

**Fremont County Planning
& Zoning Regular Meeting Minutes
August 11, 2008
6:00 pm
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular meeting on August 11, 2008. They met in the County Annex Building. **Members in attendance were:** Kirk Mackert (Chairman), John Nedrow (Vice-Chairman), Steve Pinther, Cindy Miller, Larry Singleton and Vance Derricott.

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

1. Welcome

The chairman called the meeting to order at 6:00 pm. He stated they will be discussing the changes to the Comprehensive Plan (CP) before they discuss the cabin rental ordinance.

2. Minutes

Mr. Mackert asked the P&Z to look over the minutes from July 2, 2008, July 17 2008, and July 21, 2008.

Mrs. Miller stated there are a few typos on July 2, 2008.

MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM JULY 2, 2008 AS AMMENDED. MR. NEDROW SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

MR. DERRICOTT MOTIONED TO ACCEPT THE MINUTES FROM JULY 17, 2008 MR. NEDROW SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM JULY 21, 2008 MR. NEDROW SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

3. Final Plat-Hares Ear Preserve-Keith Kraus, developer-Kendall Adams, Surveyor

Mr. Mackert asked Mr. Hibbert to give a report on this project.

Mr. Hibbert read from the packet about the issues that have been addressed. There was a condition that they consolidate the accesses which are not shown on the plat, but it is done. They do have the letter of credit and they recommend it for approval.

Mrs. Vik-Public Works Director discussed that there is not an adequate gravel surface on part of the road and there is a portion of the road where the width is adequate and it does have a gravel surface. The frontage road has only 21ft. of gravel road without adequate drainage on the sides. She suggested that they ask the developer to bring in some extra material to put on that road. The road continues on and is not passable, and they might want to add a condition that they add in a turnaround on that road.

Mr. Pinther asked if these are proposed for part of the development agreement. Is the plowing issue addressed in the development agreement?

Mrs. Vik read from the development agreement and that the road will be plowed through the year 2010. The homeowner's association will be responsible for plowing the road and the road maintenance until the county takes over the maintenance for that road.

Mr. Mackert asked for clarification if Mrs. Vik has those road sections that need improvements documented.

Mrs. Vik stated yes.

Mr. Pinther asked Mr. Hibbert if is all in the development agreement.

Mrs. Miller asked if those requirements for the snow removal were in the CC&R's, and if they should request that be removed from the CC&R's and be in the development agreement since the CC&R's can be dissolved.

Mr. Hibbert asked the developer if he would put that in the development agreement.

Mr. Keith Kraus (developer) stated he would put it in the development agreement.

Mr. Mackert stated they need to be sure that the county will not take the responsibility for plowing or maintaining the road until specific criteria is met.

Mrs. Miller questioned if they need to look at the code (Connections) and if they need to look into a road connecting to other developments surrounding the property and if they need a neighborhood connector.

Mr. Hibbert stated they have looked at the surrounding property. This is a 6 lot subdivision, and it is not a critical factor.

Mr. Kraus and Mr. Hibbert discussed the possibility of putting in a neighborhood connector road into the subdivision.

Mrs. Miller stated she understands that the developer is agreeable to having a connector.

Mr. Pinther asked about the Fall River Trail and the designation of having that in the development agreement and allowing access on a non motorized trail.

Mr. Kraus stated he would not mind public walking on his property.

Mr. Pinther stated they would like to develop a greenway.

Mr. Kraus stated his long term goal for that area is wildlife conservation.

Mr. Mackert stated they do not have the tools in place to enforce that.

Mr. Kraus stated he is glad to have it in the public record that he is willing to have an access easement. The only concern he has is to protect the wildlife corridor.

Mr. Mackert asked if there is a need for a turn-around on the county road.

Mr. Hibbert stated they do need to look at that and take it under advisement. That does not affect just the developer, but the whole area out there. He is not sure on the long term plan for that road.

Mr. Derricott asked if they need to add something in the motion to cover the suggestions that Mrs. Vik had regarding the road inadequacies.

Mr. Nedrow stated that would be a recommendation to have placed in the development agreement. He questioned if they can make that a condition of approval.

Mr. Hibbert stated they could but to look at it in the context of it being a small 6 lot subdivision.

Mrs. Miller asked about the protocol of the development agreement and how they make recommendations for what they want to see in the development agreement.

MRS. MILLER MOTIONED TO ALLOW HARE'S EAR PRESERVE WITH THE FOLLOWING CONDITIONS: THE ROAD SUGGESTIONS GIVEN BY MRS. VIK AND THAT THOSE BE INCLUDED IN THE DEVELOPMENT AGREEMENT INSTEAD OF THE CC&R'S, THE RECOMMENDATION FOR THE EASEMENT FOR THE PEDISTRIAN PATH TO ACCESS THE FALL RIVER, THE ROAD CONNECTIONS FOR THE FUTURE, AND THE STAFF'S RECOMMENDATIONS IN THE PACKET. MR. DERRICOTT SECONDED. VOTE TAKEN: THOSE IN FAVOR: MILLER, PINTHER, SINGLETON, NEDROW, AND DERRICOTT. MOTION PASSED.

4. Sketch Plan-Centennial Cove Division #2-Mitch Jacobs, developer-Rick Byrem, surveyor

Mr. Hibbert read from the staff report and asked the developer to explain the complexities of the development.

Mr. Rick Byrem-Swan Valley Id referred to the map and the exhibit what the project consist of. There are 533 acres. There are 6 different named subdivisions. Those are approved subdivisions that have been through the process already. He gave some history of the Centennial Cove project. The Division #2 was held out of the process. They are trying to complete the subdivision of this property. In 2007 they approved Centennial Shores which was a one lot subdivision. The remaining acreage is to be developed into subdivisions. Mr. Hibbert had suggested they show the whole picture and asked how this happened and how the land was left out. He recommended they show what they want to do with the remaining 17 acres. They want to have a total project of 6 lots with 10.2 acres dedicated to open space.

Mr. Pinther questioned if they have already approved part of this and asked if they are asking to change some of the original plans.

Mr. Byrem stated yes.

Mr. Pinther asked if they were going to have any more changes out there. He questioned if they are basing the density on the entire subdivision, or on the remaining acreage.

Mr. Byrem stated they are basing the density on the remaining acreage which is 17 acres of unplatted land with 9 ½ acres set aside for open space totaling 18.9 acres with 6 lots.

Mr. Pinther asked if all the roads are private.

Mr. Byrem stated this is a gated community and all the roads in this subdivision are private roads.

Mr. Mackert asked if Centennial Shores would have to be amended.

Mr. Byrem explained how there are two separate owners.

Mr. Hibbert stated it would not. He was dismayed at the left out parcel of land and it is not allowed under Idaho code. They are somewhat backed into a corner. His comment was that it should have been approved from the beginning. He recommended that they show they are not asking for anything that has not been approved, they are asking the surveyors not to leave parcels out of the survey. This would not happen today, but it was common practice in the past.

Mr. Nedrow asked when the state statute was set.

Mr. Hibbert stated it was done several years back. It has happened a lot. The surveyors just end up leaving the parcel out not knowing that the statutes do not allow that.

Mr. Nedrow asked if they should be asking for a variance.

Mr. Hibbert stated no because it does not qualify, they are going about this in the best way. He stated they have already looked at this and approved it except for these few lots.

Mr. Pinther stated he would like to look at the entire subdivision and to be able to see where they are at the public hearing.

Mr. Mackert asked if these are the last parcels.

Mr. Byrem stated there are small parcels that are not platted, but everything else is platted.

Mrs. Miller asked if a large scale development study was done on this.

Mr. Byrem stated it was done for the first two subdivisions. They did not know about the state code requirement to include all the land in the plat.

Mr. Mackert asked how many lots are in this subdivision.

Mr. Byrem stated there are 183 lots and if they are approved, they will have 189 lots out there.

Mr. Pinther questioned where the other subdivisions are located on the map and asked for a clearer rendition of the subdivision as a whole.

Mr. Byrem explained the history of the Centennial Cove and Centennial Shore subdivisions and the boat storage area.

Mr. Derricott asked Mr. McLaughlin (District 7 Health Department) if there were any concerns he had.

Mr. Owen McLaughlin stated he does not see any issues there but he will go out and inspect the area before they go to public hearing.

Mr. Pinther questioned the restricted use easement.

Mr. Byrem explained that it was something given to the owner of lots 74 and 75. It was negotiated between the buyer and sellers of that property because that ground was not part of that subdivision nor was it specified for open space or anything. The buyer was had concerns for that property and was also concerned that cattle would graze there. It is only for lots 74 and 75. It is legally binding.

Mr. Pinther questioned track H.

Mr. Byrem explained that track H is a private boat ramp for the use of the homeowners in all the combined subdivisions and they all have access to the boat dock and the boat storage. This subdivision will not require any new road construction.

Mr. Pinther stated they are under new road standards now, and asked if they are planning to abide by those.

Mr. Byrem stated they will not be rebuilding the roads, they are good.

Mr. Mackert stated they will be looked at. We do not know if they meet the current standards or not and that is why they go through this process.

MR. DERRICOTT MOTIONED TO ALLOW THE CENTENNIAL COVE DIVISION #2 TO MOVE FORWARD. MR. NEDROW SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

5. Public Hearing-7 Bar S Ranch-Lynn Sessions, developer-Kevin Thompson, surveyor

Mr. Mackert asked for the staff report.

Mr. Chase stated they did meet with the applicant to discuss issues specifically that this property was deemed productive crop land under the LESA Amendment. They discussed access concerns off of the Teton Highway and informed them they will be required to have shared accesses. He did the score sheet and came up with a negative score. The only items he scored that were not a zero was for the wildfire hazard breaks and the buffering. Those were not shown as proposed for this development. There is agricultural land surrounding this and they need to look and see if the land use would need some buffering. These issues could be dealt with as conditions for approval and he did not see any problems with this subdivision. The other thing to look at is they did not show any proposal for underground utilities.

Mr. Pinther questioned appendix K and the need to buffer a visually sensitive area. He has had issues with getting buffering using appendix K.

Mr. Chase stated if they felt that buffering was important in that area, they could require it or they could assign negative points. He agrees that this is not designated as a visually sensitive area.

Mr. Pinther stated they do not have the backing there to require the buffering.

Mr. Nedrow asked about Cobblestone Development and stated that they were required to have the 60% open space. They did that all in one block as a separate parcel. He asked if that meets the requirement.

Mr. Chase stated it was his opinion that it does meet the requirements by definition for contiguous open space.

Mr. Hibbert stated it is common to do it that way.

Mr. Pinther questioned if they came up with a -8 score.

Mr. Chase stated the score was a -3. There were a few questions that need to be answered and he gave no score on those.

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

Kevin Thompson stated they had met with the P&Z in February of this year. They discussed getting irrigation to these lots and they will need to have common drives and rename the subdivision. The property is irrigated and they obtained water rights certificates today. They turned those in today. They do have common driveways as shown on the plat. He discussed the concern for not having a wildfire buffer. He stated the land is farm ground. The fire issue would be only for a brush fire. They will not want homes with dead landscaping. They want to have a pressurized system to irrigate the lots as mitigation for fire safety. He discussed landscape buffers. They have a surrounding subdivision with two homes there. Questioned what they would need buffering from. In the bottom of the legend, they show a 15ft public utilities easement along the road. The actual wiring for power is going to be underground. This is a small 4 acre subdivision. The building envelopes are around 1 acre. There is a ditch running along the property, and they do have an easement for that. They are proposing individual wells and septic systems. They have met with the health department on site.

Mr. Singleton questioned if this land has been surveyed and who owns the strip in-between on the north side.

Mr. Thompson stated that belongs to Brent Singleton.

Mr. Singleton questioned if that would separate the two subdivisions. He asked if the water rights would be given to individuals or placed into the HOA.

Mr. Thompson stated there will be a HOA and they will have to be responsible for sharing the water.

Mr. Mackert asked if they plan on putting in the pressurized pump or are going to leave it up to the land owners.

Mr. Thompson stated they are going to ask the Canal Co. for individual pumps rather than having one large one. They have to ask the Canal Company. Until that is detailed they will irrigate from the ditches.

Mr. Mackert stated the concern for that is if they sell a lot, they could be cutting off someone else's water through a ditch to another parcel.

Mr. Pinther asked about the surrounding properties and the building density on those.

Mr. Thompson explained the surrounding properties. He also explained how the power utilities would be buried and as the power company requires it.

Mr. Pinther asked if they are recommending single family residential use. He asked if they have considered any type of buffering.

Mr. Thompson stated they have not. In the report pages 33-34, they show suggested trees that would grow well on this property. They would not have a problem putting trees in there.

Mr. Nedrow stated the letter from Fremont Madison Irrigation District shows that they have not finished their checklist, and stated he will need to complete that.

Mr. Thompson stated he will be sure to complete that.

John Blower 355 N 2400 E stated his appreciation for being able to address his concerns. He has lived next to this property for 30 years and it has always been farm ground. His concerns are for the loss of farm ground not only in this place, but also in the entire county. He is concerned about the density of the development. He is concerned that 4 new wells could lead to the drying up his well as several wells in that area have dried up already. Irrigation of this subdivision is also a concern as it is difficult to water the property because of the slope of the land. The lack of a point of diversion is a concern. He is concerned with making sure the land is watered and not left to go to dry weeds. If there was a fire on the property, the prevailing winds would push any fire toward his home.

Mr. Thompson gave his rebuttal and stated that Mr. Blower is in a subdivision next to another subdivision and there will be people moving in around him. As far as wells are concerned, they have different standards for depth etc. and they will irrigate from the ditch so as to not use up ground water for irrigation purposes. The only water that will be used from the ground will be for showers and drinking.

Mr. Derricott asked about the point of diversion for the irrigation pumps.

Mr. Thompson stated they have to talk to the Canal Company. He explained how he has seen the point of diversion done in the past. They will work on that and have it finished before final plat.

Mr. Owen McLaughlin-District 7 stated he observed the test holes and the soil is adequate. It is ok for septic systems.

Mr. Mackert closed the public hearing. He asked the P&Z to look at the score sheet and that the negative score does not allow them to approve it.

Mr. Nedrow stated their choices are to go over the score sheet and rescore it or they can deny it and let them come back later.

Mr. Pinther stated he has problems with the scoring. The wildfire hazards are not applicable in this area as they are not in or adjacent to forested area or bushy vegetation. He asked them to look at H, and suggested that it is not relevant. He recommended changing the score from -3 to a 0.

Mrs. Miller stated she agrees with Mr. Pinther.

MR. PINTHER MOTIONED TO CHANGE THE SCORE FROM -3 TO A 0. MRS. MILLER SECONDED. VOTE TAKEN: THOSE IN FAVOR: MILLER, PINTHER, AND SINGLTON. THOSE OPPOSED: NEDROW AND DERRICOTT. MOTION PASSED.

Mr. Mackert asked them to discuss the buffering score.

Mr. Pinther stated he has been in favor of buffering and has been repeatedly shot down in the past on K.1 (buffering requirements). It says that buffering is only required in residential areas when they are against visually sensitive areas.

Mr. Mackert stated they had agreed to put some trees out there during the public hearing.

Mr. Pinther stated they would need to give a positive score for putting those trees in instead of a negative score that it is now.

Mrs. Miller stated they did say they would plant some trees there and they should take that as a positive and be sure to get that in the plat note.

Mr. Mackert asked if there is a need for buffering.

Mr. Pinther stated the compatibility with the surrounding area is what he is looking at and it is compatible. He does not see why they need to buffer for compatible use. The score should be changed to a 0 unless they are willing to put in trees, then they should get a positive score.

Mr. Mackert stated that should be made as a condition of approval or they need to make sure it in the development agreement.

MR. PINTHER MOTIONED TO CHANGE THE SCORE UNDER BUFFERING INSTALLATION TO FROM A -1 TO A +1 WITH THE IMPORTANCE FACTOR OF 5 CHANGING THE SCORE FROM -5 TO +5. MRS. MILLER SECONDED.

Mr. Mackert asked if they want to have a plat not on that to make sure it is completed.

Mr. Pinther stated they made the comment that they will put trees in there and it is in the record.

Mr. Hibbert stated they should have it in the development or a condition of approval instead of the plat note.

VOTE TAKEN: THOSE IN FAVOR: PINTHER, SINGLTON, DERRICOTT, MILLER, AND NEDROW. MOTION PASSED.

Mr. Mackert asked for discussion on the score sheet regarding underground utilities.

Mr. Pinther stated they should give them a score of 1 for not increasing the amount of overhead.

Mr. Nedrow stated they have never given points for the underground utilities as they are required. They give a score of 0, and this should not even be on the score sheet.

Mrs. Miller and Mr. Mackert agreed with Mr. Nedrow.

MR. NEDROW MOTIONED TO CHANGE THE PRIVATE UTILITIES SECTION SCORE TO A 0. MR. DERRICOTT SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Pinther stated the overall score changes to 5.

MR. PINTHER MOTIONED TO CHANGE THE OVERALL SCORE FROM A -8 TO A +5. MRS. MILLER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Mackert stated there are a few things to be considered for the approval: the conditions listed in the packet, a letter from the irrigation company that they need to follow up on, and the buffering and tree planting that was discussed in the rescoring process. They also need to keep in mind that this was presented under the LESA Amendment. They have met the standard at the time the application was submitted.

**MR. PINTHER MOTIONED TO ALLOW THE 7 BAR S RANCH TO MOVE FORWARD WITH FOLLOWING CONDITIONS:
1. THAT THEY COMBINE THE TWO DRIVEWAYS 2. THEY**

MEET THE CONDITIONS LISTED IN THE PACKET. 3. PLANT SOME TREES. 4. IT IS RECOMMENDED THAT THEY ALSO COMPLETE THE CHECKLIST FROM THE IRRIGATION COMPANY. MR. SINGLETON SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

6. Discussion of Parker Reef Subdivision

Mr. Hibbert stated there have been a lot of questions about this subdivision. There is a letter of response from the DEQ and they are aware of this sight and have accepted the site assessment from the BLM environmental assessment. They are not going to say it is clean or dirty, they only know what is on the public record. There is a follow up letter from the developer asking them to accept the letter from the DEQ and also that an advisory type plat note clearly show the history of the land in place of a letter from DEQ giving this land a clean bill of health.

Mr. Mackert asked what kind of a plat note would be used.

Mr. Hibbert stated they would divulge the information that this site had been used as a dump.

Mr. Mackert asked if there would be any liability on the county if anything was found to be contaminating the ground after this was approved.

Mr. Hibbert stated it is hard to say because it was never an official dump site. The BLM picked up all that was found out there. He talked with the director of the District 7 Health Department during the time after the flood, and he said dead animals were buried all over the county as there were so many dead animals that were found after the flood they had to hurry and get rid of truck loads of them for health safety reasons. Being so many decades ago, there would be nothing left of any of those animals that were buried. That is not a big concern.

Mr. Mackert stated the health department should make it so that they should not bury animals any more due to health reasons.

Mr. Pinther stated there was more concern for buried chemicals. He clarified that they had given them the condition of approval so long as they received a letter from DEQ giving the land a clean bill of health and DEQ would not do that.

Mr. Hibbert clarified that the DEQ does not have the information to give them a clean bill of health. They would be open to receiving other information to help make that determination.

Mr. Pinther stated if they can not get that letter from DEQ, they should have a private entity check that out and give them a clean bill of health. They want something to cover any liability issues.

Mr. Mackert asked if that was ever a designated county dump site.

Mr. Hibbert stated there are scientists that can do that type of testing wherever there is perceived contamination. The DEQ would love to have that information, as they do not have enough data to make a determination.

Mr. Singleton asked if the liability would be back on the seller of the site.

Mr. Hibbert stated it is difficult because no one knows for sure. There are public and private resources available to do that testing. It is a difficult position to put the county and the public in for health and life safety issues. In light of the garbage that they did excavate out there, it is probably a risk, and if it were his property, he would want it tested.

Group discussed concerns with the possibility of contaminants out there and if a private environmental firm could work with the DEQ to determine the state of the ground.

Mr. Hibbert discussed that Mr. McLaughlin had dug tests holes out there and was not concerned with the type of debris found.

Mr. Pinther stated they were presented with a legitimate concern and it should be addressed whether done by a private entity or the DEQ in case of potential hazards. The developer needs to assure them that the site is safe.

MR. PINTHER MOTIONED TO ALLOW MR. HIBBERT TO TALK TO THE DEVELOPER AND REQUIRE MORE INFORMATION GIVING THE SITE A CLEAN BILL OF HEALTH EITHER FROM A LETTER FROM THE DEQ AND/OR AN ENVIRONMENTAL REPORT FROM A PRIVATE CONSULTANT. MR. NEDROW SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Group discussed the trail that is along the property and if they will build that to county standards and the other conditions of approval that were given to this applicant.

Mrs. Miller questioned why they have 4 lots that do not meet the minimum standards when they are not clustering.

Mr. Mackert stated those are based on the overall size.

Mrs. Miller stated that is bothering her and she is very concerned about the habitat out there because it is a fragile environment. She is concerned that this size of development

in such a fragile environment will cause them to end up with no habitat and a very unsightly subdivision because they do not have the means to water it except through their culinary well. She is not sure the developer has addressed that.

Mr. Mackert stated there was discussion about the wildlife habitat and migration in this area. The developer agreed not to disturb any land that is not needed for construction to protect that land out there. The 4-wheelers are an issue and so is the amount of development that is going on. One development might not have that big of an impact, but after more and more come, what is the overall impact?

Mrs. Miller asked if there are building envelopes.

Mr. Mackert stated he did not think there were. There are well-warranted concerns for that area and this development.

7. Discussion of Comprehensive Plan 2008 Version

Mr. Hibbert stated they need to understand most of the things in this document are code specific. Mr. Chase is going to show the highlights of things that could be changed in the Comprehensive Plan (CP). Don't get bogged down by the specifics with the regulatory language as they will be dealing with that.

Mr. Chase gave a power point presentation showing the changes recommended to the CP. He also presented the new draft of the Preferred Land Use Map showing the changes made from the last meeting. The Chester area is now designated as rural; the Parker area follows the canal. The changes were made in the Wilford area and in the commercial area for the Ashton area and the Hess Museum. He showed the recommended changes to the Preferred Land Use Map, and the group agreed with the changes to the Preferred Land Use Map.

Mr. Chase showed the language changes to the CP that was decided on during the last meeting. Group liked the recommended changes.

Group discussed the recommended changes to the CP regarding land use policies from the land use advisory committee.

Mr. Chase stated they recommended 7 changes to the Land Use Goals section. He felt they were good recommendations. He integrated these recommendations in to a goal except for one. He read the draft goal showing those changes.

Mr. Hibbert stated that would incorporate well.

Mr. Mackert approved.

Mr. Chase read the 5 recommendations for changes to the land use policies. He stated that a term they use "growth boundaries" in the recommendation is a term they do not use

in the Land Use Map and is more of a code issue. Most of these recommendations are covered in the vision statement. Safety is addressed in a specific policy. He discussed the other recommendations for policy changes regarding open space and that a task force be put together to study open space to help it integrate into the plan.

Mr. Hibbert stated this is not necessarily a CP issue, but it is something they need to take under advisement and form a task force to study and create an open space/recreation plan. It is something to be done as a parallel.

Mr. Derricott asked if they would need different committees to study the different areas in the county.

Mr. Chase stated they could just have one task force so long as it had members that represented different parts of the county. They talked about having a task force to study Island Park issues at last week's meeting. The idea of open space is already covered in two different policies in the CP and this task force would help identify more specifics.

MRS. MILLER MOTIONED TO ACCEPT THE CHANGES TO THE OPEN SPACE LAND USE IN THE CP AS PRESENTED BY MR. CHASE. MR. DERRICOTT SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Chase discussed the forestry land use recommendations. The logical place to integrate these recommendations is in Policies 9-12.

Mrs. Miller stated they should take into account that forestry is also considered agriculture. If it is on private land and is their livelihood, they can not regulate it.

Mr. Chase stated he and Mr. Hibbert have discussed that issue, and the language as written is very regulatory.

Mr. Hibbert stated he would not recommend that they integrate this at this time, but they will take into advisement to look at it again.

Mr. Chase discussed Mining Land Use Recommendations and read the specific recommendation. It is addressed in Policy 13.8. It is good language and it encourages mining in those designated zones. They can integrate the language into Policy 13.8.

MRS. MILLER MOTIONED TO ACCEPT THE RECOMMENDATION FOR THE MINING LAND USE POLICY AS PRESENTED TO THEM. MR. DERRICOTT SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

Mr. Chase discussed the Natural Resource Land Use recommendations. If they want to integrate it, they should put it in Policy 2 (Maintenance). He recommended that instead

of that language referring to natural resource inventories, they should refer to the Idaho Code 6765-08.

Mr. Hibbert stated all the recommendations for this are regulatory in nature and they should take them into advisement and put these into the code. The CP should not get to this level of detail.

Group discussed Policy 2.

Mr. Hibbert discussed the Natural Resource Inventory.

Mr. Chase discussed the recommendations for the Recreational Land Use. He stated that most of the recommendations are covered in the Policy 18 already.

Mr. Chase discussed the Housing Land Use Recommendations. There were some good ideas addressing mixed types of housing. We do not have language in the current draft that talks about this.

Mr. Hibbert stated his recommendation is to put some of these recommendations into Policies 13 and 14. They do have some general language about this, but they could embellish what they already have with some of this recommended language.

Mr. Chase agreed and that is the staff recommendation, but there was some language that he did not feel was appropriate.

Group discussed providing a wide spectrum of housing types throughout the county.

Mr. Chase discussed the recommendations for Commercial Land Use. Stated this language would be a good replacement for what is there now, as it is less regulatory. He asked them to look at Policy 13.2 concerning commercial areas.

Mr. Hibbert stated they do not have zones yet. These are land use types not zones. This is for Preferred Land use. Stated he is comfortable with the recommended changes to the language.

Mr. Chase discussed the Industrial Land Use recommendations. He stated it encourages the placement of the industrial areas in the designated areas on the Land Use Map. They do need to drop the regulatory language. Group agreed.

Mr. Chase discussed the Public Facilities Land Use recommendations. This calls for the county to identify all public facilities. Mr. Hibbert had some concerns with homeland security issues.

Mr. Hibbert stated they need to consult with the county hazard people and mitigate. There are certain infrastructures that you do not want on there. That information will be archived and they will protect the county.

Mr. Chase discussed the recommendations for the Transportation Land Use Policy. He stated there were some good ideas, but they already have a transportation plan, and these recommendations should be in there if they want to put them in. They should have more discussion on the roads.

Mr. Mackert asked if they had discussed having updated maps showing the roads, and if that would be a code issue.

Mr. Hibbert stated that would be part of the transportation map. They will have separate maps and planning tools. They also want to have future roads on the Preferred Land Use Map.

Mr. Chase asked if there was a need to add this language to Policy 6.

Mr. Hibbert stated they need to change the language that talks about the three zoning districts and they are called three planning areas instead. They need to change that throughout the CP, and they might need a motion on that.

Mr. Chase stated they need to discuss the first recommend land use policy. He read that recommendation to look at work being done by a private entity. Our policies do address that to some extent and if they want to include this language, it should be put in Policy 2.

Group discussed the recommendation.

Mr. Pinther stated he thinks that Policy 2 covers it well already.

Mr. Mackert stated it makes it clearer that they would use information from all entities. He asked if they want to send a recommendation to the staff to move forward, or do they need to go over it all again. He feels they have gone over it enough and he is confident that the staff knows what they want.

Mr. Pinther asked if the staff will make the recommended changes and then bring it back to the P&Z for approval. When they take all the regulatory language out, it will change the document substantially.

Mr. Derricott stated they have looked at it enough.

Mr. Hibbert stated they are changing the regulatory language so that in places that say "shall" it will say "should" taking the language from definitive to suggestive. They can be comfortable with the changes that have been recommended. There have not been a lot of changes and the map changes have been presented tonight. There is not a requirement in Idaho Code to have another Public Hearing.

Mr. Pinther stated he would like to see the document in its entirety before it goes to the public as changing the regulatory language will change that document substantially.

Mr. Mackert stated they will recommend that the CP goes to the Commissioners unless Mr. Pinther is suggesting they have another public hearing at the P&Z level.

Mr. Pinther stated they have to go to public hearing again because they have changed the document and they need to see if that is what the public wants.

Mr. Mackert stated the changes to the CP have been minor.

Mr. Hibbert stated if they have received information after the public hearing that substantially changes the document they would have to go to public hearing again. Since they have received no new information and everything that has been discussed after the public hearing was on the table at the public hearing. There has been no new information presented since the public hearing.

Mr. Pinther asked if there was testimony given by Mr. Hibbert that changing the regulatory language to non regulatory language in the CP would change the document substantially. Questioned if he is not complying with state law?

Mr. Hibbert stated he specifically brought that up at the public hearing stating that the language needed to be changed so they would not have to go to public hearing again. There will be no restructuring of the text, only minor changes.

Mr. Pinther stated they owe it to the people of Fremont County to follow the state law and to make sure the wishes of the county are respected. They need to handle this the right way by looking at the changes and put it to public hearing.

Mr. Mackert stated everyone knows how Mr. Pinther feels, but the question before them is do they feel the changes to the CP are substantial and change the intent of the policies. This is not the end of the road for the CP as it will go before public hearing again at the County Commissioner level.

Mr. Singleton stated he would like to see the final draft before it goes to the County Commissioners whether they do it through a meeting or get a copy of it through email.

Mr. Mackert stated they have had the public hearings and they can not force the public to be involved.

Mr. Pinther stated they had discussed several times that they would put this out to the public several times and they all agreed to do that.

Mr. Mackert stated they have presented it to the public several times.

Mr. Pinther stated they have only presented it to the public once and it was not available online during the public hearing.

Mr. Mackert stated they can have difference of opinion all night, but a decision needs to be made.

Mr. Derricott stated this document is not set in stone, and they should direct the staff to do the changes and prepare it for the County Commissioners and if they do not like something it will come back to them for changes. They do not need to drag this out for another month.

MR. DERRICOTT MOTIONED TO MOVE THIS CP DOCUMENT AHEAD WITH THE CHANGES MADE BY THE STAFF FOR THE COMMISSIONERS TO LOOK AT. MRS. MILLER SECONDED. THOSE IN FAVOR: DERRICOTT, MILLER, NEDROW. THOSE OPPOSED: PINTHER AND SINGLETON. MOTION PASSED.

8. Discussion of Code Amendment-Rental Cabin Registration

Mr. Mackert stated for clarification that this is not a public hearing and no testimony can be given by the public at this time.

Mr. Hibbert gave a handout on the rental cabin registration. There has been a lot of pressure on the county to look at these rental cabins. He read from the document recognizing the recreational assets in the county. Land Use is an issue that has been obscure in the past and has not been well defined. This is about a cabin registration program. The first obligation of the county is to protect the life safety issues. This is not about the government trying to gain more control. Subdivision development in Idaho codes have actually gotten less regulatory. Some subdivisions were approved and designed for commercial use. In those cases it is very clear that these were commercial use. There are other subdivisions that have commercial use that do not belong next to each other. Last years ordinance specifically focused on the building code issue. Under the IBC any change of occupancy from the time a home is permitted becomes illegal. That is totally outside of any county ordinances or state statutes; it is the International Building Code. If the building official so chose, any structure that has changed its use since being permitted would be considered an illegal conversion of use. Fremont County would like to bring those illegally converted residencies into some sort of compliance. It is not about closing something down, but making them compliant. The issues are not for the cabins themselves, but include complaints with ATV's, snowmobiles, and other recreational uses. The first part of the document is for the land use and there is probably going to have to be an application process where there is a public hearing and the use is mitigated. The second part is for the building code and the physical structures. The intent is not to preclude but it is to be responsible. They need to identify a key list of the key health safety issues. The rentals that are not willing to comply should not be rented to the public. The fees are just to be looked at and are totally informational and there has been no attempt made to quantify numbers yet. There will be fees, but they have a lot to look at first.

Mr. Pinther asked if they are proposing this to be added as appendix J to the existing code. Is the original document still around.

Mr. Hibbert stated it is and they want to tweak this document and change it so that it can work. He has talked with the building official and they are in complete agreement that there should be something in place rather than nothing. They feel it is easy later on to change specific problems as they come up. There are a lot of people who are not willing to change anything nor are they willing to talk about the public responsibility for public health and safety. But there are others who will.

Mr. Pinther asked if the county ever adopted this in the past.

Mr. Hibbert stated this is going to have to go to public hearing. He wants to look at occupancy issues and the fees. He wants to be on record to say it is not the county's goal to shut down rental cabins. The intent is for public health, safety, and welfare, as well as to mitigate the tremendous land use conflict. Those units that are responsible will breeze right through this process. Those that are not willing will struggle.

Mr. Hibbert stated there are several ways that ordinances can be adopted in the county: the P&Z board can initiate it, the staff can initiate it, the Commissioners can initiate it, or the public can initiate it. He understands that this document is not finished and he is open to public comment and suggestions.

Mr. Pinther stated the life safety part is lacking. He would like to see hard wired smoke alarms required. He questioned if the Supreme Court decision regarding change of use and the Grandfather Clause affects this.

Mr. Hibbert stated this does not have a grandfather clause because these uses have never been legal, it just has been done. The county should have addressed this 30 years ago.

Mr. Mackert asked how they are going to regulate the units themselves and the issues with the ATV and snowmobile use.

Mr. Hibbert stated if they can not function within the parameters of their approval, the permit will go away.

Mr. Mackert asked what would happen to a cabin that meets all the registration requirements but has renters that come and decide to ride snowmobiles all night long through the subdivision. It is due to the lack of consideration of the people who are renting it.

Mr. Hibbert stated it is hard to make people responsible and government will never be able to do that. They question he gets asked a lot is why do the actions of a few require this for all. This creates a context to start. They can include buffering and in the site development section. He does not have that in there now because he is trying to make this very easy to implement and to include language that makes it simple to understand.

We have the opportunity to enter into discussion. What are the key things that need to be dealt with and what kind of mitigation can they use.

Mr. Pinther stated they have to enforce the life safety issues. Any future permits need to go through the process. They have to figure out the grandfather issue. In the future the neighbors can decide if they want commercial entities.

Mr. Hibbert stated life safety issues are the main thing; they are not going to try to get total code compliance as part of this process. They do not want to create the environment that some of the cabins can never come into compliance. They need to create a core list that will be sure that people do not get killed. They do not need to have the same compliance with the cabins that have been there for a long time, as the new ones.

Mr. Pinther stated no one disagrees with the life safety issues; the concern is for the grandfathering in of the cabins that are functioning already.

Mr. Hibbert explained to Mr. Pinther that they have to be legal at one time in order to be grandfathered in, and these have never been legal and therefore can not be grandfathered. There could be cabins that truly are legal and they will defer to those decisions.

Mr. Derricott asked what the timing will be on this issue.

Mr. Hibbert stated they are having a public hearing in Island Park. They will develop a document that balances things better than it did last year. He will be working on the document and will bring it back to them.

Mr. Mackert asked if they need to hold the public hearing during the summer months.

Mr. Hibbert stated no, as he can take comments from the public all the time. He is committed to taking the public comment and making the document politically palatable.

9. Review of Potential Code Amendments

Mr. Hibbert deferred other code amendment discussions.

10. Administrator's Report

1. discussion of personal use wind turbines

Mr. Hibbert stated they have given the first permit for wind turbines as a Class II permit.

11. Adjourn

**Mr. DERRICOTT MOTIONED TO ADJOURN. MRS. MILLER
SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**