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**Fremont County Planning  
& Zoning Work Meeting Minutes  
February 07, 2011  
6:00 pm**

**County South Bridge Street Meeting Room**

7 The Fremont County Planning & Zoning Commission met in a special work meeting  
8 February 07, 2011. They met in the County South Annex Building. **Members in**  
9 **Attendance were:** Cathy Stegelmeier (Chairman), Jim Gerber, John Nedrow, Cindy  
10 Miller, Sam Davis, Larry Singleton, Rod Nichols, Layne Hepworth, John Harrington,  
11 Steven Trafton.

12 **Excused:** Patti Crapo

14 **Staff and others present:** Stephen Loosli (Administrator), Kaylie Bowman (P&Z  
15 Secretary), Greg Newkirk (Planner II)

16

<b>1. Call to Order and Welcome</b>
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17 Ms. Stegelmeier called the meeting to order at 6:01 p.m., and welcomed everyone.  
18

<b>2. Old Business</b>
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<b>2.1 Work Meeting on Development Code</b>
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19 Mr. Loosli introduced Greg Newkirk as the new Planner II, and also the GIS person.  
20

21 Mr. Newkirk introduced himself and talked about where he went to school and his prior  
22 employment.

24 Ms. Stegelmeier stated that she was excited and was glad to have someone here for GIS.  
25

26 Mr. Loosli explained that Mr. Newkirk will be here observing and that the commission  
27 may ask him any question that they think he can answer. He then went on to explain the  
28 current land use maps that the Board has made. He explained the coding on the map and  
29 what each color meant. He explained that the terms on the map are very generic for a  
30 purpose. The new map was made to clear up things for the public and that the brown  
31 only has rural application, until someone wishes to alter it.

33 Ms. Stegelmeier asked if Teton City was on the map  
34

35 Mr. Loosli said that Teton City and Newdale are there with their areas of impact, as is  
36 Ashton with its area of impact.

38 Ms. Stegelmeier asked if the yellow was unincorporated.  
39

40 Mr. Loosli answered yes and they are not in an area of impact. He stated that he has  
41 worked very hard on making new copies of the development code, but he didn't get it

42 finished. He said that the comments that have been sent to him recently will be in the  
43 draft he is working on. He apologized for not having that here tonight. He stated that he  
44 would have that to the commission in the next couple of days. He then went to the check  
45 list on the white board from the December work meeting. Stated that number seven on  
46 the board can be over looked for now because he fundamentally altered Chapter 4 in the  
47 Development Code. He said that the old chapter was very clunky.

48

49 Mr. Gerber asked what he meant by fundamentally changed.

50

51 Mr. Loosli said everything in there except for PUD which was tossed.

52

53 Mr. Gerber asked if there is no conservation or rural living in there now.

54

55 Mr. Loosli stated that they were in there but in a different way. He talked about zoning  
56 and what each area meant and that either way you look at it you get rural conservation.  
57 Rural living is available in the rural area but only if certain conditions are there. He read  
58 from Chapter 4 of the Code. Stated that what he read was just a starting point for the  
59 commission. He gave examples. Rural Conservation and Rural living are still there. He  
60 then stated that certain parts of Chapter 5 will be moved to Chapter 4 and that there will  
61 be a new Appendix U and that the information in Appendix U will become Appendix V.  
62 He then talked about what will be in the new Appendix. He read from the Code and  
63 talked about the zones.

64

65 Mr. Davis asked if rural infill was gone.

66

67 Mr. Loosli said yes it was gone. The name rural infill was gone and now is referred to as  
68 Rural Urban Transition.

69

70 Mr. Davis asked if percentages and everything will follow these names.

71

72 Mr. Loosli said that everything will be the same just under another name. He went on to  
73 talk about commercial areas and explained what the different types would be. He also  
74 read from the Code on commercial areas. He stated that Marla Vik, the Board, the Mayor  
75 of St. Anthony, and himself had gotten together with ITD about connectivity and future  
76 connectivity to Highway 20. He said that the only connection to highway 20 south of the  
77 South St. Anthony Exit will be 200 north. There will be no more 100 north, and they are  
78 talking about moving the state shed further south so there will be no 300 north. He talked  
79 about the implication to the County because of this and what the code will have to take  
80 into consideration.

81

82 Mr. Davis asked if gravel mining is considered commercial or is it a special overlay.

83

84 Mr. Loosli stated that gravel mining falls under two different areas. He explained which  
85 two areas they fall under and where they would fall on the map. He explained that these  
86 examples are where the zoning chapter is going. That this will give clear separation of  
87 uses and there will be a checklist when they move from one type of zoning to the next.

88 This should also clear up things that have been brought up at public hearings. He talked  
89 about the items on the map that the commission will have to look at. He stated that the  
90 commission did staff a favor by delaying the decision on the Code so that it could be  
91 looked at and refined. He explained that this is where zoning is going. He also explained  
92 that people coming in to apply for permits will know ahead of time with the checklists if  
93 they can apply for certain things.

94  
95 Mr. Trafton asked what if a person wants to put a subdivision in a rural conservation  
96 zone.

97  
98 Mr. Loosli stated that he was talking about the intensity of what the person wants. He  
99 gave examples of changing the zones. He stated that if they meet the check lists they can  
100 get the zoning changed.

101  
102 Mr. Trafton asked if he had missed this and if the ability to upgrade the zone is part of the  
103 new chapter 4 or if it wasn't in there.

104  
105 Mr. Loosli said it is part of zoning; you haven't missed the concept because it wasn't in  
106 there.

107  
108 Ms. Stegelmeier said that what Mr. Trafton was asking is that people have always been  
109 able to come in and ask for a zoning change.

110  
111 Mr. Trafton said right, but they had to do this through a variance.

112  
113 Ms. Stegelmeier said no, it is not called a variance because that would mean in the  
114 beginning they absolutely couldn't do it. They would come ask for a zoning change but  
115 now it says that they couldn't change the zoning at all if they couldn't meet the  
116 requirements on the checklist. That it is going to be more specific. She asked if that was  
117 right.

118  
119 Mr. Loosli stated that this is exactly right. He gave an example from Ada County. He  
120 said that what wasn't in the current draft of chapter 4 is that you can't up the zone from  
121 one to the other and the standard that the zone change would be considered under.

122  
123 Ms. Stegelmeier asked that if when areas get bigger then outlying areas would they have  
124 to look at these considerations.

125  
126 Mr. Loosli said that for example if someone came in and asked to rent his cabin to 57  
127 people this would be commercial use. He stated in the old code there is no standard to  
128 judge whether to change the zoning. Under the new Chapter it will explain this to the  
129 public better because of the standards that are set up.

130  
131 Mr. Gerber asked if the performance and development standards in Chapter 5 were going  
132 to change; such as set back from streams and open space, etc.

133 Mr. Loosli said no, they won't change that is completely different. That is structure of  
134 design, and standards. Chapter 5 will only be altered in that frontages and set backs will  
135 be moved to Chapter 4.

136

137 Mr. Davis asked if Drummond or somewhere small wanted to come in and change from  
138 Conservation to Rural Urban would that be doable. He then asked why aren't some of  
139 those areas already on the map.

140

141 Mr. Loosli stated that this would depend on if they could meet the items on the checklist  
142 in the Code. But that if they wanted to shift the district, such as from rural conservation  
143 to commercial that would require an amendment to the map also.

144

145 Mr. Davis asked if we are going to have to create these checklists.

146

147 Mr. Loosli said yes, by the next meeting I will have a good starting point for you to go  
148 from. It gives the commission the ability to say to people that they have or have not met  
149 the requirement for more dense use.

150

151 Ms. Stegelmeier asked if this is a big change because of something that happened.

152

153 Mr. Loosli said that this is a big change that should have been there from the beginning.

154

155 Ms. Stegelmeier asked if when the cabin rentals started coming in if this was the reason  
156 for this change.

157

158 Mr. Loosli said yes, and also anyone else that came in and wanted to know why they  
159 weren't given the change. He said that some of this has been changed because of Idaho  
160 Supreme Court cases that he read.

161

162 Mr. Trafton asked if they were opening up a vast gray area.

163

164 Mr. Loosli said no, we are eliminating the gray area. He talked about the people from  
165 Chester and their complaint and how this will clear things up. Stated that what he has  
166 said this is a quick overview and not everything in the new Chapter. Stated that the next  
167 time they meet they will focus solely on Zoning.

168

169 Mr. Trafton asked how you define things.

170

171 Mr. Loosli stated that if you define things and state what will happen next, then people  
172 will know how to start and where to go from there.

173

174 Mr. Hepworth asked if staff was bringing the commission a list of conditions.

175

176 Mr. Loosli said we will bring a draft that you can consider by the next meeting on this.

177

178 Mr. Hepworth asked are you using Ada County as a model.

179 Mr. Loosli said that is one of the examples I am using but there are others.  
180  
181 Mr. Hepworth asked about other counties, since he wasn't sure that he would know what  
182 the checklists should have on them.  
183  
184 Ms. Stegelmeier said that the commission could look up other counties and read about  
185 them.  
186  
187 Mr. Loosli stated that he looked at a lot of counties before he picked the one he was  
188 drawing from. He also looked at court cases against those counties. He read from the  
189 Ada County Code and how they are more conservative than Fremont County. He said it  
190 won't be a big list to look at.  
191  
192 Mr. Davis asked can we identify nuisances, unlike uses, and put criteria on them to stop  
193 appeals.  
194  
195 Mr. Loosli said yes that is what Appendix U is.  
196  
197 Mr. Davis said Appendix U is on nuisance but we have no criterias for that and what it is.  
198  
199 Mr. Loosli said exactly, and nuisances change with use.  
200  
201 Mr. Davis said we need to identify these things and put criterias on them.  
202  
203 Mr. Loosli gave examples of uses and how the nuisances for each were different. He said  
204 that this is what Appendix U is and when the commission looked at it they could decide  
205 where to take it from there.  
206  
207 Ms. Stegelmeier asked if they should go back to the list.  
208  
209 Mr. Loosli said he only went to that for those who came late and to clear up number  
210 seven on the list because PUDs were in this chapter and they are going to be changed.  
211 The next one on the list was Wildlife and Recreation. He asked who brought this up.  
212  
213 Mr. Trafton stated that it was Mr. Harrington.  
214  
215 Mr. Harrington stated that they only focused on his list.  
216  
217 Mr. Loosli said that Wildlife and Recreation starting on page 74. He reminded them that  
218 they have already altered the Recreation portion of Chapter 9. He went back to the Code  
219 and pointed out were in the Code that Wildlife and Recreation was.  
220  
221 Mr. Harrington said that his concern was on the language, especially the word critical.  
222  
223 Mr. Loosli said that this language has been changed, except where he meant to say  
224 critical. He repeated Mr. Harrington's argument about how some of the words could be

225 used in a court of law. He said he changed the words to have meaning to the  
226 commission, but couldn't be used in court the way that they previously could.  
227  
228 Mrs. Miller asked if the word Critical Area would be changed to important.  
229  
230 Mr. Loosli said no in that instance the word critical could stay that way. He gave some  
231 examples.  
232  
233 Mr. Harrington asked about 5.14.  
234  
235 Mr. Loosli said that 5.14 had been changed to important.  
236  
237 Mr. Harrington asked if they were also carrying those changes to the definition chapter.  
238  
239 Mr. Loosli said yes. He asked if there was anything else on Wildlife. He then asked if  
240 Mr. Trafton wanted to talk about what had been talked about previous just as a reminder  
241 to everyone.  
242  
243 Mr. Trafton said yes, on page 25 of Chapter 3 item 8.  
244  
245 Mr. Loosli explained how this will be changed and also rewording in item 7. He said that  
246 the changes have been made. He stated that it is important that when they get the drafts.  
247 They need to look over the key areas that they themselves have been talking about.  
248  
249 Ms. Stegelmeier asked if anyone else had anything on wildlife. She then moved on to  
250 page 92, and asked about ridgeline development and the distance of five miles. She  
251 wasn't aware that they had talked about the five miles.  
252  
253 Mr. Loosli said we talked about this before the public hearing but it can be changed. This  
254 is something that needs a map to talk about.  
255  
256 Ms. Stegelmeier asked about the area where she lived and how do you decide on which  
257 ridgeline it is.  
258  
259 Mr. Loosli explained how this works and how other areas do this. He explained that this  
260 may be something that the commission postpones until Mr. Newkirk could get a map to  
261 the commission.  
262  
263 Ms. Stegelmeier said that was good because she didn't know how they could do this  
264 without going to great lengths.  
265  
266 Mr. Loosli said that GIS is a tool that will allow us to do this.  
267  
268 Mr. Davis asked if it was five miles in any direction.  
269  
270 Mr. Nichols asked what it meant to break the ridgeline.

271  
272 Mr. Loosli said it referred to a property that is within five miles of the listed roads.  
273  
274 Mr. Davis asked is it five miles to the east or to the west?  
275  
276 Mr. Loosli stated that it is if the house you would like to build can be seen from these  
277 roads.  
278  
279 Mr. Davis asked so does that mean they can't build it.  
280  
281 Mr. Loosli said no, they either have to lower the height or bring it down off of the ridge.  
282  
283 Ms. Stegelmeier said that they were all interested in this and that this needed more  
284 consideration.  
285  
286 Discussion on the distance of five miles and breaking the ridgeline  
287  
288 Mr. Loosli asked if they could delay this until he could get them a map. He asked by a  
289 show of hands who wanted some concept of ridgeline. He then stated that he would go  
290 back and work on this and get a map.  
291  
292 Mr. Trafton asked about finishing the Development Code tonight.  
293  
294 Mr. Loosli stated that the Board wanted it done right rather than fast. Stated that if the  
295 commission is uncomfortable with concepts of the Code that they should not pass it off to  
296 the Board to have to delve into those items.  
297  
298 Ms. Stegelmeier said that she would like some more time to look at this area as well as  
299 other areas also.  
300  
301 Mr. Loosli stated that there isn't a line of people wanting the Code so let's work on it  
302 until it was right.  
303  
304 Mr. Trafton said he thought it had to be done fast.  
305  
306 Mr. Loosli said no, that is not it at all.  
307  
308 Mr. Harrington asked if the visual study from Utah State would help them look at this.  
309  
310 Mr. Loosli stated that it would help for some things but not others and gave examples.  
311 He stated that if the commission would go to the County website they could see a little  
312 better what was being talked about.  
313  
314 Mr. Harrington encouraged everyone to look at Teton County and Madison County  
315 where they have done ridgelines wrong.  
316

317 Mrs. Miller asked about where the road begins and where it ends. Stated that this is a  
318 gray area. She asked if it needed to be clearer.  
319  
320 Mr. Loosli stated that clarity is always good. He talked about how people's opinions of  
321 where these roads begin and end always differ.  
322  
323 Mrs. Miller said that we don't want too much stuff in the code but not keeping enough in  
324 there isn't good either.  
325  
326 Mr. Loosli said if it was alright with the commission he would do some more changing to  
327 this.  
328  
329 Ms. Stegelmeier said that would be good because this is a gray area.  
330  
331 Mr. Harrington asked if we look at counties that did it wrong and look at the regulations  
332 they have in place now.  
333  
334 Mr. Loosli said absolutely. He then asked if they could move on from that.  
335  
336 Ms. Stegelmeier said that they were moving on to wind farms.  
337  
338 Mr. Gerber said that on page 309, 1.04.010 is a violation of personal property rights.  
339  
340 Mr. Hepworth said he thought they already talked about this.  
341  
342 Mr. Gerber said I know I am bringing it up again.  
343  
344 Mr. Nichols said he agreed but if someone came in with a good proposal we would look  
345 at it.  
346  
347 Mr. Gerber said that the Code said it is prohibited.  
348  
349 Mr. Loosli said lets talk about property rights for a moment. He talked about what  
350 defined personal property, and that some of those definitions are not there anymore,  
351 because of items that come with the property. He gave an example of CC&R's of a  
352 subdivision. The right of private property usage does not include doing everything you  
353 want to. It ends when you start infringing upon the personal property rights of the people  
354 neighboring your property. He gave examples of this. He talked about the regulations on  
355 a large scale wind energy system.  
356  
357 Ms. Stegelmeier asked what large scale means.  
358  
359 Mr. Loosli said it is defined on 308 and read from that.  
360  
361 Mr. Nichols talked about Bonneville County and what they are doing.  
362

363 Mr. Loosli said that is their right as a county to do this. He explained that this is a  
364 regulation of nuisance. He then talked about property rights and restrictions of building.  
365 He said that the ability of regulating use is absolutely in the legal authority of this  
366 commission. If you do not want large wind energy systems, that is in your legal rights as  
367 a commission. For your sake you need to ask does the county have a valid use or benefit  
368 for these things being installed. If you think it is something that is beneficial then you  
369 need to word it that the large wind energy systems placed in Fremont County need to get  
370 a special use permit.

371  
372 Ms. Stegelmeier stated that she could see some draw backs but stated some of the  
373 benefits from it.

374  
375 Mr. Hepworth asked how many inquires have been made.

376  
377 Mr. Loosli said two before he came and they did extensive studies. He said that if he  
378 recalled right they came back and said it was close but not ideal for wind farms.

379  
380 Mr. Davis asked if it could be stated that a person could obtain this with a special use  
381 permit.

382  
383 Mr. Gerber said he thought that would be good.

384  
385 Mr. Davis said that the reason they hadn't finished this is because they didn't want to  
386 spend a lot of time on this. They felt that they could give the Board the Code and then  
387 revisit this at a later time.

388  
389 Mrs. Miller said they talked about how technology could change.

390  
391 Mr. Davis said they didn't want to write something up based on knowledge they didn't  
392 have.

393  
394 Mr. Trafton said that the language was in there for a reason but the question is what  
395 impact would this have on Fremont County. He gave examples of the impact these  
396 systems have had on other areas and that this is the commissions right to say no, we do  
397 not want this in our county.

398  
399 Mr. Gerber said the reason he liked it is for income value for land owners. He said that  
400 this isn't a small amount of money and talked about how much money a land owner  
401 could get from rent on the wind farms.

402  
403 Mr. Hepworth said that Mr. Gerber acted like this is applicable to everyone. He said that  
404 studies have been done and most of the county isn't efficient enough for these.

405  
406 Mr. Loosli asked if Mr. Gerber knew what pays for these wind farms and then stated it  
407 was tax subsidies.

408

409 Mr. Davis said two things bothered him. First, was that there isn't enough wind in the  
410 county to sustain the wind farms. Second, was how they are going to maintain the  
411 turbans in the winter. He explained about how they are already having many problems  
412 with cell phone towers because of the winters.

413  
414 Mr. Nichols asked if they could vote on if the commission wanted to discuss this any  
415 more. That if there are five members that want to continue discussing this we can but if  
416 not let's move on.

417  
418 Ms. Stegelmeier asked for a show of hands for who was in favor of the change and  
419 continuing discussion and who was not. Mr. Gerber and Mr. Singleton were in favor,  
420 everyone else was opposed, so they moved on.

421  
422 Mr. Loosli then moved on to Dale Swenson's letter. He then talked about how the short  
423 plat language has been changed. He read the changes.

424  
425 Kaylie left to make copies of the letter for the commission.

426  
427 Mr. Harrington asked about 5.42 on page 105. He said that they had talked about  
428 changing the wording on this and asked if that has been done.

429  
430 Mr. Loosli said no, this hasn't been done. He explained that Fremont County hasn't  
431 adopted a complete official road map. He talked about the roads on section lines, and  
432 what has to happen. He said that Ms. Vik's office is working on this. He said until they  
433 have this official map they can't change this. He talked about Fisherman's Drive.

434  
435 Mr. Harrington said he just wanted to make sure that someone was on this.

436  
437 Mr. Loosli said that the change in the short plat is the notification by the applicant. This  
438 has to be via first class mail and at the expense of the applicant. The notification has to be  
439 sent to all neighbors within 1000 feet of the property line. Then neighbors won't be  
440 ignorant.

441  
442 Mr. Hepworth asked how this works in practice.

443  
444 Discussion on Short Plats and notification

445  
446 Mr. Loosli drew examples on the white board. Mr. Loosli stated that if the commission  
447 wants public hearing on these, then there aren't any short plats.

448  
449 Mr. Davis then asked if a county road cuts between two five acres lots are they still  
450 continuous and if there is wording about this in the Code.

451  
452 Mr. Loosli said lets not make that decision tonight. Stated they needed to think about  
453 this.

454

455 Mr. Harrington asked about number two on the list and if it is in compliance with the  
456 Comp Plan.  
457  
458 Mrs. Miller said they have put the public back in by making the applicant notify  
459 neighbors.  
460  
461 Mr. Loosli said that the neighbors are being notified. He stated that every week he  
462 reviews lot splits which are subdivisions. The trade off is that every subdivision has to  
463 come to you and you will end up meeting twice a week. He said he didn't want to put lot  
464 splits back in.  
465  
466 Ms. Stegelmeier stated this still gives people the ability to do things with their land, but  
467 not go wild.  
468  
469 Mr. Harrington said that the public had two concerns when the meeting was held. One,  
470 that they were being left out of the equation, and two that we are opening a loop hole for  
471 developers.  
472  
473 Mr. Loosli stated in what way is it a loop hole  
474  
475 Mr. Nichols said that the public will receive notification. It also says that we don't have  
476 to have a public hearing on every one.  
477  
478 Mrs. Miller said and they can go to the Board and challenge it.  
479  
480 Mr. Loosli said it could be a loop hole if we said short plats don't have to meet these  
481 standards but now it says that they have to meet all of the standards.  
482  
483 Ms. Stegelmeier said that as she understood it, as a developer you wouldn't want to do  
484 this because you would want to utilize all of the lots.  
485  
486 Mr. Loosli said that they could further divide at another time, but only in the regular  
487 subdivision process. He gave examples of this process and another example from  
488 Montana.  
489  
490 Ms. Stegelmeier acknowledged that Ms. Vik in the audience had a question.  
491  
492 Ms. Vik asked about the impact on the county road if all of the smaller lots are accessing  
493 the one county road. Does you short plat process address this?  
494  
495 Mr. Loosli said yes, on page 91 item 5.30 and read from this. He showed Ms. Vik the  
496 drawings in the Code and stated that the bottom drawing is the standard. He said he  
497 would make this clearer in his revisions.  
498  
499 Ms. Stegelmeier asked if everyone was ready to move on to the Swenson Letter.  
500

501 Mr. Loosli explained the markings on the letter and what they meant so the commission  
502 could review the letter during the break.

503

504 **Ms. Stegelmeier stated there would be a five minute break.**

505

506 Ms. Stegelmeier at 7:50 called the meeting back to order.

507

508 Mr. Loosli stated that a question had been brought up about the amount of feet from the  
509 property that people have to be notified. He read from page 39, and explained the two  
510 standards about public notice.

511

512 Mr. Nichols asked where that was measured from.

513

514 Mr. Loosli stated it was from the perimeter of the property. He talked about the old Code  
515 and how not enough people were being notified. He talked about Mr. Davis's comments  
516 about how certain things could have an impact on a whole community. This is why it has  
517 been changed to 1000 feet or 3000 feet, nothing more or less. He asked if there were any  
518 other questions.

519

520 Mr. Davis asked about the property going to the center of the road.

521

522 Mr. Loosli explained that we are talking about easements and ownership, and they aren't  
523 the same. He gave examples of easements to roads.

524

525 Mr. Loosli then moved on to Mr. Swenson's letter asked how much time the commission  
526 wanted to spend on TDRs. He said as a concept in building rights there isn't any reason  
527 for TDRs, but under other types of rights there is a reason for it. He then talked about  
528 TDR's; stated that Fremont County doesn't have this problem. He referred to the  
529 gentleman from Bozeman that came down and talked. Talked more about TDRs.

530

531 Ms. Stegelmeier asked if a chapter could be added later on this.

532

533 Mr. Loosli said yes. He gave some more examples.

534

535 Mr. Hepworth asked if there is any market in Idaho for this.

536

537 Mr. Loosli no, not that he could think of.

538

539 Mr. Hepworth asked if this is something that could be added later.

540

541 Mr. Loosli yes, anytime.

542

543 Ms. Stegelmeier asked if someone brought this to us we could consider it.

544

545 Mr. Loosli said that they could just say it could be considered.

546

547 Mr. Singleton asked if that tried on Bill's Island.  
548  
549 Mr. Loosli stated yes, but that was on land that was under water. He brought up paper  
550 lots and that this has to be established. He then explained what paper lots are.  
551  
552 Mr. Gerber asked if this was going into the Code.  
553  
554 Mr. Loosli stated that everything with the checkmarks on Mr. Swenson's letter has been  
555 put in but that the TDRs are not going in now. It is in the Comp Plan as something we  
556 would like to do. He said Mr. Swenson is bringing this up because of the gravel pits.  
557  
558 Ms. Stegelmeier asked if they could move on to the next item on the letter, and asked if  
559 we could do this for them.  
560  
561 Mr. Loosli said no, Fremont County does not do work for Fremont Madison Irrigation.  
562  
563 Ms. Stegelmeier asked if they could get a checklist from Fremont Madison for this.  
564  
565 Mr. Loosli said no. He stated that he has talked with the county attorneys and they will  
566 not permit this, neither will Fremont Madison Board of Directors. Their Board of  
567 Directors were very clear on what they want to do in this area. He stated that he liked the  
568 ideas but that they were not going to go to court for this. The reason he brought it up, is  
569 because you can't change the irrigation works on property. This is mandated from the  
570 State of Idaho and it is verbatim in the Code that way. This is what Mr. Swenson is  
571 asking for in his letter.  
572  
573 Mr. Trafton said that Mr. Swenson wants this as more of a point of information.  
574  
575 Mr. Loosli said this is in there. There is a list of who the public has to go see before they  
576 come to the Planning and Building Department. This list is on the applications. This is  
577 for the public to take care of not for staff to do for them.  
578  
579 Ms. Stegelmeier asked to move on to page 3 of the letter.  
580  
581 Mr. Loosli talked about which items that were not going into the Code, and about  
582 spelling changes, etc.  
583  
584 Mr. Singleton asked about why the public should have to go in and clean up what the  
585 county did.  
586  
587 Mr. Loosli said it was just a concept. He asked where he was reading from.  
588  
589 Mr. Singleton said he was back at TDRs.  
590  
591 Mr. Loosli stated that there is more liberty in Idaho about gravel. He said that Mr. Davis  
592 brought up at a prior meeting what could be done on that. He moved on to the

593 information on page three about chapter four. He explained that the idea of preserving  
594 communities is good and this could be something worth looking into. He asked the  
595 commission if they saw a need to carve out a Sarilda Conservation Zone if not they  
596 would move on. He asked about 4.09.040 changing the lot size to 5 acres. He explained  
597 Mr. Swenson was talking about individual well and septic. He talked about community  
598 systems and septic systems. He said that Mr. Swenson may think that 1.5 acres was too  
599 dense.

600

601 Mr. Davis stated what District Seven required and said that this was good enough.

602

603 Mr. Loosli said that this was Mr. Swenson's question and he just wanted to ask about it.

604

605 Ms. Stegelmeier asked if they got the numbers in the Code from DEQ.

606

607 Mr. Loosli said yes that the DEQ's recommendation is that 1.5 acres is adequate space.

608

609 Ms. Stegelmeier talked about how 1.5 acres was better for clustering.

610

611 Mr. Loosli said that was right. He said if you make it to big you are losing clustering.

612 That wells and drain fields could be put in the open spaces. Stated that if there is a

613 problem later on they can always look at this every year.

614

615 Ms. Stegelmeier asked about Table 5.2 on page 79.

616

617 Mr. Loosli said that the county does not have a permit to put in an irrigation pump. He  
618 then went back to table 5.2 are explained this table and the setbacks. He explained that  
619 the setbacks start at the easement of the canal company.

620

621 Ms. Stegelmeier asked if other canal companies didn't have written easements would  
622 they just be grandfathered in.

623

624 Mr. Davis stated that most canal companies don't have a written easement.

625

626 Mr. Loosli said there is an applied easement from the State's statute.

627

628 Ms. Stegelmeier said that this would be between the irrigation company and the  
629 applicant.

630

631 Discussion on setbacks from canals and easements of the canal companies

632

633 Mr. Loosli asked if there needed to be more discussion on this or if the commission  
634 wanted to move on. He reviewed other items on the letter. He talked about the expense  
635 on the biologist and that Mr. Swenson thought that this was unnecessary.

636

637 Ms. Stegelmeier said that they had already gone over this and that this was necessary.

638

639 Mr. Loosli stated he was talking only about large scale projects and from staffs  
640 perspective he could see no problem getting a biologist for a project of this size. He  
641 talked about Chapter 5 .19 and said that this is the state statute.  
642

643 Mr. Nichols asked about trying to develop the rural village in Wilford. Will we need to  
644 pay a professional to come in?  
645

646 Mr. Loosli said that Wilford will be done another way. That it won't be done as a rural  
647 village but as an unincorporated hamlet. He finished reviewing the letter. He asked if  
648 there was anything else to discuss.  
649

650 Mr. Gerber asked about page 125, on conservation subdivisions, and how they are  
651 different from a regular subdivision.  
652

653 Mr. Loosli said that everything in Fremont County is now a conservation subdivision. He  
654 explained that a regular subdivision is on a graph and a conservation subdivision is laid  
655 out around a land mass. He explained what that meant.  
656

657 Mr. Gerber asked about page 129 item a, and asked to explain "single-loading" to him.  
658

659 Mr. Loosli read from page 129 item a. As he read he explained that only 25% of the  
660 houses can be on a certain side of the road and that there can't be double-loading on that  
661 portion of the road.  
662

663 Mr. Gerber asked if he could draw this on the board.  
664

665 Mr. Loosli drew an example and explained what it meant.  
666

667 Mr. Gerber asked if there was a cluster of ten houses because of this could they only have  
668 eight instead of ten.  
669

670 Mr. Loosli said no, you can still have ten but some of them could only be on the one side  
671 of the road.  
672

673 Mr. Gerber asked if they would have to have a longer road and if this would affect open  
674 space.  
675

676 Mr. Loosli said no, it is an enhancement tool. There will still be the ability to cluster.  
677 This also doesn't affect open space.  
678

679 Mr. Gerber asked if this was a requirement.  
680

681 Mr. Loosli said yes, that 25% of the one side of the road will be "single-loaded."  
682

683 Mr. Davis said so 3 out of 4 houses will be on the one side of the road.  
684

685 Mr. Loosli no 1 out of 4  
686  
687 Mr. Loosli said it had more to do with the lineal foot of the road. He said that on a mile  
688 long road a quarter of that mile could only have houses on one side.  
689  
690 Mr. Davis asked so it is on distance?  
691  
692 Mr. Loosli said yes.  
693  
694 Mr. Gerber said that he felt they were placing too many restrictions and that people  
695 wouldn't be able to meet the entire requirement.  
696  
697 Mr. Loosli said that this item would not create a problem.  
698  
699 Ms. Stegelmeier asked if they would have to create more roads.  
700  
701 Mr. Loosli said no, it would just change the layout of the placement of homes. He then  
702 referred to pictures in the Code on pages 129 & 130.  
703  
704 Ms. Stegelmeier said they are still clustered.  
705  
706 Mr. Loosli yes, they are still clustered. He then referred to the pictures on page 132.  
707  
708 Mr. Gerber asked if this required a bigger cluster than normal.  
709  
710 Mr. Loosli said no, and asked them to keep in mind that there are different kinds of  
711 clusters. He explained the concepts of clusters, and how they work.  
712  
713 Mr. Gerber asked if they only allow ten in a cluster.  
714  
715 Mr. Loosli went back to the board to explain the clusters. There could be up to ten in a  
716 cluster, but they could be spread out over the subdivision. This just eliminates city grids.  
717 City grids destroy the rural feel.  
718  
719 Mr. Gerber referred to page 252 Appendix I 1.38.20. He asked if something needs to be  
720 done about the wording on mutual consent.  
721  
722 Mr. Loosli said probably.  
723 Mr. Nichols asked if that could be taken out completely, if they have a deeded easement.  
724  
725 Mr. Loosli explained why this was put in and why it needed to stay there. He gave  
726 examples from land in Island Park. He said that this needs to be looked at in this way and  
727 that if everyone doesn't say yes, then it is a no. He isn't saying that this is the right  
728 answer he is just saying that they need to look at this and if this is what the commission is  
729 trying to say.  
730

731 Mr. Hepworth said that they needed to discuss the septic issue on this.  
732  
733 Mr. Davis asked because it is a county road, is that why they need mutual consent.  
734  
735 Mr. Loosli said no, it could be a private driveway. The intent of the county rule is to say  
736 that they still need to be a good neighbor and if they are using more of a limited resource  
737 than they should be able to.  
738  
739 Mr. Singleton pointed out that they had run into this problem at the public hearing.  
740  
741 Mr. Trafton said what it boils down to is the road easement to each individual or is it to  
742 the group collectively. If it is to the group collectively then you need the consent of all of  
743 the individuals.  
744  
745 Mr. Gerber stated it would depend on how the easement is worded. If it says that they  
746 have to have an agreement with all parties, then they need consent, but if it states that  
747 they have the right to this road they don't need it.  
748  
749 Mr. Hepworth asked if every private drive would have an easement on record that says  
750 what Mr. Gerber is saying.  
751  
752 Mr. Loosli said that you have to have access to your property. Some of that will be  
753 prescriptive via a deed. They wouldn't get a building permit without access to the  
754 property.  
755  
756 Ms. Stegelmeier stated that she didn't want to be a judge on this.  
757  
758 Mr. Davis said that they don't get into the business of the home owners association, why  
759 should they get into this.  
760  
761 Discussion on easements and mutual consent many examples given.  
762  
763 Mr. Nichols asked why it needed to be in there at all, if they have legal access to the  
764 property.  
765  
766 Ms. Stegelmeier asked if they could get some legal advice on this.  
767  
768 Mr. Loosli said he had gotten that and read what it said. "Transient rentals must have  
769 access to the adjacent public, county, or state roadway."  
770  
771 Ms. Stegelmeier said that if one of the neighbors has a problem with this they can take  
772 the applicant to court.  
773  
774 Mr. Loosli said if it is a violation of an agreement they will have to fight it out.  
775  
776 Mr. Nedrow asked if this becomes a big problem can the Board change this.

777

778 Mr. Loosli said yes, because it is an adopted ordinance. They would have to have the  
779 commission have a hearing to amend this Appendix I by law. This is why we are talking  
780 about it now.

781

782 Mr. Nedrow said that he felt they should leave it for now, unless they saw it become a big  
783 problem.

784

785 **Mr. Nichols moved to change 1.38.020 to the wording that was recommended**  
786 **by legal council, and that the commission can not make this change, but can**  
787 **recommend this change to the Board. Gerber seconded. All in favor, Mr.**  
788 **Nedrow opposed. Motioned passed.**

789

790 Ms. Stegelmeier asked for any more discussion

791

792 Mr. Trafton stated that the commission may be making this area grayer. He thought that  
793 they weren't doing the County any favors by punting on this.

794

795 Mr. Nichols said he didn't feel they were punting on this one.

796

797 Mr. Davis said if they made a different decision that someone else would appeal it also.

798

799 Mr. Nedrow asked if they could change the wording in the motion to, that the  
800 commission could not make this change, but can recommend this change to the Board.

801

802 Mr. Nichols accepted this change.

803

804 Mr. Gerber said as the second he accepted it also.

805

806 Mr. Loosli asked Mr. Hepworth what his question was on Appendix I.

807

808 Mr. Hepworth referred to page 241.

809

810 Mr. Loosli said if he could sum it up, it is what a septic system is. He explained what this  
811 was. He went on to say they had two ways of dealing with this section. The first is to  
812 leave it alone because the Health Department isn't going to give the permit without  
813 upping both the septic tank and the drain field, which we have to have in writing before  
814 issuing the permit. The second is to say system and not tank.

815

816 Mr. Nichols said that it says system everywhere except on page 242 on the middle of the  
817 page where it says tank. I think the code covers this because it says system.

818

819 Mr. Loosli stated that the one loop hole he could see is if someone has a big tank without  
820 an adequate drain field. He said that if by chance this was permitted, this could be a  
821 problem.

822

823 Mr. Davis asked would this really make a difference.  
824  
825 Mr. Loosli said that this is what Mr. Hepworth is saying. He stated that if it were him, he  
826 would word it that the drain field would have to be correspondently sized.  
827  
828 Mr. Trafton asked where would you put that.  
829  
830 Mr. Loosli said by paragraph 1 page 242 the middle of the page, he would add a  
831 paragraph 2.  
832  
833 Mr. Davis said with adequate sized drainage.  
834  
835 Mr. Nichols asked doesn't the septic system mean the whole system from the house.  
836  
837 Mr. Loosli said yes, and gave examples of what could happen and has been happening.  
838  
839 Ms. Stegelmeier asked if anyone had a problem if they changed and added the second  
840 paragraph.  
841  
842 Mr. Loosli said we don't need a vote on this, it is common sense.  
843  
844 Mr. Gerber asked how they can meet both requirements.  
845  
846 Mr. Loosli said the problem is fixed if they expand. He read from Appendix I. It has to  
847 be upgraded and fixed; an example of this is where the drain field and septic was sneakily  
848 undersized by the builder.  
849  
850 Mr. Davis asked if this was the sized for continuous occupancy because some of them  
851 only rent for part of the time.  
852  
853 Mr. Loosli said yes, that a system works on an hourly basis not on three times an hour.  
854  
855 Ms. Stegelmeier asked if anyone had anything else.  
856  
857 Mr. Loosli asked when they wanted to meet next.  
858  
859 Mr. Trafton asked when Mr. Loosli would have the revised draft  
860  
861 Mr. Loosli said he would have it this week.  
862  
863 Discussion about when the next meeting would be.  
864  
865 Meeting decided on February, 28, 2011.  
866  
867 Mr. Loosli talked about appeals that have been made.  
868

869 Mr. Nichols asked if the meeting on May 23<sup>rd</sup> could be at Mr. Harrington's lodge in  
870 Island Park.

871

872 Ms. Stegelmeier asked if May 9, 2011 would be better.

873

874 All agreed to talk about this at a later meeting

**3 Sketch Plans**

875 None

**4. New Business**

876 None

**5. Other Business**

877 None

**6. Administrator's Report**

878 None

**7. Dismiss**

879 Meeting adjourned at 8:57 p.m.