

**Fremont County Planning
& Zoning Commission
Minutes
May 19, 2008
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular session on May 19, 2008. They met in the County Annex Building. **Members in attendance were:** Kirk Mackert (Chairman), John Nedrow (Vice-Chairman), Larry Singleton, Joette Lookabaugh, Cindy Miller, Steve Pinther, Ron Kynaston, and Vance Derricott.

Staff and others present: Kurt Hibbert (Administrator), Joshua Chase (Planner I), and Letta Laux (P&Z Secretary).

1. Welcome

Mr. Mackert started the meeting at 5:59pm and welcomed Kurt Hibbert as the new administrator for Fremont County.

2. Minutes

Mr. Mackert asked the P&Z to look over the minutes from April 7, April 10, April 17, and April 21.

MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM APRIL 7, 2008 MR. DERRICOT SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM APRIL 10, 2008 MR. NEDROW SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM APRIL 17, 2008 MR. KYNASTON SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Pinther stated he wanted to note that during the meeting on April 21, he objected twice to the testimony given by Mr. Nedrow during the sketch plan for One Source Partnership. He believes he said that it was inappropriate for testimony to be given during the sketch plan.

MR. DERRICOT MOTIONED TO ACCEPT THE MINUTES FROM APRIL 21, 2008 AS AMENDED BY MR. PINTHER.

**MRS. LOOKABAUGH SECONDED. VOTE TAKEN: ALL
IN FAVOR. MOTION PASSED.**

Mr. Mackert stated the P&Z has made a new policy that no new business would be started after 10pm.

**Final Plat-The Shadows at Shadow Ridge, Phase II-Wilderness Group LLC.,
Developer-Ray Finch, Surveyor**

Mr. Chase stated this report was done by Lisa Benson. There were a couple of errors in the memo. One was that this is a final plat and not a preliminary plat showing 79 residential lots. He read from the report. The finding the commission needs to make is that this phase needs to stand on its own. There has been a modification in lot arrangement to create a wildlife corridor, but the density remains the same.

Mr. Mackert stated to clarify that this is at Steven's Ranch.

Mr. Nedrow asked if they have a copy of the agreement that the developer made with Fremont County in regard to the funding for the Fish Creek Road.

Mr. Derricott asked Mr. Chase if he was comfortable with the changes they made for the wildlife corridor.

Mr. Chase stated he did approve.

Mr. Pinther stated he wanted to clarify that there were no other substantial changes that were made from when the P&Z commission first approved it.

Charles Homer-attorney stated the development agreement had requirements that they had to meet all the conditions of approval in the permit and they had to make all the improvements that Fremont County Development Code (FCDC) requires. The development agreement required that they post letters of credit and those are on record. The developer agreed to provide \$75,000 to the fire department as a match to use whenever they are prepared to build another fire station. That letter of credit has been given to the fire district and there is an expiration date for a few years on that. The developer was also required to provide \$500,000 to Fremont County to be used for the improvement of Fish Creek Road over a specified period of time. They have paid \$400,000 as of date. They do not know if the county has used any of that money as they have not seen any of the records. The money was only to be used for improvements on the Fish Creek Road. They also agreed they would match funds spent by the county up to \$100,000 after the \$400,000 had been spent. They have paid early and are waiting on the county to spend that money before they will match the additional amount.

Mr. Derricott questioned if they agreed to the \$600,000?

Mr. Homer stated they agreed to the \$500,000 with \$400,000 having already been paid and the \$100,000 after the County spends the \$400,000. They also agreed to pay \$75,000 for the Fire District.

Mr. Pinther asked if they knew about the date when the agreement expires.

Mr. Homer stated on the letter of credit, the bank only authorizes a year at a time, and they are required to renew them. They have renewed them recently. The money for the Fire District does expire in 5 or 6 years and until then, they will keep it renewed.

Mr. Singleton stated that the county is making interest on their money at this point.

Mr. Homer stated the county will have to show that they have used that money for Fish Creek Road improvements before they will provide the matching funds.

Mrs. Miller asked if they could explain the agreement with the Forest Service about the road they are using for emergency access.

Mr. Mike Vickers explained the road easement.

Mr. Hibbert stated he would verify that Mr. Vickers did bring in the letter of credit and a check for \$300,000. The county is in possession of the latest guarantee.

MR. DERRICOT MOTIONED TO APPROVE THE SHADOWS AT SHADOW RIDGE, PHASE II FINAL PLAT WITH THE CONDITIONS OF APPROVAL INCLUDED IN THE PACKET. MR. SINGLETON SECONDED. VOTE TAKEN: THOSE IN FAVOR: ALL IN FAVOR. MOTION PASSED.

4. Final Plat-Big Springs Acres-Vern Harris, Developer and Richard Byrem, Surveyor

Mr. Chase stated there was some question about setbacks but the plat note does show setbacks including a substantial setback for the spray field.

Mr. Nedrow questioned if the developer had approached the Fremont County Commissioners about an agreement of sorts?

Mr. Byrem stated there was an agreement and Fremont County requested that there be a 300ft setback or buffer between the spray field and any buildings on this private land. The agreement has been executed and the county made it

mandatory. The developer agreed to it so long as he got something in exchange for it. The agreement is shown on the plat.

Mr. Mackert stated the 300ft was a requirement by the DEQ.

Mr. Nedrow questioned if there was a different density requirement because they are under the one for 2 ½ per acre.

Mr. Chase stated the density is 1 per 2½ acres. He was not present at the preliminary plat. There could have been density bonuses added.

Mr. Byrem stated he is sure that they comply with the density requirements as they have central sewer and water.

Mr. Chase stated his understanding is that the base density requirement is for less, but with the positive score, they can have up to a maximum of 1 per 2 acres.

Mr. Nedrow stated that sounds familiar as they were hooking up with the Island Park sewer district.

MR. KYNASTON MOTIONED TO APPROVE THE FINAL PLAT AT BIG SPRINGS ACRES WITH THE CONDITIONS OF APPROVAL LISTED IN THE PACKET. MR. DERRICOT SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

5. Public Hearing-Hebdon Mini Storage-Danny Hebdon, Developer

Mr. Mackert asked if all the notices have been properly posted and if there was any conflict of interest. Mr. Chase stated the notices were posted, and there were no conflicts with any members of the board.

Mr. Chase read from the report and stated there has been a change of use from existing agricultural dry grazing. This area is not specifically designated as commercial use area. However, commercial and industrial uses are discussed in the Large Scale Development Study (LSDS). There were a couple of concerns they found after they sent out the packets. He has discussed them with Mr. Hibbert. One concern is with the parking; it is not clearly identified on the drawing and he did not feel he had basis for scoring it. There is one other item concerning a handout from Fremont-Madison Irrigation District. He read the letter from Fremont-Madison Irrigation District dated May 14, 2008 into the record. The County did receive a checklist from the applicant that showed several of the items on that checklist were not applicable. He has spoken with Dale Swensen and his only concern was that the easements need to be shown. Mr. Chase made the recommendation to the P&Z that they clarify with the developer what those

easements are and where they are on the drawing and make that as a condition of approval.

Mr. Hibbert stated the applicant would like to phase this program and will present the master plan tonight, but the build out will take several years. The office space would require different codes to be applied. He is not to that point yet and he does need to be questioned about the build out plan and the time table. They are looking at a master plan right now.

Mr. Mackert stated to clarify that they are looking at a Phase I approval.

Mr. Pinther questioned if they are going to pave it.

Mr. Hibbert stated no, they would be paving where the office buildings are.

Mr. Pinther questioned the score sheet and asked if they evaluated the buffering.

Mr. Chase stated there are existing residential uses on the west side of the property and they did not show buffering; that is why they gave him a score of -5.

Mr. Pinther asked for clarification on what they can require from the developer for visual buffering.

Mr. Hibbert stated they have talked with the developer and he is aware that this is a visually sensitive area and wants to work with the P&Z on ways to mitigate that.

Mr. Chase stated they can list that as a condition of approval.

Mr. Pinther stated he had one other question regarding the checklist from Fremont-Madison because he is opposed to checklists. Are they to impose the checklist requirement on the developer?

Mr. Chase stated they have a standard to protect irrigation and they can impose that from the FCDC. They have made an effort to work with the Fremont-Madison Irrigation District; there are just a few questions that need to be answered.

Mr. Hibbert stated they need to comply with State Statute that will protect irrigation. The letter is a coordination letter and not a mandate letter. This is a coordination effort to make sure that the plats factor in the issues that could become a problem. The things on the list from Fremont-Madison do not impose anything on the developer; it is very reasonable.

Mr. Pinther stated they could pass with the condition that they comply with State Law and not with Fremont-Madison Irrigation.

Mr. Mackert stated that is the same thing.

Danny Hebdon, Developer stated they did meet with the canal company and walked the property with them. Their biggest concern was making sure they have a 50ft setback and nothing will encroach on that. He showed the plan for buffering on the map.

Mr. Pinther asked if he looked at buffering as listed in appendix K. This is a gateway to St. Anthony, and his concern is that they have not addressed this in Fremont County. They do have the requirement listed here and it would not take much to accomplish that.

Mr. Hebdon stated that he has talked with Mr. Hibbard about the buffering and he feels that the more attractive the business is from the highway, the better it will be for the business. He feels that he is on the same page with Fremont County.

Mr. Pinther clarified that they were going to burn it with vegetation and also use colored metal. He also asked about the signage.

Mr. Hebdon stated he has not looked at the signage and will comply with whatever the county standards require.

Mr. Pinther stated right now the scoring is -1 and he would like some assurance that he will buffer it.

Mr. Hebdon asked what they would like to see.

Mr. Pinther stated he would like to see that the buildings are less visible from the highway. He wants to see shrubs and trees.

Mrs. Lookabaugh stated she would like to see a rendering of what they are planning.

Mr. Hebdon showed a picture of what they are planning, and stated they will have trees planted in front of the fence.

Mr. Hibbert asked the developer to explain the phasing and stated that will address a lot of the concerns.

Mr. Hebdon stated the storage is what they are going to do first. He was advised by Mr. Patlovich to show the other office buildings now even though he is not planning on doing that now.

Mr. Mackert asked for clarification of what Phase I would look like.

Mr. Hebdon passed out a handout showing the phasing sequence. He has been frustrated trying to explain what his intentions are. The storage phasing will probably take 3-4 years depending on demand.

Mr. Derricott questioned where the parking will be?

Mr. Hibbert stated they do not have commercial design standards at this level and they should work on developing that. He did discuss with Mr. Hebdon that the retail frontages are what makes that property valuable to him and the county. They will work on each phase as they do this over time; it provides flexibility on working on this project.

Mr. Hebdon stated this storage could be a 3 year process.

Mr. Derricott questioned if they were going to buffer the area that is visible from the residential areas.

Mr. Hebdon stated they did have the plan to fence that. He explained where the fence and the burn will be.

Mr. Mackert stated it would be difficult to buffer that area because they can not block the emergency access.

Mr. Hebdon stated they can not block that emergency access in any way, but they can put in a fence.

Mr. Mackert questioned the height on the buildings.

Mr. Hebdon stated they are 18ft. and 14 ft.

Mrs. Miller questioned if they were planning on doing a fence around the entire area this year.

Mr. Hebdon stated there will not be a fence on the back side where the canal is. The east side was going to be phased later, but they would be open to that option.

Mr. Mackert asked if the P&Z understood and was clear on the phasing of this project.

Mrs. Miller questioned if the well was to be done in the first phase.

Mr. Hebdon stated it is. The septic would be further down 2-3 years when they do the buildings.

Mr. Mackert asked what the fire fighting water supply is.

Mr. Hebdon stated Forsgren did the study on that and they were not sure exactly what the supply is.

Mr. Mackert stated in the study from Forsgren they indicated the well was for culinary use. He questioned if the lighting would cause problems with glare.

Mr. Hebdon stated the lighting will be facing away from the homes and they will have entry lights and motion detected lighting on the rest of the buildings. He is willing to work with whatever the P&Z wants to see.

Mr. Pinther questioned if they would have a chance to look at the buffering at each phase.

Mr. Hebdon stated the biggest thing he has noticed with other storage areas is that they are not safe or visually attractive. They want to create the opposite effect. They want it to be secure and visually attractive.

Mr. Pinther stated he brings this up because there are no design standards in the county, but they do have buffering requirements. It irritates him and he wants it to change. He also agrees that Mr. Hebdon has been very cooperative, and he appreciated that. They have the potential to show what can be done.

Mr. Mackert stated that study shows that they are in the proximity of the fire department and do not need wells for fire fighting purposes. The developer does have a score of +1 and not a -1 as Mr. Pinther stated earlier.

Mr. Chase stated there was a question if they were providing water for fire fighting and that is what he looked at in the scoring.

Mr. Hebdon stated Forsgren had stated they had to follow the narrative.

Mr. Mackert asked if they would consider doing the buffering in Phase I.

Mr. Hebdon stated they plan on doing the buffering at Phase I.

Mr. Pinther stated he does have a score of -1. He discussed the score sheet.

Mr. Mackert stated they are talking about the cumulative score. He does have a positive cumulative score.

Lowell Young-608 N 2600 E St. Anthony, Id stated the one problem he has with the property is the water out there. The water does not drain well from the culvert. The water has been a problem since Mr. Hathaway shrunk the pipe down and the culverts fill up with debris and sediment. They can fix the problem if they take the drain and dump it into the canal. He is looking forward to the project coming in and thinks it is a good plan; he just wanted to be able to bring up the problem now.

Owen McLaughlin- Eastern Idaho Public Health District stated they dug a test hole and there is sub water. Down the road when they are ready for a septic system, they should be ok.

Mr. Derricott questioned Mr. McLaughlin about the committee that is studying the septic systems in the area. Asked if they are allowing 2½ per acre as recommended by the DEQ?

Mr. McLaughlin stated there is no requirement for that yet and they do not have minimum lot sizes. He was at that meeting, and he spoke with the engineer and there is not a requirement for that.

Mr. Derricott questioned if they have a second area in case there is a failure.

Mr. McLaughlin stated there has to be two areas of the same size in case of failure.

Mr. Mackert stated they do not know what they are planning for in the future.

Mr. Hebdon stated he did have an excavator come out and they will replace the culvert out there.

Mr. Chase asked for clarification if they are requesting approval on an individual phase or the whole project tonight.

Mr. Hebdon stated they would like to be approved for Phase I tonight.

Mr. Hibbert stated that is gracious on the developer's part. He is willing to submit himself to the process for each phase which is beneficial to him and the County, allowing for adjustments as needed.

Mr. Mackert closed the public hearing.

Mr. Pinther stated he does not have a problem approving this; the developer has been very cooperative.

Mrs. Miller stated she would encourage them to put more trees there.

Mr. Pinther stated they are not asking for an expensive landscaping project, just to make it look nice.

Mr. Mackert stated they did discuss requesting clarification on the easement from the Irrigation Company.

**MR. PINTHER MOTIONED TO APPROVE PHASE I-MINI
HEBDON STORAGE UNITS WITH THE CONDITIONS
THAT HE COMPLIES WITH STATE LAW FOR THE
IRRIGATION CANAL AND COMPLIES WITH THE
BUFFERING ORDINANCE AND OTHER CONDITIONS
LISTED IN THE PACKET. MRS. MILLER SECONDED.
VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

6. Public Hearing-Parker Reef-Steve Sandgren, Developer-Adams Surveying, Kendall Adams

Mr. Mackert asked if the proper notices have been posted and if there were any conflicts of interest with any members of the P&Z. There were no conflicts and the notices were posted.

Mr. Chase read from the report. He stated the two issues are that there is an existing BLM easement on the property. They did receive a letter from the BLM indicating that they will work with the developer in relocating that easement. The other concern was raised by the IDFG; they received a letter from the Forest Service with a map showing the Egin-Hamer Human Entry Closure Area. He read and discussed Ordinance 97-06. This ordinance does not address residential development.

Mr. Hibbert stated he talked with a person from BLM today and the person had stated that they did not think about this back then. They have several privately held parcels in that area. The intent of this ordinance does not get it done. They are concerned with encumbrance on future development out there. The P&Z recognized the issues out there with regulatory takings issues. The land use committee has been discussing this issue as well. They want to preserve the integrity and intent of the ordinance and this does need to be discussed in the future.

Mr. Mackert asked if BLM gave any comments.

Mr. Hibbert stated the responsibility of the P&Z is to go forward in good faith implementing and applying the FCDC until it is changed. They can not be the jury; they have to implement and apply the FCDC, but it has been entered into the record as having been discussed.

Mr. Pinther stated the FCDC does not reference this; it is an ordinance and they have to follow the code.

Mr. Chase stated FCDC does reference easements and they can address that as a condition of approval.

Mr. Derricott asked for clarification where the development is located.

Mr. Chase explained the location on the map.

Group discussed the map.

Mr. Hibbert stated that there are other subdivisions in the Dubois area that have been developed in the closure area.

Mr. Chase stated that Clark County did not participate in the ordinance 97-06.

Mr. Mackert opened the public hearing.

Kendall Adams-253 Fort Henry Loop Rexburg, ID (Fremont County) stated he did meet with BLM and they were willing to do a reciprocal or a vacation of the existing easement after the road is in place. He explained where they will have the road on the map and that it will be built to county standards.

Mrs. Miller asked if the BLM easement is a stock drive. She wants them to clarify that it is not a stock drive.

Mr. Adams stated he has a copy of the patent if that would help clarify. There is no mention of cattle.

Mr. Singleton stated that is a main trail there and he has a concern where the road would be moved.

Mr. Adams explained on the map where the area is fenced. They are proposing to move the access to the top.

Mr. Singleton asked where the cattle and sheep would go through. He asked if BLM is ok with that. It is a natural trail.

Mr. Adams stated BLM never mentioned cattle, only access.

Mrs. Miller stated it is historic that when the weather changes the cattle decide to start moving on their own. There will be livestock on that road and suggested that they put that in the plat so the residents know that there will be livestock on the road or it will have to be fenced.

Mr. Adams stated this is something that has not been mentioned to him before.

Mr. Pinther stated they are going to require that they have wildlife-approved fencing.

Mr. Adams stated he does not think that there is a plan for a fence, but it could change if the cattle do come through there.

Mr. Nedrow stated this is an open range and asked what that means.

Mrs. Miller stated in open range, the cattle have the right-of-way. She questioned if the developer had considered clustering.

Mr. Adams stated the developer is from California and he wants wide open spaces.

Mr. Pinther stated that they will be required to have a signed resource agreement that the residents will not object to agriculture operations. He asked for clarification on the map where the road is.

Group discussed the roads and the map.

Mr. Chase stated they have submitted a new drawing after the packet that shows that road.

Mr. Pinther questioned if they are under the new Appendix B or the old Appendix B standards.

Mr. Adams stated they are under the old Appendix B standards.

Mr. Mackert stated they are missing a second page from the letter from IDFG.

Mr. Hibbert made copies of that letter and handed them out.

Mr. Mackert stated to note that the entire letter from IDFG has been entered into the record.

Mr. Nedrow questioned if the BLM trail easement has been taken care of.

Mr. Adams stated the letter from BLM seemed to agree to that as well.

Mrs. Miller questioned if they plan to fence both sides of the roads.

Mr. Adams stated when people have cattle coming on their property, they will have to do something. He assumed a lot of the residents will be accessing the dunes and will be gone by the time the cattle are moving in the fall.

Mr. Mackert questioned the fire fighting concerns.

Mr. Adams stated he talked with the Fire Commissioner and they only issue that came up was that this was an old dump site and there could be a potential with HAZMAT.

Mrs. Miller stated she is concerned with the size of these lots and that the people might not realize that they can only water up to ½ acre.

Mr. Adams stated that they will address that in the plat notes or the CC&R's.

Mr. Pinther questioned if there were any slopes on this land.

Mr. Adams stated there is nothing over 15%.

Mr. Mackert stated they have asked in the past to include the letter from IDFG and that it is “buyers beware”. He asked Mr. Hibbert to look it over and see if there are any concerns.

Mr. Hibbert stated that most of the items in the letter from IDFG are common sense. Some of those things could be noted on the plat and also in the CC&R’s or in a development agreement with the county. The P&Z could recommend that these issues are addressed.

Mr. Chase stated there had been some discussion about notifying the future owners that this was a dump site.

Mr. Hibbert stated this has been cleared from hazardous waste and this should not be an issue. However, if the applicant has any information from the original land swaps of environmental disclosures, that should be passed along.

Mr. Adams stated the entire report from BLM was included in the application.

Mr. Mackert stated there could be concerns with excavation and the possible need for extensive removal and disposal.

Mr. Adams stated when they dug 6 or 8 test holes they did come across limited trash, but nothing major.

Mr. Mackert asked for public comments.

Lola Kaye Mace-699 N 2000 E St. Anthony, ID stated she lives one mile from this site. This was a local garbage dump site. In the 1960’s when DDT and other chemicals were banned, it was dumped in that site, and there are barrels of DDT buried in there. In June of 1976 after the flood, hundreds of carcasses from the flood were buried and covered with lime and soil. There would be serious concerns for wells in that area. This is a major wildlife habitat and migration area and there is no place for these animals if homes and recreation replace their habitat. This would be a very serious long-term, adverse affect on nature. This land is very important for moose, elk and deer, and they have been negatively affected by rail cars that have formed a fence all winter long. Do not allow development and the main concern is for the people and the hazards that are there.

Chan Atchley – 4077 E 1300 N Ashton, ID stated he signed up because he was under the impression that this development was under the Loosli Amendment.

Mr. Chase stated this site was determined not to be productive crop land.

Mr. Atchley stated the concern is for the impact that the development will have on the wildlife and their habitat in the future. The concern is for the winter range and that is the limiting factor. If they do take away the winter ranges, they could suffer extreme effects on the wildlife population in the county. He knows that the

code is not clear on how they can deal with these issues, but it is something to look at as they go forward for the future. There is a big problem coming to them in the future.

Mr. Chase this was processed under the LESA Amendment.

Mr. Atchley stated this development would not have needed to use the Loosli Amendment and he will hold his comments for a development that specifically needed to use the Loosli Amendment for approval.

Mr. McLaughlin stated he did 7 or 8 test holes and the ground is a sandy loam and is suitable for septic systems.

Mr. Mackert asked if there was any rebuttal; there was none. He closed the public hearing and leave it up to the P&Z for deliberation.

Mrs. Miller stated she is concerned that this will end up being another junk lot because of the nature of the grass. They will end up with a 2½ acre weed patch.

Mrs. Lookabaugh stated she wonders how thorough the evaluation for the hazardous waste was. She is very concerned about what could be buried out there and if there are barrels of DDT.

Mr. Pinther stated he has gone through the code looking for a handle that they could use and read from chapter VI.P (Hazardous Substance).

Mr. Hibbert asked if there was any documentation proving that claim. If there is, it should have been included in the Phase I Environmental study. Generally, property that has perceived contamination let alone documented contamination is subject to ground spill testing especially if it was federally owned. The EPA would be very interested in this. There could be a lot of claims and Fremont County should have records where the disposal sites for the carcasses are. Madison County has very distinct recorded places where carcasses were buried after the flood. Regulatory agencies should have good documentation about that. He would ask for documentation for support of those claims.

Mr. Pinther read from the code under chapter VI.P. Stated he feels that they have received reasonable information that would be subject to this act.

Mr. Hibbert stated they would need legal interpretation on whether or not a citizen's comment could be considered reasonable information. Documentation from the agencies would be needed.

Mr. Mackert stated they looked at this at the sketch plan and questioned if there was a final comment in the study from the EPA that said there were no concerns with this site. There was a lot of sampling and a lot of analysis done on that site. He would like clarification on that document from the EPA.

Mr. Pinther questioned if they can close the public hearing and still be able to look at that information at a worksession.

Mr. Hibbert stated there are two ways of doing this: they could continue the public hearing and contact the regulatory agencies bringing up testimonial concerns. Or they could approve the application with the pending evaluation giving the land a clean bill of health from the regulatory agencies. He would recommend the second option so as not to delay in good faith, and if there is a concern it will be discovered. They could run a test well to see if there were any concerns for contamination, knowing that this entire subdivision is contingent on a clean bill of health. That way, it would not prejudice the applicant or the citizen with concerns. The key thing is that the P&Z is comfortable that the public health, safety, and welfare are taken care of.

Mr. Pinther questioned if it is subject to the reporting requirements of the 1986 ruling.

Mr. Hibbert stated they have no way of knowing that right now because it has not been designated as a site, it would be in public record if it was. They do need to follow up on the investigation.

Mrs. Lookabaugh stated they should follow option 2 made by the administrator as there is no substantiating evidence.

Mr. Mackert stated he would agree and this does need to be looked at. They did get a lot of documentation and they need to investigate this further. They have the easement situation, the DEQ analysis, and the IDFG's requirements to address.

Mr. Pinther stated he does not see much wrong with this but he questioned the scoring that Mr. Chase had given them (0) and the P&Z had given them the score of (+3) and that it is contributed to the slopes. He asked for clarification.

Mr. Chase stated the scoring from the P&Z should not be there; it was an error.

Mr. Mackert questioned Mr. Hibbert about the wording on the motion.

Mrs. Lookabaugh asked if they need to provide the testimonial evidence.

Mr. Hibbert stated the person who gave the testimony would need to provide whatever documentation they have to the DEQ so they can do an investigation.

Mr. Mackert asked what the conclusions of the report from the EPA were.

Mr. Chase read from that report, "all known hazardous materials were removed and no additional hazardous materials are known to exist on the land in question." He stated there was also a checklist that identifies all types of potential contaminants, and there is not anything they found that shows concern.

Mr. Hibbert stated he would recommend that the staff meets with the DEQ and submits this record as a starting point. He would encourage the applicant or any of the public that knows anything pertaining to the testimony tonight would submit that directly with the DEQ in the Idaho Falls office so that can be handled quickly. The DEQ is very responsive to issues pertaining to public health and safety and should respond quickly.

Mrs. Mace stated there should be records in the County minutes that there were carcasses buried out there. Mr. James Siddoway was the chairman of the Commission at the time.

Mr. Mackert asked her to submit that information to the DEQ.

MR. NEDROW MOTIONED TO ACCEPT THE PARKER REEF PROPOSAL WITH THESE CONDITIONS: THEY SOLVE THE BLM EASEMENT ISSUE, THEY INCORPORATE THE 7 POINTS FROM THE IDFG LETTER AS REQUIREMENTS, THAT THEY RECEIVE A LETTER FROM DEQ GIVING THE LAND A CLEAN BILL OF HEALTH WITHIN 60 DAYS, AND THEY MEET THE ADDITIONAL CONDITIONS AS LISTED IN THE PACKET. MR. KYNASTON SECONDED.

Mr. Derricott stated that in a meeting with IDFG they said they can make recommendations but not enforce them. He would like to have a work session to figure out how they can get more teeth into this so they can protect the wildlife habitat. They are taking 40 acres out of wildlife habitat.

Mr. Hibbert stated that Mr. Nedrow's motion did just that by making the IDFG letter a requirement and not just a suggestion.

VOTE TAKEN: THOSE OPPOSED: DERRICOTT AND MILLER. THOSE IN FAVOR: SINGLETON, LOOKABAUGH, PINTHER, NEDROW, KYNASTON. MOTION PASSED.

7. Public Hearing-Hares Ear Preserve-Keith Kraus, Developer-Adams Surveying, Kendall Adams

Mr. Mackert asked if the proper notices have been posted and if there was any conflict of interest. There were no conflicts and the notices were posted.

Mr. Chase read from the report. The sketch plan showed a loop at the end of the road and has been moved. The P&Z needs to find whether this project meets the standards for access which is an absolute standard.

Mr. Pinther questioned if there is only one access.

Mr. Chase explained the access on the map and stated there is a relative standard that requires them to minimize accesses from county roads, but they still need two points of ingress/egress.

Mr. Pinther questioned the road details.

Mr. Chase explained the road on the map and stated they are showing that road to be lot 8.

Mr. Pinther questioned how long the road is from the county road to lot 6.

Mr. Chase stated it is 780 ft., and the FCDC requires the maximum length for a cul-de-sac to be 880ft.

Mr. Pinther questioned if there are any problems that Mr. Chase sees.

Mr. Chase stated he does not see the two points of ingress/egress.

Mr. Hibbert stated that this seems to not meet the absolute standard. He can see several ways to comply with that standard. The loop that is proposed here exceeds the grade for the fire trucks to be able to drive on. The loop is not an option. It is up to the developer to comply with the standard.

Mr. Mackert stated this has been changed since the sketch plan.

Mr. Pinther stated that lot 7 will not be built on.

Mr. Chase stated they are showing storage sheds and he noted on the report that these are not exempt from setbacks and other floodplain requirements.

Mr. Mackert opened the public hearing.

Kendall Adams-253 Fort Henry Loop Rexburg, ID (Fremont County) and Keith Kraus 384 S ST. Driggs, ID

Mr. Kraus stated that road is not intended to be a road; it is an easement. The road ends at the corner of lot 5 and 6 and it was misdrawn on the map.

Mr. Adams stated the cul-de-sac requires a 50ft. radius and there is plenty of room to put in a turn-around.

Mr. Kraus showed a photograph of the ground that is shown as a road, but is not a road.

Mr. Adams explained the road on the map.

Mr. Kraus stated the goal is to keep the rural quality to the area and to keep the roads to a minimum so as not to impede on the wild life or the agricultural use.

Mr. Pinther questioned what their intention with lot 7 is because they show it as open space, and also have storage sheds proposed.

Mr. Mackert stated it shows wildlife migration, river, and open space on the map.

Mr. Hibbert stated they can put boat houses on that lot depending on the CC&R's.

Mr. Kraus stated the original intention for lot 7 was for a conservation easement, but it is not big enough. They do not want to have residential homes on it.

Mr. Pinther questioned if they can still give them credit for open space.

Mr. Hibbert stated they can and that is their intention on the plat and it will be designated on the final plat.

Mr. Pinther questioned the road and if there is a 75 ft. easement.

Mr. Adams stated that is for public parking so they can access the river on foot.

Mr. Pinther questioned if they were going to dedicate that road to the public and if they were going to keep the ownership of it.

Mr. Adams stated yes.

Mr. Mackert stated there would be a private drive.

Mr. Pinther stated the FCDC requires 880ft.

Mr. Hibbert stated the two points of access is an absolute standard and the P&Z needs to make that decision.

Mrs. Miller questioned how they propose to access lots 1 and 2.

Mr. Adams stated they would access them on the lot line between 1 and 2.

Mrs. Miller asked if there was something in FCDC that indicates how far apart the driveways have to be.

Mr. Chase stated it just says how the accesses have to be minimized.

Mr. Hibbert stated the fewer the better for safety reasons.

Mr. Miller asked if it would be better to have one drive off the county road that accesses these lots.

Mr. Hibbert stated normally the FCDC would require two accesses. The applicant is trying to maintain the rural nature of this area and loop roads do create an urban feel. The P&Z need to keep that in mind. He was concerned about the two lots not having access, until he realized they could share the access.

Mrs. Miller questioned the building envelopes.

Group discussed the building lots as shown on the maps.

Mr. Kraus stated they did protect the wildlife corridor.

Mr. Derricott questioned government lot 6?

Mr. Adams stated that was from the original survey and the original description.

Mr. Pinther stated they are aware of the standard for two points of access and questioned why they think they can have approval when they do not have two points of access.

Mr. Kraus stated there are only 4 lots that need to be accessed, and because they want to keep the property as rural as possible. The road going to the river is not an option and in order to have another road, it would have to cut right through the lots. No one wants that.

Mr. Pinther stated you would have to have one lot that does not have river frontage.

Mr. Kraus stated lot 7 is supposed to be wildlife migration and the closer they get to the river, the more impact there will be.

Mr. Adams read FCDC VII.2 Access and stated the FCDC does not say that the ingress/egress roads have to connect.

Mr. Nedrow stated that is correct.

Mr. Mackert stated they need to decide if that is acceptable for this project and that seems to be the way Mr. Chase and Mr. Hibbert were looking at that.

Mrs. Miller stated they have discussed in the subcommittees how to define rural nature, and they are proposing to keep that and she commends them for that.

Mr. Pinther stated the FCDC indicates that they need to have two ways to get into the development.

Mr. Adams stated he is saying the same thing, but the FCDC does not say those roads have to connect.

Mr. Hibbert stated generally speaking every lot in a subdivision should be accessed by an internal road in order to control access. In most cases, subdivisions have a whole lot more lots than this proposal. This is a very small subdivision and has very minimal impact. They can get into trouble when they take a code that is designed for big subdivisions and squish it down to these small subdivisions and that is why the P&Z board is so important to balance these issues.

Mr. Pinther stated they are going to have to interpret the code and they can take it to appeal.

Mr. Adams questioned if the code says the whole development?

Mr. Pinther stated it is the intent of the code is to have two ways to get in and out for safety and other reasons.

Mr. Kraus questioned what if they have a long drive way.

Mr. Pinther stated that is their responsibility to make it safe and livable.

Mr. Kraus stated the consequence of extending that road to make a loop is that it gets closer they get to the wildlife migration area. This has to be balanced.

Mr. Adams asked them to consider that only two lots will be accessed by the internal road, and the other two would be accessed by the county road.

Mrs. Lookabaugh stated she agrees with Mr. Hibbert that the intent of the law needs to be looked at and they should not just adhere to the letter of the law which would harm the rural nature that they are trying to preserve. They have done well by protecting the wildlife migration, river, and open space in lot 7. They have met the obligation for the two accesses in a functional way and to hold them to the letter of the law would be defeating the purpose.

Mr. Mackert asked Mr. Hibbert at what point would the two-point of ingress/egress actually have to connect. Where do they draw the line?

Mr. Hibbert stated the key to that is the size of the subdivision. He appreciated the comments by Mrs. Lookabaugh about the blight and the scar on the land created by another road that would not look good. The intent of that code was to protect emergency service vehicles and their ability to get out when there are "ambulance chasers". This is a small enough situation because the road is close enough that there would not be an issue as the health, safety and welfare would be preserved here through the proposal, but it is up to the P&Z to make that determination.

Mr. Pinther asked why they could not loop the road.

Mr. Kraus stated they had started with that, but they are trying to keep that area open for agricultural use. That cuts it up.

Mr. Pinther stated that might come down to being denied.

Mr. Nedrow questioned continued agricultural use and if some of the property is being farmed.

Mr. Kraus stated it is currently being farmed, but the land did fail the LESA evaluation and will not be commercial farming.

Mr. Nedrow questioned if they envision leasing the land to a farmer and if it is currently irrigated.

Mr. Kraus he would not be opposed to alfalfa being grown, and there is irrigation on 10 of the acres.

Mrs. Miller stated the problem is that irrigation system is owned by Dan and Ruth Reynolds and will leave when they do. Even though there is water on the property they would not have any way to use it.

Mr. Kraus stated if they take the system away, they would have to replace it. They do have an agreement that says the Reynolds have a right to the easement, but they have a right to the water.

Mr. Pinther asked if they are using that water for fire suppression and if not, what are they proposing for fire suppression.

Mr. Kraus stated he did not get a response from John Groube he will listen to the ideas he has for them.

Mr. Mackert asked Mr. Chase to comment on the LESA evaluation.

Mr. Chase stated there were a number of LESA evaluations done and the most recent was done prior to the adoption of the LOOSLI amendment and it is not productive crop land.

Mr. Mackert opened the public hearing to public comment.

Chan Atchley-4077 E 1300 N Ashton, ID stated he has concerns about this property because it is not an all-weather road. When it snows a lot, it is closed and not reopened until the spring. There is concern with that as there are a few miles to get to those roads. The other concern is for fire suppression. He is concerned with solid waste. It is a wildlife corridor and there is a steep slope and the animals do not stay on that corridor when it snows.

John Groube-Ashton Fire Department turned in a letter for the record and explained the Wildland Urban Fire Interface Overlay District (WUFI) requirements. He discussed issues with fighting fires in this area.

Mr. Mackert asked Mr. Groube to discuss the access on that road and if they would be able to get the fire trucks down that road. Is it an all-weather road, and would they take the trucks down that road.

Mr. Groube stated it is wide enough and it is not plowed right now.

Mr. Mackert questioned the winter access.

Mr. Groube stated it would need to be maintained and the county will not maintain it. They need to decide which access needs to be plowed.

Mr. Mackert stated it would have to be clarified.

Mr. Pinther questioned if they are requiring one source of water with a hydrant connection capable of 1,000 gallons per minute for 2 hours with backup power. They are also asking for year-round access to the site.

Mr. Groube stated at this point they do not have access.

Mr. Pinther questioned if they will require two points of access for evacuation purposes.

Mr. Groube stated they do have 4-wheel drive and a 60ft. road should be adequate.

Mr. Pinther asked if he cares about having two points of access.

Mrs. Lookabaugh stated he has already answered that question.

Mr. Mackert stated a 60ft. road is wide enough. He asked if there is a radius required for the cul-de-sac.

Mr. Groube stated it is 96 ft. diameter for a turn-around.

Mr. Hibbert stated they need to make sure their code is in sync with the fire department code.

Mr. Pinther questioned if there is any other concerns or requirements they can see. He asked if they would be concerned with fire breaks.

Mr. Groube stated they do need to maintain defensible space around the homes, but the roads count as a fire break.

Mr. Mackert questioned what their capacity for hauling water out to that site is.

Mr. Groube stated on an average fire they would haul 12,000 to 13,000 gallons. And they would use around 17,000 gallons on a large structure fire.

Mr. Mackert asked how long the WUFI has been in effect

Mr. Groube stated this is the first time they have used it.

Mr. Mackert questioned if this is the standard that they are using now.

Mr. Groube stated they have adopted it.

Mr. Adams rebutted. He stated the road is not currently plowed but it is graveled and the county does maintain that. They realize that it is not being plowed by the county and are willing to plow it until the county does take it over. He was told that the WUFI has not been adopted by Fremont County, but the fire district has.

Mr. Hibbert stated the county has not adopted it, but the fire district has and they would be required to meet those standards.

Mr. Adams stated it is not an absolute standard that they are required to have and should not be counted against them. He read from VI.CC (water supply for fire fighting). They are still ok, but it depends on what they want.

Mr. Mackert asked for clarification on if the district has accepted the WUFI and if that supersedes what is in the FCDC. That is what they have to be held to.

Mr. Hibbert stated that is his understanding, it is a public safety issue.

Mr. Chase stated the FCDC VI.LL (Fire District) does require that they adhere to the fire district.

Bill Foresburg-attorney for Mr. Kraus stated he disagrees with the administrator that the WUFI has been adopted as law in Fremont County. Until the WUFI has been adopted as part of the FCDC they can not make it a requirement. FCDC VI.CC is simply encouraged and not mandated.

Mr. Kraus stated he is not opposed to fire protection and the cost of the pump is what scares him. He is willing to work with the fire district to figure something out to satisfy the need. He will be plowing the road.

Mr. Mackert closed the public hearing.

Mr. Nedrow asked if they could postpone the decision or table it.

Mr. Pinther stated they need to have a work session.

MR. PINTHER MOTIONED TO CONTINUE THIS DISCUSSION IN A WORK SESSION ON JUNE 2, 2008. MR. NEDROW SECONDED.

Mrs. Miller requested that they have legal council available for them at that work session.

VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

8. Public Hearing-Otto Garz-Silver Meadow Investment LLC, Developer

Mr. Mackert asked if all the notices had been posted and if there were any conflicts of interest. There were no conflicts and the notices had been posted.

Mr. Chase read from the report. He stated that one of the concerns is the number of accesses from the county road. They have discussed the possibility of having shared accesses. He had given them a score of zero. This proposal is different than what they saw at sketch plan.

Mr. Hibbert stated his concern was for the shared access.

Mr. Mackert asked for clarification on what has been changed

Mr. Chase stated that Phases I-III were submitted at sketch plan and Phase IV is being added.

Mr. Mackert questioned if they are looking at all phases or just Phase I?

Mr. Chase stated the developer will address that. There was discussion on moving Phase IV to the preliminary plat.

Mr. Mackert stated for clarification that Phase I shows the shared accesses.

Mr. Hibbert stated it is important to notice that there is a historical access that they are trying to preserve and maintain.

Mr. Chase stated it was shown to the developer that this would be a potential conflict because the intent of the code is to minimize the accesses from county roads.

Mr. Hibbert stated there was a letter from Marla Vik to be read into the record that there were concerns. One concern is for a fence that is encroaching on the road, and the other concern is that 4100 E is not plowed below 1000 N.

Benjamin Copley 950 N 3100 E stated he is a project manager for Silver Meadows Development and is not a typical developer as he is a 5th generation farmer and he loves the outdoors. He wants to address all the issues.

Chuck Homer-attorney for developer stated there is additional information that they have and would like to be entered into public record. They have letters from Fairpoint Communication and Fall River Rural Electric showing that they will be able to service this development. Included in the report was a letter from Rocky Mt. Engineers that address the water quality and quantity available. There were no concerns with that. They are asking for approval on all IV phases tonight. That was noticed in the public hearing and they are complying with the FCDC that asks them to give the overall development plan. They have submitted the covenants that are in the packets. They have added some language to the covenants and explained them. They will have an HOA that owns the common area and has the authority to levy assessments to maintain the fire pond and the fire fighting system for the development. They have met with the fire chief and they believe they have met all the requirements for fire fighting. The covenants provide specific fire defensible space around the development. They also have building envelopes and the covenants say that the management committee can require they build only in the building envelopes as they get approval. He discussed the letter from Marla Vik and that they will agree to accept the responsibility of plowing the road once residents move in. They are asking that they make that a condition for approval. The other issue that Mrs. Vik talked about was a fence. They have agreed to move that and will accept it as a condition for approval. They are also agreeable to having the two-points of access with the shared driveways as a condition for approval.

Jeff Snyder-Nelson Engineering gave a power-point presentation for the development. They will require bear-proof garbage containers and require they be emptied weekly.

Mr. Mackert asked if the HOA will have a set-up on the solid waste removal so that it is done weekly.

Mr. Snyder stated they will contract with the commercial haulers and it will be required by the CC&R's.

Mr. Mackert asked if the school district had been contacted about this subdivision for bussing purposes.

Mr. Copley stated they have not but they will and they will follow the fire department regulation on road maintenance.

Mr. Snyder discussed Phase IV. He discussed the issue with the boundary lines on the property and the surveyed lines are different from the fence line. There is a boundary line agreement that is being reviewed by the land owners which says the boundary lines do run with the fence line.

Mr. Pinther stated it is a pleasure working with developers who have done their homework. He questioned if they would be willing to work with Fremont County to have them maintain the road. He questioned the slopes.

Mr. Snyder stated they would be glad to have the county take over the road maintenance and he explained the slopes in the development.

Mr. Pinther questioned how wide the wildlife area is between lots 25 and 26.

Mr. Copley stated it is for a trail system and they can ride horses around the development. It is also for runoff.

Mr. Snyder stated it is 60ft wide.

Mr. Pinther stated it would be a whole lot easier if they would take the 4 lots and make that a separate subdivision.

Mr. Copley stated the reason they did it that way is because they were coming before the P&Z anyway. They left the lots as 40 acres because that is what Fremont County set as a minimum without it being a subdivision. That is why they left a single access in there.

Mr. Pinther stated even though he agrees with him, the problem is that this becomes a precedent making decision.

Mr. Homer stated they would have no problem taking phase IV out of the equation if they needed to have approval for that later on.

Mr. Snyder stated they already have administrative approval for splitting the parcel into two halves. The paper work is ready to be filed to separate the land into two deeds.

Mr. Hibbert stated there is no access to those lots by themselves as there is no road proposed.

Mr. Snyder stated they do have a 60ft. road and utility easement.

Mr. Hibbert stated it is an easement and not a road. Would they plan on building that road?

Mr. Snyder said it would be have to be built. But they do not have road plans drawn up yet.

Mr. Homer stated they would comply with all the requirements.

Group discussed the easement and that they would need to be built to Appendix B standards.

Mr. Homer stated they do anticipate that they will build a road.

Mr. Derricott questioned if they ever considered having central sewer and water.

Mr. Snyder stated it was not cost effective and they are very expensive to put in.

Mr. Copley stated they wanted to keep the cost down to build lots for people from the area.

Mrs. Miller questioned if Mr. Chase did the LESA.

Mr. Homer stated they failed the LESA under both the original LESA and the LESA Amendment. There is not an issue with the LESA because they fail.

Mr. Derricott questioned if the land is non productive.

Mr. Snyder stated the ground has been in CRP for a long time. It is up for interpretation by the code.

Mr. Chase stated the LESA was completed 9-11-07 and the score was a 53.9 and would require a 55 to pass. This is evaluation that was done under the LESA Amendment. There was another one done not under the amendment. He did pay for both of the tests to be done to insure that if there is a lawsuit because of the LESA Amendment, they are safe.

Mr. Mackert stated the LESA that is on record is from 9-11-07. Questioned if he wants to be sure that his site was addressed on a different date?

Mr. Pinther stated he is bound to the date which he filed for permit and that was under the LESA Amendment.

Mr. Copley stated they did the LESA evaluation two times.

Mr. Mackert opened the public hearing to public comment.

Ines Garz 4161 E 1000 N Ashton, ID stated she was surprised that they own this property and have been farming for 90 years and she is being told that the ground is not good for farming. They had to pay to put a dam there and she wants to know if it going to be maintained. What will happen if it is not maintained and the spring washed out the soil into the subdivision? Whose problem would it be? She is not against the project because it is useless to be against development coming in any more. She is concerned about people riding horses around the development and what is going to keep the horses etc. out of her property? She has a nice barn and what will happen if she decided to put a pig farm there? There is wildlife out there and their property is in wildlife corridor. She is concerned with the possibility of people hunting on her property on ATVs. 4100 E is only graveled part way and the road is really bad. There is no chance of getting out of

there. There was a fire across the street from their property. How much protection do these homes have, and we have to take care of the kids. There is closed range around this, and there is too much of a liability if an animal is to get hit. How long will it take to get electric service? There is a waiting list to get service in. The letter that was mailed to her was not clear on where this property is located. There is a concern for the plowing of the roads. They had their road closed for 4 days in a row. The school road is questionable. There is concern with taxes rising. There is concern with the water table with 40 wells coming in. They have had to re-drill their well 2 times because it has dried up. There is concern with sewer because they already have high nitrate levels. There is concern with access roads and concern with paving that road and hopes that the road can be improved. There is concern that homes will be built on top of the hills.

Ken Garz-4161 E 1000 N Ashton, ID stated he is concerned with having enough water in the ground for the 40 lots. The power goes out a lot out there and the roads are closed often. There are also a lot of nitrates in the ground water out there. The sewer systems are also a concern.

John Groube-North Fremont Fire District stated he has met with Mr. Copley several times and they have discussed providing a defensible space. Their concern is for the fire pond that will freeze in the winter. There is also concern with the hydrant on the county road and they will need an extension. They will need some barriers to protect that hydrant.

Mr. Mackert stated they would require some protection around the hydrant and also need to maintain the access to it in the winter.

Mr. Pinther questioned if they have equipment that is able to draw from that pond.

Mr. Groube stated they could draw from the pond. It would have to be determined for sure before final plat.

Mr. Pinther stated they have asked the developer to mow the perimeter to provide defensible space.

Chan Atchley stated his concern is for year-round accessibility. This is a farm road in which part of it is not even graveled. The road will have to be improved. There is a big concern for the time it would take to travel from the fire station to these properties. There is a big concern for these developments. It will cost a lot of money to put in a fire station. There is concern with the wild life in that area. There is a lot of deer in that area. The fire pond is another problem. There will be erosion and the suction devise will run down. The other problem is that this was evaluated under the LESA Amendment. He read his letter to the County in regard to the invalidity of the Loosli/LESA Amendment. It is already on record.

Owen McLaughlin-Eastern Idaho Public Health District stated the land is suitable for individual septic systems.

Mr. Nedrow questioned if he had any comments about the high nitrate levels.

Mr. McLaughlin stated the high level nitrates are resulting from the farming and fertilizer.

Mr. Mackert asked for clarification if they want to go ahead with phase I, II, III, and IV or to split it off.

Mr. Pinther stated they can pass or deny it and if they do deny it, they will give them recommendations.

Mr. Copley apologized to the Garz for not contacting them; he was mistaken as to where they live. He believes it is his right as a property owner and he wants to do it by the law. He apologized for the fence crew hunting on their property. The gravel road does end and they will bring the gravel out to the rest of the road. The allowance for animals is set forth in the code. He will be responsible for plowing the road during the winter. A valid concern is for erosion out there. There is a series of small check dams that will be kept in place and he does not think that will be an issue anymore. They did not lose any soil whatsoever last spring which was a fast melting season.

Mr. Snyder stated the erosion control and run-off is controlled by the storm water act and also the clean water act. They can take provisions in the drainage to protect not only run-off, but also run-on. They would maintain the storm water structures and also build another one on the upstream end to collect any sediment. He would recommend they fence the property to make sure the residents would know where the property line is to protect from trespass issues. As far as the fire hydrant and the pump goes, he would recommend that they have annual testing and maintenance by them to be sure the fire department is able to get the water out. This property does not straddle Conant Creek nor does it touch it. It does straddle Squirrel Creek.

Mr. Homer stated in regard to phase IV they would ask the Commission to take it out if it would be a cause for denial. He wants to be sure that the LESA test had been done two separate times and they failed under the pre and post amendment regulations. They want to be sure that it is in the record that they were advised by the Administrator that the test had been done and they failed it. They are aware of the right to farm act, and that they plan to acknowledge that. They do have a well documented report from Rocky Mt. Engineering in regard to all of the testing on the wells. The nitrates have been addressed as well and it would not be an issue for individual wells because the DEQ has special adaptations for the wells if there are nitrates. They would not have a problem having the requirement for the fire break in the covenants. The HOA would have the responsibility to keep the grass down for fire protection and would accept that as a condition for approval. They

have always tried to design what is appropriate for development and to analyze every provision of the FCDC to do our best to meet those provisions. Their only avenue is to go through the P&Z department and they have attempted to contact them to address the concerns. Mr. Copley has met with Mr. Patlovich, Mr. Chase and Mr. Hibbert in good faith to meet and comply with the standards of Fremont County.

Mrs. Miller asked for explanation on how the construction of the roads is, do they have the complete description?

Mr. Hibbert stated they need to have the revised preliminary plat showing the construction of the roads at the time of approval if they should decide to approve phase IV. He would recommend that they approve the project in totality even if they have to come back with revised drawings to complete the file and let them move to preliminary plat.

Mrs. Miller stated the other concern is that the details of the open space area are addressed in the HOA and the CC&R's.

Mr. Mackert closed the public hearing.

**MR. PINTHER MOTIONED TO TABLE THIS DISCUSSION
UNTIL JUNE 2, 2008. MRS. LOOKABAUGH SECONDED.
VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

9. Adjourn

MEETING AJOURNED 11:42 PM.