
394 Ms. Stegelmeier asked if there were any questions.

395
396 Mr. Ryan Funke 4585 E 1000 N Squirrel, Idaho. He explained that he works in Island
397 Park. He said that he is here opposing this not because this will be another snowmobile
398 shop, but that this is deemed a visual sensitive area. He said that there have been others
399 who have tried to build in this area and were denied because they would change the look
400 of the area. He talked about another application from 2001 that was denied for this
401 reason. He said that he feels they shouldn't keep writing variances if there is an
402 ordinance on the books. He said if we keep doing this it is going to turn it into a free for
403 all.

404

405 Ms. Stegelmeier asked if there were any questions.

406

407 Ms. Jan Neish 472 Idaho Street Ashton, Idaho. She said she is speaking for herself. She
408 said that as she listened from the previous meetings. She said it is interesting that this is
409 trying to be judged on today's laws. It has already been grandfathered in. She says the
410 code asks if it is more intense or not, and she feels that it is not. She said she understands
411 a lot of the fears, but they are just fears. She said that the neighbor who talked about the
412 trash, and said that these are past events it has nothing to do with this expansion. She
413 said there will still be trash from the grocery store. She said this doesn't fall under the
414 Island Park Code, she said because this falls in the area of impact it doesn't apply. She
415 said that under the new development code there couldn't be a lot more development. She
416 said these are just fears. She said she doesn't know another person who donates to the
417 community more than the Woodies. She said the issue is, is this more intense. She said
418 she didn't think so. She said the diesel repair and snowmobile rental may bring in more
419 people, but they are not frequent users like people using the grocery store. She said in
420 light of this she would urge the commission to look what the development code says
421 about intensity and the track record of the Woodies and vote in favor of this.

422

423 Ms. Stegelmeier asked if there were any questions.

424

425 Mr. Doug Button 4215 Grandview Road Island Park, Idaho. He said that what he has to
426 say isn't personal. The Woodies are good people and hard workers. He said that people
427 can get emotional regarding the land, and he isn't going to do this. He said that he would
428 like to rebut what the staff has said. He referred to the development code 4.06 he read
429 from this. He said that section four is not to expand uses, but to eliminate them. He said
430 that this is not a change in use, but an expansion from three illegal nonconforming uses to
431 add two more nonconforming uses. He read from 4.06.060. He gave examples of what
432 this could be. He said but to add another illegal non conforming activity it doesn't fit.
433 He said rural base is the most restrictive zoning in this County. He said if you don't stick
434 to the code you might as well throw it away. He read from 4.06.070. He pointed out the
435 code says right there, don't increase it. He said he was going to answer the question of
436 whether it is cumulative. He said that there are four businesses going and now they want
437 to add two more, this is adding. He said they are going to have new customers. He said
438 that the commission has been elected to be stewards of the County. He said we owe it to
439 our children to conserve our diamonds, and Henrys Lake Flat is a diamond.

440

441 Ms. Stegelmeier asked if there were any questions. She then asked the applicant if she
442 wanted to rebut.

443

444 Mrs. Woodie said that these are all really good questions. She referred to the trash that
445 accumulates on Mr. Kern's property. She said that they have gotten ride of the paper on
446 the gas pumps because it does blow all around. She said that if Mr. Kerns had informed
447 them she would have gotten permission to go on the property and clean it up. She
448 pointed out that their property is not a trash pit. They do not leave discarded vehicles all
449 over, and they do not have trash everywhere. She then explained that the other ranchers
450 let down the fence and Mr. Kern doesn't do this. His fences are going to get ruined by

451 the snowmobilers. She said they are neighbors and all they have to do is ask. She said
452 that the fireworks bring a lot of people into the community, and they are staying in hotels,
453 going to the bars, and using other businesses in the community. She said the fire
454 department is on scene. She said they have all of their permits. She said that if they
455 don't have something in their grocery store, people go to another store and we are fine
456 with that. She said that regarding the Burtenshaws who own thousands of acres around
457 us, there is a letter from them saying what an asset we are to the community. She said
458 they let them use their property for their Fourth of July events. She talked about the land
459 across the street. She said they are turning it into a community park, she explained that it
460 is currently an eye sore and they are going to make it into a community park. She
461 explained what they are putting in the park. She said that before they bought the property
462 they asked if they could do make these additions to the grocery store. After they bought
463 the property, they were told they couldn't. She said the RV Park, grocery store, and gas
464 station were already there. She said there are four pumps. She said the neighbors asked
465 what they could do, and this is why they have the signatures of all of the community
466 members. She said they built a shed for the food pantry so they could help the
467 community during the winter. She talked about the races they have and are adding two
468 races which will bring a lot of people to the community. She talked about the sign and
469 how they put a new sign out to promote the things they are doing. She said she doesn't
470 feel she is in the wrong for bringing people and business to the community. She said in
471 regards to Henry's Lake Station, when they were told they couldn't add on, they rented
472 the repair shop to repair the vehicles they tow. She stated that she hoped they would be
473 able to do what they need to do to further their business.

474
475 Ms. Stegelmeier asked if there were any questions.

476
477 Mr. Gerber said that he understands they don't have control over people, but it can be a
478 problem for other people when they do that.

479
480 Mrs. Woodie said they do pick up their parking lot. When employees have nothing else
481 to do we send them out to pick up trash.

482
483 Mr. Gerber said that is what he was going to recommend.

484
485 Mrs. Woodie she said we do and we also have a fence that stops some of the trash. She
486 pointed out that if he would have let them know they would have been out there picking
487 it up, and that they will talk to him about this.

488
489 Ms. Stegelmeier asked about the shop at Valley View.

490 Mrs. Woodie said they were forced to rent this when they told us they couldn't add this
491 on.

492
493 Ms. Stegelmeier asked if this was going to change.

494
495 Mrs. Woodie said yes and it would save them a great deal of money in rent.

496

497 Mr. Nichols asked if she saw any negative impact adding the repair shop.
498
499 Mrs. Woodie no, she doesn't.
500
501 Mr. Nichols asked if they had plenty of room for the trucks to turn around.
502 Mrs. Woodie said yes.
503
504 Mr. Nichols asked if it would become a truck stop.
505
506 Mrs. Woodie said no they will tow someone in that has broken down, and they will be
507 there until we can get them what they need.
508
509 Mr. Davis asked if they have diesel there for the big trucks.
510
511 Mrs. Woodie said yes we already sell it. Thank you for your time.
512
513 Ms. Stegelmeier closed the public portion of the hearing and said there would be a break.
514
515 Ms Stegelmeier called the meeting back to order at 7:36 p.m. She said they closed the
516 public portion of the hearing and explained the decisions the commission could make.
517
518 They discussed the letters that Mrs. Woodie gave them. There were nine and ½ pages of
519 signatures. Mr. Loosli read letter from the Burtenshaw's into the record (Exhibit G).
520
521 Mr. Davis asked for some clarification regarding the code. He talked about what Mr.
522 Button had brought up regarding the code. He said they have okayed it for 10% and they
523 are under the 10%.
524
525 Mr. Loosli explained how they came to this number.
526
527 Mr. Davis said this is where we settled, and 10% is within the law.
528
529 Mr. Nedrow asked where the cover is to these names. He pointed out this is just a list of
530 names with no cover letter.
531
532 Angela Brant, Island Park, Idaho. She said she wrote the cover letter for the list of
533 names, she stated what the letter said. (That they were in support of the Woodies.)
534
535 Ms. Stegelmeier said she wonders if it is more or less intense.
536
537 Mr. Gerber said they talked about the before and the after. He said the question is are the
538 two new issues going to be more intense than the existing four. He did not feel they
539 were.
540
541 Mr. Nedrow said the before using are going to continue.
542

543 Mr. Gerber said yes but the way it is written are the two going to be more intense then the
544 four.

545
546 Ms. Stegelmeier asked if he thought it would be cumulative.

547
548 Mr. Gerber said it is not going to be more intense, it is going to be less intense. He said
549 the total might be more intense, but we were looking at the intensity before vs. after.

550
551 Mr. Nedrow said if someone comes in and they have one daily trip short of doubling their
552 current business, it would be alright because it is not more intense.

553
554 Discussion on whether it is more or less intense. 4.06.070 was read is the degree of use
555 of illegal nonconforming is not increased.

556
557 Ms. Stegelmeier said if there is no further discussion she would entertain a motion. She
558 reiterated the commissions three options.

559
560 **Mr. Nichols moved for application 11-077 Hungry Bear Market be approved**
561 **as submitted. Mr. Gerber seconded. All in favor Mr. Singleton, Mr. Gerber,**
562 **Mr. Nichols. All opposed Mr. Nedrow. Mr. Davis abstained. Motion carried.**
563

5.2 Public Hearing – County Rezone – Fremont County Public Works Dept.

564 Ms. Stegelmeier moved on to the next public hearing. She asked if proper notice has
565 been given.

566
567 Mr. Loosli said yes, and explained where it was posted.

568
569 Ms. Stegelmeier asked if any of the commission members would like to declare a conflict
570 of interest.

571
572 Mr. Nedrow asked if the gravel pit by his home is on the list. He asked if the commission
573 thought he had a conflict of interest since it is very near his home.

574
575 Mr. Loosli asked if he thought he would vote without a biased opinion.

576
577 Mr. Nedrow said yes.

578
579 Ms. Stegelmeier said she could not vote without a biased opinion.

580
581 Mr. Loosli said she should not have to vote because there were only five commissioners.

582
583 Ms. Stegelmeier asked if anyone had any ex parte communication.

584
585 Mr. Loosli explained the application and pointed out what the new code says regarding
586 this application. He explained how this application came about. He said the first part is a
587 change to the comprehensive plan, preferred land use map. Part two is an amendment to

588 the zoning map. Part three is a Class II Permit on nine separate gravel sites throughout
589 the County. He explained where the sites are and that this is combined permit into one as
590 the ordinance allows. He turned the time over to the applicant to explain.

591

592 Mr. Singleton asked if they change the comp plan for this application, then they could
593 only change it again in six months.

594

595 Mr. Loosli said this will not hinder our ability to look at the comp plan, and explained
596 this.

597

598 Mr. Singleton asked if someone else could come in and get changes.

599

600 Mr. Loosli said yes.

601

602 Mr. Davis said so there is no real guidance for us to go by on whether we can or we can't.

603

604 Mr. Loosli said yes, and it is good.

605

606 Mrs. Marla Vik Public Works Department 125 N Bridge Street. She explained these are
607 all current gravel pits, they aren't looking to open any new sites. She said they will not
608 be year round crushing and only one or two sites will be crushing at a time. She said
609 none of the crushed gravel will be sold for commercial used; they will be used to seal
610 roads and maintain gravel roads. She said that any sites that are not up to code will be
611 brought up to code. She explained what they plan to do to bring them up to code. She
612 explained that at the Vernon Bridge they don't have any current plans on going
613 manufacture there, but they want to have that option if they ever need to. She asked if
614 there were any questions.

615

616 Mr. Nichols asked if when they contract someone to crush gravel, will they be crushing
617 24 hours.

618

619 Mrs. Vik said no they will be limited on their hours of operation.

620

621 Mr. Nichols said but during the summer the sun is up longer.

622

623 Mrs. Vik said those are the rules in the code and we will abide by them.

624

625 Mr. Davis asked they expect any increases in road uses, and are you going to do any
626 improvements to the roads and bridges.

627

628 Mrs. Vik said not over what they have done in the past, it will depend on what the
629 projects are for that year.

630

631 Mr. Davis said that when the road at another gravel pit was blacktopped it significantly
632 increased the traffic on those roads.

633

634 Mrs. Vik said they are not planning on blacktopping any roads that are not already
635 currently blacktop. She explained that they don't have the funding that is required to
636 maintain those roads. She said if anything roads that have low amounts of traffic will go
637 back to gravel rather than blacktop.
638 Mr. Davis said this isn't for just today, but forever.
639
640 Mrs. Vik pointed out that she didn't think oils prices were going to go down anytime
641 soon.
642
643 Mr. Davis said that one of the sites is not deeded to the County. He pointed out that they
644 just turned down an application where the applicant did not own the property.
645
646 Mr. Loosli said there is already a binding agreement. He explained the agreement on the
647 property. The property meets the definition of legally being in control by the County.
648
649 Mr. Davis asked if the manufacturing permit would go with the property if it is sold.
650
651 Mr. Loosli said no the permit is given to the applicant not the property.
652
653 Mr. Singleton asked if the County owns the property in the photos he was looking at.
654
655 Mr. Loosli said that those pictures are for reclaimed gravel pits that Mr. Singleton
656 brought in. All of the sites that the County is asking for are in active use, some of them
657 don't have a lot of life left but they are all active. In some instances they will be used as
658 staging areas.
659
660 Mr. Gerber asked if there are any canals on these properties.
661
662 Mrs. Vik explained the waters on and near all of the sites.
663
664 Ms. Stegelmeier said the Marysville ditch goes through the property that they don't own
665 yet.
666
667 Mrs. Vik said it is to the south of the property.
668
669 Ms. Stegelmeier asked if they aren't purchasing the whole parcel.
670
671 Mrs. Vik said no they are leaving a buffer for the ditch.
672
673 Mr. Davis asked if it is a significant ditch.
674
675 Ms. Stegelmeier said it is a big ditch; it is also the Marysville hydro project along with
676 running irrigation water.
677
678 Mr. Gerber said there are provisions in the Code to protect those waterways.
679

680 Mrs. Vik said yes, and then explained what they were doing on the stud mill property.
681
682 Mr. Davis asked if they have contacted the canal company, and if there needs to be an
683 agreement with them.
684 Mrs. Vik said no they have not.
685
686 Mr. Gerber asked if there is any residential housing near any of these.
687
688 Mrs. Vik explained where the homes are in regards to each site.
689
690 Mr. Gerber said there would be some buffering requirement on the sides where the
691 housing is. He asked Mr. Loosli why there is no development agreement with the
692 County.
693
694 Mr. Loosli said that Fremont County can not contract with itself, so you will have to take
695 our words on it.
696
697 Mr. Davis asked are there any depth plans here.
698
699 Mr. Loosli said these are not permits for gravel extraction; it is to bring a crusher onto the
700 property to crush the gravel.
701
702 Mr. Davis said it is going to bring deeper pits.
703
704 Mr. Loosli said you could say that, but the County already has the permits to dig out all
705 of the gravel it can even if they don't crush it. The County is agreeing to all of the
706 restrictions of Appendix J for all of these sites.
707
708 Ms. Stegelmeier asked if they have asked all of the questions they have for the applicant.
709 She then moved to the staff report. She asked Mr. Loosli is they are asking for
710 extraction.
711
712 Mr. Loosli said no manufacturing.
713
714 Ms. Stegelmeier asked if they are just asking to change the map.
715
716 Mr. Loosli explained what they would have done previously on this kind of an
717 application. He then explained what the County is asking for. He said the Commission
718 needs to consider does this land use map change benefit the community. He said he
719 highlighted what they need to look at in the comp plan regarding this application. He
720 said what they are trying to point out is the County is trying to maintain roads at the
721 lowest cost to the taxpayers. He said they need to consider if this meets the public's
722 interest. He said the first thing that needs to be done is the comprehensive plan. He
723 explained if they do amend the comp plan what they have to do next. He said as
724 testimony is given, the commission needs to decide if it is in the best interest of the
725 public.

726
727 Ms. Stegelmeier asked if it is property specific.
728
729 Mr. Loosli said yes. He explained what property they are looking at by the stud mill
730 property. He said all of these are out side of the cities area of impact. He
731
732 Ms. Stegelmeier if there are other parcels that are being added.
733
734 Mr. Loosli said the larger list is the comp plan and the zoning map.
735
736 Ms. Stegelmeier said so there is only one that is not owned by the County.
737
738 Mr. Loosli said that is the second list, and it is all County except for one.
739
740 Ms. Stegelmeier said so the first list includes some.
741
742 Mr. Loosli said this is correct. He said it is currently zoned commercial, but we are
743 requesting it to be moved to industrial zoning.
744
745 Ms. Stegelmeier asked if there are binding agreement for this property, and if the County
746 is buying it.
747
748 Mr. Loosli said the County is not buying the property that only pertains to the rezoning
749 portion.
750
751 Mr. Davis asked why this isn't spot zoning.
752
753 Mr. Loosli said it is spot zoning, but it is permissible spot zoning. He explained this. He
754 said a type one spot zone is permissible if the comp plan supports it.
755
756 Mr. Davis said we have to go through all of this, and this is why we decided not to have
757 the overlay on the manufacturing.
758
759 Mr. Loosli said yes exactly, because this is twice as hard.
760
761 Ms. Stegelmeier opened the public hearing portion of this application, and explained the
762 how the hearing would be run.
763
764 Mr. Loosli read letters into the record (Exhibits K-L).
765
766 Mrs. Jan Neish 472 Idaho Street Ashton, Idaho. She said she understands the need for
767 the County to have gravel for the roads, and she is please that the County is choosing to
768 upgrade to the new code. She said she feels the County is trying to get the crushing
769 grandfathered in. She said that a concern she has is putting in the industrial zone. She
770 asked if the increased industrial zone that would go on the land use map near homes. She
771 said that this is taking this to industrial forever. She said this is beyond the County needs

772 for the gravel pit. She said it is opening doors that we don't want opened. She said she is
773 struck at how this is similar to the application of the Hungry Bear. She explained that
774 this is extending operation from extraction to manufacturing. She said this will have a
775 negative impact on the neighbors. She said the comprehensive plan says they can not
776 negatively impact the community. She thinks the County should put in writing when they
777 are going to crush or put the intent in writing. She said they should choose crushing sites
778 far from homes. She said so not to have a big impact on the neighbors.

779

780 Ms. Stegelmeier asked if there are there any questions.

781

782 Mr. Nichols said the Mrs. Neish said that this is beyond what the County needs; he asked
783 how she knows what the County needs.

784

785 Ms. Neish said she was referring to the industrial zone.

786

787 Mr. Nichols said he just wanted an explanation.

788

789 Ms. Neish said she was referring to the property beyond the County owned properties
790 that will be zones industrial.

791

792 Mr. Nichols said he sees a big difference between the County who is crushing from time
793 to time, as opposed to a private business who will be crushing all of the time to sell for a
794 profit.

795

796 Ms. Neish said maybe this is what needs to be in writing, but some insurance that this is
797 what they will do in the future.

798

799 Mr. Nichols said that if the County sells it, he is sure there would be an adjustment to the
800 agreement.

801

802 Ms. Neish said her point is there is no harm in putting it in writing.

803

804 Mr. Nichols said sometimes it does cause problems.

805

806 Ms. Neish said it is the pure intent to only serve the County's own needs.

807

808 Mr. Davis said that the only thing that is grandfathered is extraction. They are applying
809 for a whole new permit under the 2011 code for the manufacturing.

810

811 Ms. Neish said she agrees.

812

813 Mr. Davis said they can do anything they want up to this point, they are asking for
814 permission to crush.

815

816 Ms. Neish said she isn't sure they can.

817

818 Mr. Davis said the manufacturing is not grandfathered in, but the extraction is.
819
820 Mr. Nichols said that she make the comment that the County is trying to get the
821 manufacturing grandfathered in also.
822
823 Ms. Neish said this is the confusion that is around.
824
825 Mr. Davis said the zone change is only on the exact amount of property.
826
827 Ms. Neish asked if the land use is only on the County's property.
828
829 Ms. Stegelmeier said she will clarify this with Mr. Loosli.
830
831 Mr. Neil Thueson 545 N 6th W St. Anthony. He is representing the City of St. Anthony as
832 the mayor of the city. He said the area he worries about is the stud mill area. He said it is
833 outside of the area of impact for the city but it is really close. He said the thing that
834 concerns him the most is the airport. He said they have a lot of restrictions, and he didn't
835 know if the Department of Aeronautics have been informed regarding this. He talked
836 about being a pilot and having this at the end of a runway. He said that when he was
837 mayor previously they worked with the County to build the runway. He talked about
838 what the airport would like at the end of the runway. He said that a gravel pit or any type
839 of a plant would not be a good idea at that point of the runway. He said when they first
840 built the runway, the stud mill agreed not to stack wood in that area anymore. He said he
841 would hate to see them go in there and dig a hole. He said this concern is for the welfare
842 of the citizens who are flying in and out of this airport.
843
844 Mr. Nichols asked how far is it from the end of the runway to the fence of this property.
845
846 Mr. Thueson said about ten feet.
847
848 Mr. Nichols asked how close the existing hole is from the property line.
849
850 Mr. Thueson said a long ways away. He said it wouldn't interfere with them at all right
851 now the way it is.
852
853 Mr. Davis said it is already established as a gravel pit, so this fact can't be changed.
854 Unless the Department of Aeronautics can overrule this.
855
856 Mr. Thueson said he would hope that this would be taken into consideration. This is also
857 that this is the direction for the City's commercial growth.
858
859 Mr. Nedrow asked if they have talked with the County regarding this.
860
861 Mr. Thueson said no.
862
863 Ms. Stegelmeier asked if there are any more questions.

864
865 Mr. Tom Howell 7262 N 200 E Chester, Idaho. He said he would also like to echo the
866 thanks for the fact that the County is trying, and to thank Mrs. Vik and her crew. He said
867 the plots of land are scattered, he asked if they could concentrate on fewer pits. He said
868 this may be prohibited, but some are closer to others. He said I am not saying you should
869 truck gravel to one place to crush. He said if they zone this industrial this will always be
870 industrial. He said if this land is sold and it would still be industrial zone. He said he
871 isn't sure if it could be done but could they have an end of life on the industrial use zone.
872
873 Ms. Stegelmeier asked if there are any questions.
874
875 Mr. Davis said that a protection is they can not do another use without applying for it.
876
877 Mr. Howell said but the zoning is still there.
878
879 Ms. Stegelmeier asked if the applicant has any rebuttal.
880
881 Mrs. Vik said there have been good points brought up tonight. She said they do want to
882 be good neighbors. She said the good thing is they will only be crushing for a few weeks
883 at a time, and not all of the pits will be crushed at each year. She said they do have more
884 sites than this and they did try to reduce the number of sites. She then pointed out to the
885 mayor that they hadn't looked at the runway. She said they will look into this.
886
887 Mr. Davis asked if the existing airport overlay is already there.
888
889 Mr. Newkirk said yes this is already there.
890
891 Ms. Stegelmeier closed the public comment portion of the hearing.
892
893 Mr. Nedrow asked what the process would be at the end of the life in the industrial zone.
894
895 Mr. Loosli said it would have to be unzoned. He explained the zoning ordinance. He
896 said that some of the legal council said lets just do it and let them sue us. He said that if
897 anyone should get a free pass, which we have been accused of, it should be the County.
898 He said the reason they have added the Taylor Chevrolet spot is because an auto
899 dealership lot needs to be industrial because of the lights.
900
901 Ms. Stegelmeier asked if part of the zoning change if there are parcels that do not go
902 along with the extraction.
903
904 Mr. Loosli said yes it is part of the zone change only. He explained why they added the
905 property to the rezoning.
906
907 Mr. Nichols asked if they really have to change zoning since it is a temporary business.
908
909 Mr. Loosli said no, they would just have to amend the ordinance.

910

911 Mr. Nichols said that seems simpler.

912

913 Mr. Loosli said this is an issue where we had a purpose in mind and maybe we had some
914 blinders on. He explained what he meant by this. He said the people don't feel we have
915 solved the problem. He explained what they are doing. He said the industrial zone lives
916 beyond this need, but he will talk to legal counsel and see if they can put something in the
917 deed regarding this.

918

919 Mr. Davis said what about reclamation, maybe an industrial business may be good, but
920 not in all zones.

921

922 Mr. Loosli said yes in some spots.

923

924 Mr. Davis said we have to go by the new code, and we will have something better than
925 what we have right now.

926

927 Mr. Loosli explained what the Board said regarding this application. He stated that when
928 a private applicant comes in the County can say that we did the same process.

929

930 **Mr. Nichols moved to approve to recommendation to amend the preferred**
931 **land use map by resolution to the Board, a recommendation to amend the**
932 **zoning map to the Board by ordinance, and pending that approval the**
933 **Commission approves the permits on County property. Furthermore, the**
934 **Fremont County Public Works will sit down with the City of St. Anthony**
935 **regarding the airport. Mr. Davis seconded. All in favor, motion carried.**

936

937 Ms. Stegelmeier said there would be a short break.

938

939

5.3 Public Hearing – Development Code Amendment - Fremont County BOCC

940 Ms. Stegelmeier called the meeting back to order at 8:59 p.m., and moved to the public
941 hearing on amending the Development Code. She explained who the applicant is. She
942 asked if proper notice has been given.

943

944 Mr. Loosli said yes and explained where. He explained why they are hearing this. He
945 explained why this is more prevalent in the Island Park area. He explained what
946 Appendix W is and why the County can not enforce this Appendix. He said tonight's
947 hearing is for a request to approve to eliminate Appendix W.

948

949 Mr. Nichols asked if they eliminate Appendix W what will this do for the rental cabins in
950 Island Park.

951

952 Mr. Loosli said it doesn't affect Appendix I which is rental cabins, and the Health
953 Department is willing to do those inspections.

954

955 Mr. Davis asked a person purchasing the property can see what the County has on record.
956 Mr. Loosli said one of the thoughts they are working on is they have to produce a permit.
957 He explained that this doesn't deal with underperforming permitted systems. He also
958 said that there are many properties without a permit at all. He said we can at least get
959 there.
960
961 Mr. Davis said whatever is in the County records must be brought to the table.
962
963 Ms. Stegelmeier said this is a hard thing to do because people don't check.
964
965 Mr. Loosli said the challenge is we would like to protect the interest of our public. He
966 gave examples of this. He said they didn't want to make this expensive.
967
968 Mr. Nichols said the point of this is whether to keep or delete Appendix W. He said lets
969 not try to fix it tonight.
970
971 Mr. Nedrow asked if the Board doesn't repel this, does it tie our hands.
972
973 Mr. Loosli said a private party sues us to abide by our code, or pay us damages.
974
975 Ms. Stegelmeier opened it up for public comment.
976
977 Mrs. Judy Hobbs 625 Park Street St. Anthony, Idaho. She said she understands that the
978 County doesn't want to be sued, but as a realtor she doesn't want to be sued either. They
979 do have these inspections done on every home she sells. She said there needs to be some
980 rules to protect the people buying the home. She said she talked to Lamar at Parker and
981 he does a full plumbing and septic inspection for us.
982
983 Mr. Davis asked if he has some way to determine the size of the septic tank and drain
984 field, probably not the drain field but the septic tank.
985
986 Mrs. Hobbs said she is speaking for someone else but she believes so.
987
988 Mr. Nichols asked if it is planned ahead of time will the mortgage company build in the
989 fee to have this done.
990
991 Mrs. Hobbs she explained how this works. She said she hates to see the County back
992 away from this problem, maybe change the effective date on this to cover the County.
993 She stated that regulation needs a purpose. She said that her policy will stay the same.
994
995 Mr. Davis asked what advice she would give them in writing a new code.
996
997 Mrs. Hobbs said that the private sector could step in where the Health Department can't.
998
999 Mr. Loosli the issue is the County is not backing off they are just may need to have a
1000 committee to look at this.

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Mrs. Hobbs said it would be good to have a committee that will make some recommendations.

Ms. Jan Neish 472 Idaho Ashton, Idaho said this is an excellent thing and is upset it has to go away. She said she is happy it isn't really going away, but she wants to be on record that this is a good idea.

Mr. Jim Hobbs 625 Park Street representing the St. Anthony Planning and Zoning. He said this affects them directly. He said they are greatly concerned. He said anything that the City can do to help keep this they will help. He said they are very supportive and also concerned. He said they understand why this needs to be done right now.

Mr. Loosli said that the Health Department has budget constraints just like everyone. He understands that they are not intentionally not helping us.

Ms. Stegelmeier closed the public hearing. She asked about changing the effective date.

Mr. Loosli said just let that go. He appreciates that thought there is just too much that would go along with that.

Mr. Nichols moved to accept application 11-082 to delete Appendix W as requested by the Board of County Commissioners, and to recommend to the Board of County Commissioners to put together a committee to try and improve this situation in the future. Mr. Davis seconded. All in favor, motion carried.

6. Other Business

6.1 Appreciation Presentation

Mr. Loosli gave a plaque to Mr. John Nedrow and told him how grateful the Board is to him for his service.

Meeting adjourned at 9:23 p.m. until the January 23, 2012.