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MADISON COUNTY
COMMISSIONER MEETING MINUTES
SEPTEMBER 7TH, 2021

Attendees:

Todd Smith, Commissioner Chairman
Brent Mendenhall, Commissioner
Douglas Smith, Commissioner
Troy Evans, Deputy Prosecuting Attorney
Kim Muir, County Clerk
Sue Bagley, Deputy Clerk

ACTION ITEMS

This meeting was streamed electronically.

Calendar Items:

The next Commission meeting will be held Monday, September 20, 2021.

Discussion Items:

Medical Insurance Decisions for FY2022 for Madison County employees:

After discussion, Commissioner Doug Smith made a motion to rescind the decision to go with the HSA Health Insurance plan with Blue Cross. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Commissioner Doug Smith made a motion to keep the employee health insurance we have presently and the county to cover 65% of the annual increase to premiums with the employees covering the other 35%. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Review and sign: Blue Cross Renewal. Commissioner Mendenhall made a motion to sign the Blue Cross contract for employee health insurance for the FY 2022. Commissioner Doug Smith seconded and the voting was unanimous. The motion passed.

Contracts/Documents:

Review and sign: MOU between Fremont/Madison County

After review and discussion, Commissioner Mendenhall made a motion to approve and sign the MOU between Fremont and Madison Counties for fifty percent cost share of the prosecution of the Daybell/Vallow Case. Commissioner Doug Smith seconded and the voting was unanimous. The motion passed.

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Review and sign: Purchase and Sale Agreement, Solid Waste District/Parkinson Property

After review and discussion, Commissioner Doug Smith made a motion to sign the purchase and Sale Agreement for the purchase of the Dana Parkinson Property to be used for the new CD site in the amount of \$3,225,000. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Review and sign: Management Agreement for Recreation with Teton Management at the Teton Dam Site. This will be added to the next agenda.

Review and sign: Amendment for the CD Site Operation Plan

Commissioner Mendenhall made a motion to sign the amendment to the CD Site Operation Plan to be submitted to DEQ and District 7 Health. Commissioner Doug Smith second and the voting was unanimous. The motion passed.

Review and sign: Beer and Wine Licenses

After review and discussion, Commissioner Doug Smith moved to sign the Beer and Wine Licenses for FY2022 for the following businesses: Apple Idaho II dba Applebee's Neighborhood Bar and Grill, Good 2 Go Stores LLC, Great Scott's 1 and 2, Walgreen's, Valley Wide Cooperative DbA Valley County Store, Hardcastle Enterprises Inc dba Mother Hibbard's County Store, Maverik, Inc #505, and #195. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Review and sign: Resolution #466 to Destroy old records, Tri County Probation

After review and discussion, Commissioner Mendenhall made a motion to approve Resolution #466 for the destruction of old records from Tri County Probation. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Review and sign: Resolution #467 to destroy old records, Juvenile Probation

After review and discussion, Commissioner Mendenhall made a motion to approve Resolution #467 for the destruction of old Juvenile Probation records. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Routine Matters:

After review and discussion, Commissioner Doug Smith made a motion to approve the claims presented by the Clerk. The General Fund total claim amounts were \$50,522.24 The grand total of claims was \$1,026,606.01. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

Personnel Actions :

After review and discussion, Commissioner Doug Smith made a motion to approve the Personnel Actions. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

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After review and discussion, Commissioner Mendenhall made a motion to approve the Certificates of Residency for Carly Blaylock, Leo Goodsell, Alydia Grover, Madison Hardiman, Ethan Parker, Kenadee Robinson, Lonnie Wallace, Brittany, Wells, Alleigh Thurber, Britney Blake. Commissioner Doug Smith seconded and voting was unanimous. The motion passed.

Pledge of Allegiance: All present

Invocation: Kim Muir

Public Comment: None.

Chairman Todd Smith made a motion to go into Executive Session at 8:35a.m. according to Idaho Code §74-206(1) (b) employee matters(d) exempt records and (f) pending litigation issues. Roll Call Vote: Commissioner Todd Smith-yes, Commissioner Mendenhall-yes, Commissioner Doug Smith-yes. Commissioner Mendenhall seconded and voting was unanimous. The motion passed. Chairman Todd Smith made a motion to come out of executive session at 9:45am

Commissioner Mendenhall made a motion to sign Lien Releases on Case #2013035 and Case #2014023. Commissioner Doug Smith seconded and the voting was unanimous. The motion passed.

Roger Muir: Teton Island Feeder Canal President, Aaron Dalling, Manager of Fremont Madison Irrigation District and Jeff Raybould, Chairman of Water Resource Board and Fremont Madison Irrigation District and Bradley Petersen were present.

Fremont Madison Irrigation District would like to partner with Madison County to do a recharge at the Teton gravel pit. Fremont Madison has the ability to do water quality monitoring and be in charge of the water to provide recharge. They have a diversion in the Teton River and would run the water down the canal system for recharge. They don't want to harm our local shareholders or farmers. They thought the gravel pit was still being used but would be interested when the county is finished pulling gravel from the site. County Commissioners are in support of keeping business with local with the canal companies and Fremont/Madison Irrigation District. The recharge program benefits everyone. The hope is to stabilize the aquifer and raise it. Aaron and his crew are doing other recharge sites now and they have the framework to continue safe and effectively. This was a bad year with drought conditions and we need to sustain our aquifer.

Keith Esplin is representing a business and is selling recharge water to ground water districts. They go out and acquire sites to perform recharge. Mr. Esplin has not contacted the canal board to request the use of the canal system for recharge. He doesn't have a structure in the river to divert water and getting that would be complicated. He would need to use the canal system currently in place.

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Commissioner Smith sees no reason to move forward with Mr. Esplin if our local districts are willing to do the same thing. Commissioners will visit with Road and Bridge to see if the pit is currently making gravel and when it will be available for recharge.

Madison County, Ambulance, Mosquito Budget Hearing, as well as adjustments to the FY2021 budget to reflect receipt of unscheduled revenue and expenses.

Commissioner Todd Smith opened the Public Hearing at 10:00 a.m. Kim Muir, County Clerk explained this is the budget hearing for Madison County, Madison County Ambulance and Mosquito. This hearing is being recorded and was published according to Idaho Code. Public comment was opened but there were no comments. The comment period closed at 10:20 a.m. If the public would like to examine the budget, the records are in the Clerk's Office. Commissioners discussed the various items that have caused the increase in several budgets; including ARPA funds and Covid reimbursements.

After review and discussion, Commissioner Mendenhall, made a motion to approve the budget for FY 2022 for Madison County, Madison County Ambulance and Mosquito. Commissioner Doug Smith seconded and voting was unanimous. The motion passed. The Public hearing was closed at 10:27 a.m.

Commissioner Mendenhall made a motion to approve adjustments to the FY2021 budget to reflect the receipts of unscheduled revenue. Commissioner Doug seconded and the voting was unanimous. The motion passed.

Planning & Zoning, Small Scale Developments, Chuck and Jeanette Hill-Autumn Winds Estates:

The Development is located at 5400 W and Hwy 33. It will be developed as 7 lots on 24.5-acres running in size from 2.2 to 4.8-acres in size with private wells and septic. The property is zone TRANS-AG. The road will remain private and engineered to county standards. Fremont/Madison Irrigation District reminded those present that developers if land proposed for subdivisions has irrigation water rights for delivery, a system must be in place and delivery system must be approved by the irrigation entity. Deena Brown representing Fred Fisher, a neighboring land owner, is claiming he was not notified. Planning & Zoning secretary will look into this allegation.

Commissioner Mendenhall made a motion to approve the application made by Charles and Jeanette Hill for Autumn Winds Estates, Small Scale Development as proposed in application materials received July 13, 2021; contingent upon proof that the notice was truly mailed to those in the required area. Doug smith seconded and voting was unanimous. The motion passed.

Willie Twitchell-Ponderosa Estates:

This development is located at approximately 2763 N. 3000 W. This application is subdividing 19.85 acres into 4 lots ranging in size from 1.3 acres to 14.5 acres with private wells and septic. The roads will remain

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private and engineered to support a 75,000 lb. load for fire suppression, with a 96' minimum diameter for turn around. Road and Bridge recommended a second road to the far North of the tree line. The property is zoned TRANS AG.

After review and discussion, Commissioner Doug Smith made a motion to approve the application from William Twitchell for Hope Estates (Ponderosa) small Scale Development as proposed in the application materials received June 29, 2021. Commissioner Mendenhall seconded and the voting was unanimous.

Scott Johnson- The Orchards:

Chairman Todd Smith declared a conflict of interest on this matter. He turned the meeting to Commissioner Mendenhall and withdrew himself from the discussion.

This development is a 10-acre parcel being divided into 5-two acre lots with their own private wells and septic systems. This property will be accessed by a private road built to county standards, capable of supporting 75,000-pound loads and the cul-de-sac turn around requires a minimum of 96 feet in diameter. This property is zoned TRANS-AG. The developer is changing the cul-de-sac turn around to a hammerhead. He will need a letter from the fire department, approving this change.

After Review and discussion, Commissioner Doug Smith made a motion to approve the application from Scott Johnson for small scale development for The Orchards with the letter from the Fire Department approving the hammerhead end of the road change. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Findings of Fact: Loveland Comp Plan Change from AG Land to Rural Cluster

Property owned by Mitch Loveland. This property is located at approximately 1366 W 5500 S. Planning and Zoning Commission held a public hearing for this proposal on August 11, 2021 and recommend approval for the requested change to the Comprehensive Map for the described property.

After review and discussion, Commissioner Doug Smith made a motion to approve the Comprehensive Plan from Agriculture land to Rural Cluster on the Mitch Loveland property. Commissioner Mendenhall seconded and voting was unanimous. The motion passed.

Commissioner Doug Smith made motion to approve Zone change from Agricultural to Transitional Agricultural on the Mitch Loveland property. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Resolution #465 Comp Plan change from AG land to Rural Cluster:

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This property is located at approximately 1366 W 5500 S. Planning and Zoning Commission heard this proposal on August 11, 2021 and recommend approval of the requested zone change.

Commissioner Mendenhall made a motion to approve Resolution # 465 amending the Madison County Comprehensive Plan Map contained in Article 47, Resolution #318 of the Madison County Code Book at the request of Mitch Loveland. Commissioner Doug Smith seconded and the voting was unanimous

Commissioner Mendenhall made a motion to approve Ordinance #445 amending and changing the zoning map of Madison County and providing that the zoned designation of this property at the request of Mitch Loveland. Commissioner Doug Smith seconded and the voting was unanimous. The motion passed

Snowmobile Executive Board Decision for Director: Commissioners are waiting for the approval of the bylaws by Teton and Jefferson Counties. When received the Snow Grooming Board will move to approve and the Commissioners will accept recommendations for an operations supervisor. The new trail maps were discussed. There were changes made to the map between the GIS Department and Search and Rescue. The Grooming Board hope to have the map out for the public by October 1, 2021.

Copper Heights appeal:

Commissioners discussed the Copper Heights appeal. Mr. Gaskill was present who requested an appeal. He is appealing findings from the preliminary plat approval. Commissioners reviewed the appeal and the required dates were not met as required by law and the Commissioners denied the appeal. Mr. Gaskill felt the preliminary plat had issues and the final plat would have fixed those changes. Commissioner Todd Smith made motion to deny the appeal. Commissioner Mendenhall seconded and the voting was unanimous.

Any denial on the ruling of the Board of County Commissioners will need to be taken to District Court. Chairman Todd Smith instructed the County Clerk to refund Mr. Gaskill's appeal fee.

Tim Solomon from Rocky Mountain Power.

Tim announced that starting in October, they will be changing out all meters in Idaho to Smart Meters. It allows Rocky Mountain Power be able to be in contact with the meter. The customers will receive notification before the installation. It will allow the meters to be read remotely. Customers can look at meters and determine their power usage as well as allow them to adjust by helping identify what is sucking up power. It will help the power company respond quicker to outages. Madison County will be the first on the list of counties.

Shannon Lewis and Evan Wise were present to report on the County Fair. Gates entrance was up 3900 in 2021. The Arena Cross event had a full crowd and the Bull Wars was well attended. The 4-H livestock

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sale did very well and there were more entries in the Home Arts Division. There was a discussion to increase the number of Fair Board Members to spread the work among more people.

Commissioner Todd Smith made a motion to go into Executive Session at 12.35 p.m. according to Idaho code § 74-206(1)(b) employee matters (d) exempt records and (f) pending litigation issues. Roll Call vote: Chairman Todd Smith yes, Commissioner Mendenhall yes, and Commissioner Doug Smith, yes. Commissioner Mendenhall seconded and the voting was unanimous. The motion passed.

Chairman Todd Smith made a motion to come out of executive session at 1:35p.m.

Commissioner Todd Smith made a motion to recess at 2.20 p.m. Commissioner Doug Smith seconded and voting was unanimous. The motion passed.

Marjorie Price Zone Change Appeal Hearing:

Commissioner meeting minutes from September 7, 2021, starting at 5:30 p.m.

This hearing was recorded. The public hearing was to discuss Zone change from Transitional Ag to Commercial in the Archer Area.

Commissioner Todd Smith: Okay, it's 5:30 p.m. on Tuesday, Sept. 7th. We are here today to have a public hearing. I think we are being recorded, right? Okay, perfect. We are here today to discuss a zone change from Transitional Ag to Commercial in the Archer area. Umm, I'm just going to explain a little bit on the public hearing process. For those of you who are not aware, we will open the public hearing, we will turn some time to Melissa, I guess, our planning and zoning administrator to explain a little bit why we are here and what we are considering. We will then open it up, actually we will give the applicant, Marjorie Price some time to give details of what she is requesting, at that time commissioners, we can also ask her some questions if you like. We will then open up for public comment. Any of you that would like to speak in the public comment period if you could sign up in the back, if you could either put in favor, neutral or opposed. At that time, we will open up for the comments with the in favor going first, neutral second, opposition third. After that is done we will allow the applicant or her representation to talk again to rebut anything that was brought up in the opposition. At that point we will close the public hearing, the three of us will discuss and make a decision.

With that, first of all, commissioners do we have any, we need to declare whether or not we have a conflict of interest in this case.

Commissioner Brent Mendenhall: Commissioner Mendenhall, I have no conflict of interest

Commissioner Doug Smith: Commissioner Smith, I have no conflict of interest.

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Commissioner Todd Smith: Commissioner Todd Smith, I have no conflict of interest, either. Brent turn your microphone on or is it on?

This is being recorded so as well and we are live if anyone is watching us on our go to meeting as well. Melissa if you would like to come up for just a minute and present. Yes, if you would use the mic over there so the recorders can pick it up.

Melissa Van Slochteren: Okay, can everyone hear me or do I need to hold it closer like this? Okay, so this hearing is to hear the zone change for Marjorie Price on Property located between 7800 S 400 W. I believe, umm, between the three parcels, it's about 4 acres, um, she is wanting to change it from Transitional AG to Commercial. Um ...So the original zone change hearing was on May 26, and the finding of facts in minutes from that meeting were approved by the commission on June 9. Those finding of facts were then approved by the board of commissioners on June 28, as well as an Ordinance that permitted the zone change on June 28. Um an appeal was filed on July 23, which was within that 28-day appeal period. Any other questions?

Commissioner Todd Smith: You know one thing I didn't ask is, "Did we get any written correspondence?"

Melissa: For this hearing? Yes.

Commissioner Todd Smith: Okay

Melissa: we did each of you have a copy of that. I believe there was 4 or 5.

Commissioner Todd Smith: Okay and you emailed those to us?

Melissa: Yes, I did.

Cross talk: I read through those.

Yeah, I think that is what this is.

Yes,

Yes, that is correct.

Melissa: And the notices were posted and published and provided as required. I posted them in the Standard Journal. We post them at the administrative building, here at the court house, the post office and Broulim's as well as our website and the BYUI radio.

Commissioner Todd Smith: Okay, thank you Melissa, and we did receive those written correspondence for them which were all opposed to the zone change. So, we have read them and will enter them into our record. Um, Mrs. Price would you like to come up and take the podium. Give us an explanation of what you are asking for.

If you could stand over there where the microphone is....

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Marjorie Price: Commissioner's Thank you for your time, this evening and I would like to briefly address, Perhaps a little-known portion of the county code. Um, seemingly... I've put it in... Thank you for that. So, this is a page from the land use table for Madison County and in regards to the question at hand on rezoning of property, when we talk about commercial zoning our minds often go right to property meaning companies or businesses and large structures or organizations but in fact, in that code in the land use table there is reference to commercially zoned property and the residential uses for that commercially zoned property. And it is that residential use that I have strictly focused on and tried to adhere to. From the purchase of my property in 2019 to all of my multiple meetings with different entities in the county in the last two years. And if I may correct the record a little bit um I was one who did send in some written information or responses this morning um so they weren't all against the rezoning and I hope my comments will be included in the record.

Cross talk:

Commissioner Mendenhall: In Melissa's packet.

Commissioner Todd Smith: We did receive those, those were part of the email we did receive earlier.

Marjorie Price: The point that I want to make today this evening about that residential aspect of commercially zoned property here are the main points I've highlighted in pink here all of the uses that are already recognized as permitted uses, not conditional, not questionable, un answered but permitted uses in Madison County for the residential aspect of commercial property. And quickly, those that are highlighted in pink again as permitted uses. And this is the menu that we continually addressed discussed and debated over for about two years. And those residential uses are apartment or condominium, a live /work unit, and that description or definition is wide open, as it sounds. Row house, which has been through research with the county inspector, is synonymous with Townhouse. And I might add that a townhouse can be a detached unit according to the state of Idaho meaning that it ends up as a single-family dwelling. Also, Mobile Homes and not on this chart but if you were to continue reading down the table, recreational vehicles and I would also note that recreational vehicles are recognized in this county and in the state of Idaho as vacation housing, temporary housing, and in some cases emergency housing. So, all of those were considered in the commercial residential aspect for my property.

I thought I was done with the first two acres, I'd been through, jumped through enough hoops, that I wasn't really interested in going any further but when the COVID pandemic was in its full swing, I was approached by some would be home buyers who are in the audience tonight. And they had been locked out of the housing market, priced right out of the market. Nothing in the \$250,000 range or less was accessible to and these are not people moving in from California or other states, these are local residents. And the question on the table was, "Can I expand or perhaps build a few more houses?" And that drove the point tonight is that it drove me to have discussions with the other land owner, Donald Erickson. Who did sign an approval to have his land rezoned knowing that there were other home owners interested in building homes on his acreage. So, um I think I'll save my other comments um in the event that I need to respond to or rebut any questions that come forward. It has been a really deliberate process over the last three years from the initial purchase of my property through, like I say, multiple discussions and I count

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at least a dozen, county and state entities that have been consulted over the use of this commercial property. Was it appropriate, were county codes being followed, are the interpretations correct? And I noted on a chart that I sent you this morning all of those entities that have been approached and it you see in the far-right hand column, I have noted every time that the requested use has been requested and permitted. So, I don't know. Michael Brown is going to make a couple comments. Commissioner Todd Smith: Mr. Brown is Marjorie's legal representation.

Mr. Brown: Yes, thank you commissioners, my name is Michael Brown, I am an attorney representing Marjorie Price in connection with this appeal. And my business address is 520 First American Circle Rexburg, Idaho 83440. I will reserve most of my comments for the period after public comment has been made but just a couple issues that I want to note at the outset here is really to emphasize the limited scope of the proceeding tonight. What we have here before us is an appeal as respect to this bodies approval of a zone change application that was submitted previously. There is a little bit of a lengthy procedural history with respect to this property involving an administrative permit that was issued back in February of this year. Obviously, there is quite a bit of focus on what is expected to occur on this property if a zone change application were in fact granted. But really the focus of the commissioners tonight ought to be the appropriateness of granting applied for zone change. And in connection with that I would just note that in connection with this proceeding, there is a lot of focus on the comprehensive plan of the county. And I'll just read to the commission. Just one excerpt from that is particularly relevant, as the commissioners consider this this evening. This again, I am reading an excerpt from the community vision statement contained within the comprehensive plan.

"Madison County wishes to insure a balance between private interests and those of the community at large, comprehensive planning requires a careful examination of all land use regulations and requirements to find and protect this balance. The county if committed to creating a regulatory framework that insures that land use policies, restrictions and fees do not violate private property rights, excessively impact property values, or create unnecessarily technical limitations upon the use of property which will constitute an unconstitutional taking of private property rights. Obviously, the fact that we are here this evening on appeal is a clear indication that these types of determinations are never easy and there is a balancing of interests that has to occur. And there is always going to be some tensions that exist between a private property owner and the community at large. And I would anticipate the citizens who own property near the property that is proposed to be subject to the zone change. And we would invite the commission to consider carefully the factors that already been evaluated and presented to this commission on recommendation by the planning and zoning commission. Of course, under Idaho Law the determination of a zone change application (Something) can be delegated entirely to a planning and zoning commission but Madison County has chosen to adopt a framework wherein the planning and zoning commission does make recommendations and those recommendations obviously are based on sound consideration of the factors that are embodied within the development code that are related to the consideration of not only an application in the first instance but also an appeal of this nature so we

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would encourage the commission to look carefully at those evaluative considerations that have been made previously by the planning and Zoning commission when it made the recommendation to approve the zone change application. As well as those considerations that were adopted in the findings of fact by this body and we will obviously have some comments following the presentation by concerned members of the community. But we would invite, encourage the commission to approve the zone change application.

18:22 (time on recording).

Commissioner Todd Smith: Thank you, any questions for Mrs. Price or Mr. Brown.

Commissioner Brent Mendenhall: I have none.

Commissioner Todd Smith: Thank you.

Marjorie Price: I was fortunate enough to have a very talented and knowledgeable engineer at the outset of the work that I set out to do and I was reminded continually by this engineer that you need to have your l's dotted and your t's crossed and he was very exacting in the design of anything related to the development. And I learned through that process just how critical it is to make sure you are following code and regulations. And I would say that my overarching goal tonight and in the entire process is just to know that all individuals impacted by this rezoning request I would like to walk away with confidence that all parties involved are being treated equitably and that's my overarching concern. Thank you for your time.

Commissioner Todd Smith: Okay, thank you Mrs. Price and Michael. Before we go to public comment. I just want to show on the map what we are talking about here. And Mrs. Price if you will please correct me I believe it is this parcel. No?

Marjorie: Not quite it runs in an "L" shape.

Commissioner Todd Smith: So, it's that parcel?

Marjorie: Yes.

Commissioner Todd Smith: That parcel.

Marjorie: Often referred to as the back parcel. And then the one you just highlighted is the most recent parcel that I acquired from Donald Erickson.

Commissioner Todd Smith: okay, so it's just those three parcels, Correct? Now one of them is already commercial?

Marjorie: Yes, the one in the middle.

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Commissioner Todd Smith: This one here is already commercial?

Marjorie: And it was when I bought it.

Commissioner Todd Smith: Okay.

Marjorie: And I would like to thank Sharon Weekes for helping make that possible granting Jeff Huskinson were not sure they wanted to sell it but apparently Sharon was part of the realtor's office that made them possible.

Commissioner Todd Smith: Okay, so that piece is already commercial, this piece here is Trans AG, this piece here is Trans AG, if we look at the zoning map it's going to cover those parcel lines a little. The purple is what is currently commercial. The light green is Transitional Ag, the dark Green is AG. That gives you a little bit of an idea of what we are looking at tonight with this parcel right here being the Big Judd's restaurant, if that gives you a land reference.

Commissioner Doug Smith: So, can you outline the piece of property we are talking about here.

Commissioner Todd Smith: No, I can go like this. There, there, there, there. That one is already commercial.

Voice: The monitor out here is not showing the same as this one. This one is showing what you are talking about. Mumbling this one is not the same as that.

Cross talk :There's no green on that map.

Commissioner Todd Smith: Is that alright, Okay? So that is the two parcels that we are looking at and this gives you an overview of how much commercial we currently have in the Archer area around that Bug Judd's area. With I say, the highway you can see the highway right there then it will go back in. So, okay any questions. "No"

Commissioner Todd Smith: Okay, we will, if Kim will grab us the sheets really quick.

Commissioner Todd Smith: So, we will first go in favor of and again we will remind you we don't have a lot signed up. We have one two three in favor, zero neutral, and 7 against. So, if you could, as you, what's that? Okay and we will ask for those at the end. So, keep your comments, if someone has already said your comments just let us know that you agree. If you put in written comments we have read those but you are still welcome to speak if you have something to add to those written comments. So, first we will have in favor. Steve Oakey. And then again when you come up to the podium if you would state your name and address.

Steve Oakey: Steve Oakey 54 S 2nd E. First of all, I have no affiliation what so ever with the applicant. My short comments will make apparent why I'm standing here in favor. I moved, after traveling around the

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country and the world a little bit, I moved back to Rexburg in 1992 and since that time. My family and I have always lived within a 2-block radius of downtown Rexburg. Last time we moved we were a half a block from campus. The last six years up until a few months ago, I was on the Rexburg Planning and Zoning. I am giving this information to you because not at one time have I opposed any single development that has come to my attention, either a large apartment complex or any other business that I can think of. I tell you this because and because I have no affiliation I'm neither for nor against the applicants process here. And in fact, I would stand in favor of anybody in this room that would be pursuing the development of their private property because I hope private property would be quite sacred. So, I'd like to point out something and reiterate perhaps something that has already been said. There is already some commercial in close proximity to the applicant's property. Chase Whiteman, I used to work with him many years ago, He has a used car lot and a mechanic shop not too far away. Judd Neiderer built a great hamburger joint that I frequent from time to time and I've done a lot of business with Kevin Howell. These are businesses all in close proximity not only in addition to the agricultural and farm ground businesses that are in close proximity. So, in other words, there's a lot of business activity going on here. Might I keep in mind that historically commercial and residential has been a juggernaut and a machine for wealth generation in this country for many, many years. It's only in the last several eighty, ninety years that for some reason we've tried to separate the two. We all have grandparents and parents that used to live above their general store or very close to their business. This is how all of us generated wealth. Most of the people in this room generated wealth in close proximity to residential and commercial. So, in short, I am in favor of wealth generation. I'm in favor of everybody in this room investing in our community and I thank the applicant for doing so to make our community much better off and I suspect that there are children and grandchildren of many in this room that will be going to the applicant to want to purchase the product that she is going to put up for sale. So, I am in favor of the prospect of creating value out of her property and I hope that everybody in this room allows not only the value be generated on her property but I hope that everybody else is able to generate value on their own. Thank you.

Commissioner Todd Smith: Thank you, Steve. Matthew Ott.

Matthew Ott: My name is Matthew Ott. I live at 192 Hope Street. My wife and I, our two kids are back here, we've have been trying to buy a home from Marj coming up on a year now. When I say try I mean try because it has been an uphill battle. We've run into a lot of problems and this has been one of them. There is a lot I don't know and there is a lot I do know. What I do know is that Marj has been nothing but help and a blessing. She has tried her hardest to be a blessing to us in this market. That is so hard to deal with for young families like mine. So, I just ask that whoever is appealing this just, reconsiders. Thank you.

Commissioner Todd Smith: Thank you Matthew. Winston Dyer.

Winston Dyer: Good Evening Commissioners and staff. Winston Dyer 343 E 4th N here in Rexburg. In the interest of disclosure, I have served as Marjorie's engineer of record on this project assembling the site plan. And would also indicate that my services are complete. And therefore, I do not have a material

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interest in the outcome of this decision this evening. So, I would hope then that my input would be worthy of the record. It's great to be able to meet together and discuss civic affairs. So, thank you for this opportunity. A couple of points I'd like to make briefly, first of all most of you are aware that I served for 13 years as chairman of Rexburg's planning and zoning commission. During the time of the transition to university, in which we were inundated with hundreds of requests often for zone changes, often faraway places that were not consistent with anything around them. Here right in the city of Rexburg numerous requests, I won't be specific but numerous requests for high density housing right across the street from single family neighborhoods and the effort to try to make everything consistent. I would point out that where these two parcels are contiguous with an existing parcel zoned as commercial in the county then it is consistent with the current zoning and uses that are contemplated by that zoning. Secondly, I would point out that transitional agriculture designation of a zone by its very nature represents a piece of agricultural property that is expected to transition to some other type of use. And we see those around these small communities in the county and on the borders of other residential type development so by the very designation of the current zoning of these two parcels as Trans AG connotes that it is expected at some point in time they will transition to other uses particularly where they're not part of a larger farming operation. Now, I recognize that the question before you this evening is a land use question and therefore details of future development are not really part of the consideration but at the same time to have a vision of what might transpire is always helpful in terms of understanding the use and the potential impacts on adjoining properties. It's already been alluded to and I would like to reconfirm that there are a myriad of regulations, there's the county's own zoning code, there are district health requirements, there are department for septic and so forth, department of water quality for water supply, and a number of other considerations. Each having their own regulations that have to then be put together in careful balance to make sure there are proper setbacks and clearances. That there is room to be able to accomplish things within the codes and regulations and admittedly that was quite a challenge for the original property here. But that has all be carefully looked at and assembled in a potential site plan to assure adherence to those requirements and conformance with the intended uses. So, we would appreciate your consideration of this proposal and hope that my input would be of record in favor. Thank you very much.

Commissioner Todd Smith: Thanks, Winston. Are there any others in favor, that did not get a chance to sign up that would like to speak? Okay, thank you, are there any neutral that did not get a chance to sign up that would like to speak? Okay, we will move on then with the, those opposed. First on our list are Tina Erickson,

Tina Erickson: I sent one in.

Commissioner Todd Smith: You sent one in, Okay, and that is all you have? Okay, and we will get to those in a minute. Thanks, Tina. Sharon Weekes.

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Sharon Weekes: Sharon Weekes 7842 S 400 W here in Rexburg. I am here today in behave of my husband and myself in opposition of Miss Price and Mr. Erickson's request for a zone change from Transitional AG to Commercial. We live directly across the street from these lots and have been observing her development over the last few years. The scope and purpose of commercial zone is described in the Madison County Code Section 117-54 Subsection A Is to provide areas in the county to fulfill general retail needs and travel of highway related services requirements within the community. Permitted uses in the commercial zone and identified in section 117-51 land use table permitted and conditional use shall be primarily oriented toward light and custom manufacturing and any associated retail sales, repair, storage, wholesale and support services. Commercial zone permits such things as grocery stores, restaurants, retail stores, apartment buildings, townhomes, hotels, and mobile home parks. Even though in the Madison County code Section 115-146 it states that mobile home parks and travel trailer parks shall be established or in large residential zones only. There are currently in ¼ mile of said properties from 7800 to 8000 S 14 homes that consist of 20 plus children, 14 private wells, 14 private septic systems, and a minimum of 28 drivers. In another ¼ mile, from 8000 S to 8200 there is 15 more homes, 15 more well, 15 more septic's, numerous cars and children. On the very corner which spoke about, the only commercial property on South 400 W is Big Judd's. Even though you will find on the map that the other homes surrounding Miss Price's property to the north are zoned Commercial, the reason they are that but they are used as single-family homes. They are not used for commercial purposes. Back many decades all that was one parcel. Owned by one person who later then subdivided these parcels for single family homes but the land was never rezoned but is used as single-family homes and not as commercial. Commerce creates traffic and added traffic to an already heavily congested and traveled section of 400 W would spell disaster for our small community. Miss Price even acknowledges this herself in her last hearing proposing speed bumps to be put on our road. Since we do not know Miss Price's intent on use for these properties, one must assume she will use it to its highest and best density commercial zoning will support. I think of a hotel in the code it says there is no room limit for a hotel or if she wants to choose the mobile home- travel trailer park regulations allow for up to 7 dwellings per acre for the Madison County Code Section 115-147 Subsection 21. Or one could assume she will follow suit with what she is currently doing on her adjoining property that is already zoned commercial. Which is sectioning off for 1/10 acre lots to sold into individual buyers to place single family dwellings on or tiny homes as she calls them. Which can only be done with a conditional use permit. Miss Price is already poured footing for one home and as of this evening has moved onto that property without a proper permit.

The issue we struggle with as neighbors in Madison County is there is not density within the commercial code. I was told they approved the Unified Development code and Comprehensive in 2008 and 2010 they were more concerned with the commercial structure looks rather than the amount of commercial coming into the county and did not set density requirements. The other issue there is not a definition for what a tiny home is when questioning this regulation of a tiny home, I was told they fall under the rules and regulations of a mobile home. The definition of a mobile home fits for what she has sitting there now which is manufactured home means a structure transportable in one or more sections which is built on a

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permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. With the added homes that have been built over the last couple of years, we struggle as member of the community already with our wells and the fire station has a massive storage tank there as well. That a lot of us are pulling sand from our wells. We've gone from drilling 60' wells to 103' wells. She has stated in a previous hearing that she had approval from Eastern Idaho Health Department, which I have an email from Chris Ellis of the department of Health, the district 7 , that he has not given her a permit for that section. The number and size of septic systems that could possibly be put on these parcels increase the likelihood of harmful bacteria from malfunctioning systems that can leak into ground water which is our drinking water source as well. As the canal that runs directly behind the parcel causes contaminants to degrade and impair the aquatic system and impact human health.

She also states that she will be having an HOA that will cover the costs of repair and or replacement which brings another issue we feel the zone change process is not the right avenue as she is clearly creating a development such as a subdivision or planned community. The definition and need of an HOA is organization in a subdivision, planned community or condominium building that makes and enforces rules for the properties and its residents. She is placing as well a permanent sign giving the development the name of Country Cottages. On her septic permit of the front parcel in the legal description is labeled the subdivision as Country Cottages. I as a property owner understand and the desire to do as one wishes with their own property but there are rules and regulations we must all follow. This is why we have governing boards, such as yourselves to keep our land owners in check with rules and regulations to insure proper enjoyment of life. Miss Price had time when purchasing her current properties to do her due diligence in determining what was or what was not allowed to be done on these properties at the current zoning and still chose to purchase their lots. I would ask you as board tonight to seriously consider the change this rezone could make to our area. And the precedent it will set for future development. Our little area is the quiet safe living we in the country desire to keep. When the time comes tonight, I ask that you please vote no on commercial does not fit in this area. Thank you.

Commissioner Todd Smith: Thank you Sharon. Commissioners, I just wanted to remind you that if you have questions while these people are speaking you are free to ask them questions. So,

Commissioner Brent Mendenhall: I think, if I might Mr. Chairman, the statements you had from the health department, it was specific to what parcel? To the commercial? Or to?

Sharon Weekes: Well, when she was doing (Garbled) I'd get to that.

Commissioner Todd Smith: Sorry about that gentlemen, you are welcome to ask questions.

Commissioner Mendenhall: I just want to make sure it includes either all three lots or one or whatever it might be.

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Sharon Weekes: So, In the last hearing when she talked about the being able. She talked to the entities that you are supposed to talk to when you are developing. She stated that she had gotten go ahead or approval from the health district for the septic systems. And she didn't specify, which she does have approval for her front lot but she does not have approval for commercial lot that she sitting on.

Commissioner Mendenhall: Thank you.

Commissioner Doug Smith: I've got a question, is there a need for her to have that right now? She hasn't even applied for it.

Sharon Weekes: There is because she has poured a foundation and put a home on there.

Commissioner Doug Smith: On a piece that is not.

Sharon Weekes: On the piece that is commercial.

Commissioner Doug Smith: It's on commercial property, right?

Sharon Weekes: Yeah.

Commissioner Todd Smith: Okay, not from me. Thanks Sharon. Judd Neiderer.

Judd Neiderer: I thought I was unprepared and after following that I know I'm unprepared. I have a few thoughts. And mostly and she came she hit most all of them. My concern is just with the actual designation of commercial property what happens if this doesn't work? And I agree, if they are on a foundation is this a subdivision? Is it a mobile home park? I think that's part of the problem as well because what she wants to do doesn't really fit into anything we have rules for currently. But the piece of property that she has that is commercial was rezoned for a guy to put a business on. He had plans to put a business there and obviously that didn't work out. If she gets all this zoned commercial and for whatever reason this doesn't work out or she changes her mind, I'm concerned as to what could go there. There's no the access to that, if you guys drove to Archer and drove down the road you would not even see the property and if you did I guarantee there's not one of you that say "This is prime commercial property." Because it's not as the definition of commercial property goes. So, her plan maybe great but so is the other guy's and that didn't work out. And so, then you would have a bunch of commercial property between homes and a ditch with an easement for access. That to me just doesn't make sense. I just don't see that being a good fit for the community. With homes back there, single dwelling homes, I just, that's really my whole thing.

Commissioner Doug Smith: Are you opposed to tiny homes?

Judd Neiderer: I'm not necessarily opposed to tiny homes. I'm opposed to it being commercial. I think that if it going to be a tiny home development it needs to be a subdivision. It needs to be platted as such. It needs to have that designation. Because that's really what it looks like she's going to do. If it's a manufactured home park, then if she is going to put them all on foundations does that still make it a

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manufactured home park? I don't know, I don't know if that's. I don't know what rules it should fall under. My concern is if it doesn't work or if she doesn't sell them. It's been there for two years. I've heard twice now there's a big demand and the first house the foundation is just being poured. And maybe she is just being held up because of this process. Because she wants to expand more before selling all the homes. But I would also think if there was a demand there would be more action going on out there with more sales and more homes being because there are already approvals for some. I don't know how many. But that is really my concern, I'm not even the homes whatever it just doesn't seem a good fit for commercial property as defined by the county's definition of commercial property. Even though there are approved uses for it. If she doesn't end up doing that, and someone else buys it, then there could be any number of things behind a bunch of homes that may not be a fit for the community.

Commissioner Todd Smith: Any questions for Mr. Neiderer? Okay, thanks Judd. Kirsten Ruebush.

Kirsten Ruebush: Kirsten Ruebush, 1893 W 5350 S. I concur, with Mr. Oakey, I am actually for development. I always have been. What I am not for is the county giving permits that should not be given. And causing issues in neighborhoods. What I am not for is the county giving permits that should not be given. And causing problems in neighborhoods. And this is what I see here and it kind of breaks my heart because I have been there before. And we have so in a subdivision code and a subdivision is five or more parts divisions. This land was divided through an administrative permit in February. It was amended as Miss Price says when some changes were going to happen. And the lots were split and they were recorded on June 7. And that is a subdivision. By our county code it's a subdivision every other subdivision in the county has to follow regulations they have to go through a public hearing, they have certain things.

Now we are hearing, that tiny homes we don't have any regulations for those. So, what are the lot sizes? In a subdivision with tiny homes? I'm not even going to argue that this is a mobile home park. Miss Price didn't I've never heard her say that. She is actually putting homes with foundations on and so what are the regulations for this. I am not for regulations, but I have regulations on my land. And I think we need to respect that the regulations and if they're not there we need to slow down, not give permits and change the code through permitting process but actually change it through a public hearing. Having said that, this administrative permit, I have no idea how you appeal an administrative permit.

We came and talked with you about this, and never got an answer as to why this was appropriate. We asked for it in a public meeting and we never got, we asked for a response from you three and we never got a response, why this particular administrative permit was okay. And so now we are sitting here because an administrative permit has been given. There were rumors flying because of that. Land could basically be sold right now. And it's a subdivision and now we are asking for a zone change. I am not opposed to the zone change if that is really going to be beneficial. But it is kind of hard to do a zone change after you have already allowed a subdivision to go in and causing issues in a neighborhood on issues that should have been brought up in a public hearing. And discussed, things like safety, stuff like that. Ordinance 431, that was recently passed before and when this administrative permit went in, in

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commercial property, if you did one building you had to say that it was a large-scale development and you had to look at what it would do for taxes and stuff. That was changed two days before this hearing, so it was in the process of changing that whole time. And that's when it changed to allow for lots, 8 lots in commercial to be divided without a subdivision application. But that was not the case., in February and when she applied. In commercial, and earlier in the spring, every building was looked at through some kind of a subdivision application and one of the reasons was to find out if it would cause, if you could cover the cost of, through taxing, road improvements, and things like that. So, one of the suggestions here is to slow down the road put some bumps in. Who pays for that? Are the taxes that are going to come in from those homes going to pay for that? Those were discussions that should have been happening in a subdivision public hearing. And the public has a right to discuss those things. Taxing and roads and safety. There're reasons why we should be able to discuss that. So, unfortunately, I think you should deny this at this point and go back and do a subdivision. Deny that application and do a subdivision. I don't know if you can do that legally. You might be looking at a law suit. I don't know. I don't know how you fix issues like that. But I really, I think both sides have a very legitimate issue here and I'm kind of curious to see how you're going to resolve this. It isn't easy, but so, I'm not opposed to it but.

Commissioner Brent Mendenhall: Mrs. Ruebush, all of you said there were several platforms that you have address at other times. I understand that. Could you Please tie this in to how these fits with whether we are going to change this to zone of commercial. That's what we are hearing tonight, we're not hearing about the subdivision, we're not hearing about the roads, we are hearing about whether to make a zone change? Could you tie that...

Commissioner Brent Mendenhall: All the other stuff that you said. Legitimate points need to be addressed but if you tie it into our topic at hand.

Kirsten Ruebush: I will tie it into No 101 hearing factors; Where it says that no other, that you can actually talk about other things.

Voice: What?

Commissioner Brent Mendenhall: Thank you.

Kirsten Ruebush: Section 101 says that you're not just limited to the hearing factors there you can talk about other things.

Commissioner Todd Smith: So just a very simple question, "Are you for or against the zone change?"

Kirsten Ruebush: I am not for it at this point because I don't think

Commissioner Todd Smith: Okay, so you are against the zone change?

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Kirsten Ruebush: I am against it because I think you need because I think you need to fix the issue that came up before.

Commissioner Todd Smith: Okay, okay, I just wasn't clear. Whether you were for or against it. So.,

Kirsten Ruebush: No that's fine. No, I am not opposed, I would not be opposed to it. I would not be opposed to it if it had, if everything up to this point had been done appropriately. But I think, and I am going to say it. The gravel pit issue, we came to you and said "Get them back on their property" and then go forth with the hearings. We went through four months' worth of hearings until the county said they were out of compliance. And that causes issues between people when nobody knows what the law is. Everybody is fighting for things that they want and the law's not being followed. So, just please fix things.

Commissioner Todd Smith: You have a question?

Commissioner Doug Smith: Well, I was just having a hard time understanding what you were saying tied to a zone change.

Kirsten Ruebush: I know.

Commissioner Doug Smith: And I still don't understand.

Commissioner Todd Smith: You did say you were against it, so. That's fine.

Kirsten Ruebush: Okay, thanks.

Commissioner Todd Smith: Thank you.

Commissioner Doug Smith: Thank you.

53:51

Commissioner Todd Smith: Um, Nancy Perkins.... You don't look like Nancy.

Voice: I am not Nancy.

Commissioner Todd Smith: Just a generalization, observation but . . .

Voice: But you know it is 2021. You got to think of something.

Commissioner Todd Smith: I you know what I'm not.

Jed Bigalow: My Name is Jed Bigalow and I am an attorney with the law firm of Hopkins, Roden. A business address of 428 Park Ave in Idaho Falls. I represent Nancy. Um, who resides at 7987 S 4000 W.

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So is directly so.... 400 W. So sorry just directly south of the property in question. 7987 S 400 W. is Nancy's address. I am going to separate my comments into two kind of portions and I will be brief. Said the attorney.

Commissioner Todd Smith: Good Luck.

Jed Bigalow: Thanks, I'll try. My first issue is just a procedural matter. And um, I will note that under Madison County Code part 2 Section 117-20 It states that any changes to zone ordinances, are to be governed by Idaho Statutes 676511. I had to look this up today. I've looked at it before but I don't have it memorized but looking at it under subsection B and this is talking about zone changes and amendments to any zoning within any county. It says after considering the Comprehensive Plan the other evidence gathered through the public hearing process and it goes on to say that the zoning or Planning and Zoning Commission may recommend to either adopt or reject.

Go down to subsection C it says the governing board, which would be the commissioners here, shall analyze proposed changes to the zoning ordinances to ensure that they are not in conflict with the policies of the adopted comprehensive plan. If you go to the bottom of that section. After the plan has been amended, this is if there is conflict, after the plan has been amended the zoning ordinance may then be considered for amendment pursuant to paragraph B above. I would just like to point out to the commissioners that according to the comprehensive plan of Madison County which was adopted in 08, updated in 2010, Archer is actually designated as a townsite zone. And that is on page 56 of the comprehensive plan. I don't know if the county has ever actually used the townsite zone. I haven't seen that but I do note that is has been designed as that and that the is in the code a townsite zone. So just on that procedural matter, from a legal standpoint I believe under the county's own ordinances before this can be made commercial, either the comprehensive plan needs to be amended or rather than going commercial it could be amended to a townsite zone.

Which leads me into the second part of my argument which is similar to what has already been heard but there's a few points I want to make. I'm not going to assume what Mrs. Price's intent was for going commercial. Why, I am going to assume. Sorry, I am going to assume because I don't know. My assumption is that it has everything to do with density. Right, currently under the trans Ag you can have one single dwelling home per two acres. That's obviously a problem if you're going to build tiny homes. Under commercial there is not density regulation. And has been spoken by several people already today. I think that is the real issue here. And I will speak as to Miss Perkins, that's her main concern, is that there is not a regulation currently enacted in the county that covers this type of development. Now you can say it's similar to townhomes or it's similar to mobile home park, but there are actually distinct differences especially with mobile home park. One with a mobile home park, typically, what you have is a single owner develops the property in a comprehensive plan and they remain the owner and they rent out like plots, right, for people to put their mobile homes on. What we are talking about here is different. We are actually going to subdivide these parcels and sell them to individual owners. Now what I see as a big problem here,

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is if you have something go wrong with septic or water or something like that in a mobile home park you have one person to deal with or one entity to deal with and you can shut it down, you can work with them. What we are talking about with and what I understand is the final plan is to have about 16 homes. We are talking about 16 different home owners now. And if there are any issues with ground water, with septic, 16 different people that you have to work with. You're not going to get quick solutions. That's a problem when you are dealing with safety of water. And that is just an example of one of the differences between what a tiny home development looks like versus a mobile home.

Now Back to this townsite zone, interestingly enough, the townsite zone is divided into three different districts. You have a town center, which under the comprehensive plan currently Big Judd's falls kind of right in the heart of that town center. Current property that we are talking about falls under the second district which community core and community edge. And I note under permitted uses, its density is actually at least 2 units per acre. So, you can actually go more dense which I find interesting. I would just suggest to the county that a townsite zone may actually be the better vehicle here. Now, I understand that what we are talking about is land use and we are not supposed to get into the great details of the planned development. But I also think it's it doesn't make sense to ask you to consider it in a vacuum. Right, I mean, it just doesn't make good planning sense. And we are all human and we all know what this is headed towards. The main complaint that Miss Perkins has and that she wanted me to represent today is what's been mentioned today. The lack of regulations in place for a tiny home development. And I think there are very specific issues involved with tiny home development verses like I said mobile home or town homes or duplexes. And Miss Perkins is not against the development as a whole you know if given the choice she would choose not to have it there because it is in her backyard but she understands that it's probably going to come in in one form or another. She is not against that. She's also not necessarily against the commercial zoning if that was the best vehicle for this to get done. What she is against is the fact the Madison County has not address the tiny home ordinance yet. And I don't blame the county because this is a fairly new development um going toward these tiny home developments. I don't think there is any fault here. But what we are asking is that, and what we are suggesting is that in approving this commercial zoning the county acted a little bit too quick. What we are asking is for the county to go back get some regulations in place for this type of development. Decide what type of zoning may be best for it and put it in there and then come back and we can have these discussions. Preliminarily, I'm thinking a townsite zone, is not a bad idea but I'm recognize where that hasn't been used before that may not be fully feasible but certainly some of the language that is already on their books could be used in a residential type or even a trans Ag type zoning definition. So, with that, I will allow Miss Perkins is, if she had anything she wanted to add on and I want to make sure she gets her peace(piece) but that is what she has requested me to present for you today. If there are any questions, I can answer I would be happy to.

Commissioner Todd Smith: Does that cover you?

Jed Bigalow: Yeah, I'm on there too, so you don't have to call me too.

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Commissioner Todd Smith: Miss Perkins, would you like to add anything to Mr. Bigalow.

Jed Bigalow: Maybe I didn't do a good enough job.

Nancy Perkins: I was born and raised in the home that I have come back to. And of course, I love it and I am very partial about it. It's zoned Trans Agriculture. And my concern is I want to be a good neighbor, but what happens to this commercial property if I decide to put in pig pens or and don't get me wrong, I won't but I do love livestock and there will be livestock bordering whatever it should come to pass to be next to me. I am also concerned that in the piece that at the very back that borders my pasture. Um, It's not very accessible. There is a right of way but it is more like a cow trail and it really isn't very accessible if its bought. Maybe then it will be with Mrs. Price's but I don't know if she's buying that one now. But anyway, um I just had concerns that I want to be a good neighbor. I want to have good neighbors. I love agriculture when I talked to Brad Petersen on May 17, and his very enthusiastic about encouraging me to change mine to commercial and I was very enthusiastic in return to tell him "No, Mine will stay in agriculture". But anyway, that's all I have.

Jed Bigalow: And just to clarify what we are talking about, so Mrs. Perkins parcel, there's one parcel in between, I believe Don Erickson,

Commissioner Todd Smith: That piece right there.

Jed Bigalow: And what she was talking about was there was discussions about Miss Price buying that parcel and putting it in part of the development. That is kind of what that discussion was about. But I think it is up in the air as to whether that is going to happen or not.

Commissioner Todd Smith: Thank you. Nancy and Jed. Shane Ruebush, you're up.

Shane Ruebush: Shane 1893 W 5350 S I concur with many of the things that were just said and respect to the type of change that should happen under our current county code. It is true that townsite would be the most amenable to this particular type of development for the reasons that were stated about density. If you also look in the land use table, it also states very clearly it would be permitted most anything residential pretty much is permitted in townsite whereas Trans Ag is obviously not amenable to the lot splits that were made. So, looking at it, so if you with commercial that means that every single single-family dwelling unit will require a conditional use permit.

Commissioner Doug Smith: Say that again?

Shane Ruebush: According to the land use table single-family dwelling are conditionally allowed in commercial property. Therefore, every single house will require a conditional use permit.

Commissioner Doug Smith: Not if they are already there, though, they are grandfathered.

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Shane Ruebush: No, I'm talking the new houses, all the new houses, all the old ones are grandfathered. I agree with that in more ways than one. Alright, that is just a consideration that will be coming along. And what this does is, it helps to illustrate why I'm actually opposed to the change to commercial beyond just this point. Is I'm actually opposed to most of the problems we see with zoning consistently. It's hard to project out into the future, what people are going to want to do with their land. It causes issues, and the longer it stays one way the more it is expected that it will remain so. I know that's a fallacy nevertheless that is what happens. And so, as you look at this, if you will identify what the sticking points you see are between neighbors in the community, with respect to the code points that have been brought forward and start considering seriously, the changes that need to be made in order to bring this around so that we can actually have more of the discussions happen between neighbors and never before you. I think that would be something that you would probably prefer. To try to get it to go that direction would be preferential you've heard many say that they are opposed the general development plans, they are opposed to some of the consequences of the zone and the possibilities that could happen there. This is where a townsite may have been a better option but townsite has been stated in many other meetings by other people saying it is not an option. Not something we are going to do, though it is still on the books. If it's not going to be used, let's remove it. Let make recommendations to Planning and Zoning commission to start removing things that will not be an option. Thank you.

Commissioner Todd Smith: Any questions? Okay, Sven Erikson.

Sven Erikson: My points have already been said.

Commissioner Todd Smith: okay, thank you. Any others that want to speak in opposition of that did not get an opportunity to sign up? Yes, come on up.

May name is Susan Briggs 7839 S 400 W Rexburg Idaho I am on the north side of what Miss Price is going to do. And I guess my concern is when we were here last time I found out that my, half of my property is commercial. And I was told by the commissioners, by one of the ladies don't build a gas station on it. Okay so I'm looking in the future, could be today, tomorrow, a hundred years from now, who knows. Something happens it can't go through, it's commercial. What happens to the person who's going to buy it. If it's commercial they can build whatever they want to build on it. So, this is my concern is I'm in the future and I do not want a gas station next to me, a movie theater, who knows what could come in and I'm talking for all of us that we like our community. We've been there for many, many, many years. We like the quiet. And yes, she's going to put her houses there. There is nothing I can do about that. I am here for the commercial part of it. I don't want it to be commercial for the reason of I don't know what is going to happen down the road. It might take 10 years, I might be 4 feet under the ground when it does happen, who knows. But I am looking for my kids, for their kids, for all our kids. And one of the other commissioners saying well, we need change, we need change, we don't want change. I don't want change. I don't want the commercial because I do not want the change. The houses like I said, they will go, there is nothing I can do about that. Whether it's one house, 10 houses, 15 houses. There has to be a point where they

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commercial stops and said okay, we don't need it commercial. And then I read a thing about how what the commercial is, I don't know if you 've, it says, one moment Commercial buildings for commercial or for rental property. She is not renting any of these she is selling all of that property. So commercial is for rental property, there is no more rental property. She told me herself that she is running out of money so she could not rent it any more. She needed to sell it. Well, if it's being sold then it shouldn't be commercial anyway. That is for rental property for being commercial. So, please take all that into whatever you need to do and maybe take a look ahead too, a couple years from now, a couple 10 years from now, what would happen. Then we don't want a gas station out there or any other thing, we don't want a high rise out there, you never know what anybody would do. So, thank you.

Commissioner Todd Smith: Any questions for Susan? Okay, Thanks Susan. Any others at all that would like to speak?

Sure, I'm Dennis Summers I live 775 S 5500 W. As I understand what is happening here. If it's become commercial she can put in high density homes. I live in an ag area where they actually require 16 acres to build a home. Because they are worried about water quality. Normally, commercial inside Rexburg city limits means your on-city water, you're on city sewer. Out in Archer you're on private wells, private septic sewer systems. If you put 16 homes on 1 little lot, 1/10 of an acre apiece, it seems to me the main concern to ought to be there should be a community well. And there should be a community septic system to protect everyone so you don't have the argument of your fighting 16 different home owners when you have a problem with the sewer system. Because yeah sewer systems, if you live in the country you know, they are a nightmare to deal with and when they malfunction they cause all kinds of trouble for neighbors close by. That would be my objection and is what seem to be the argument I want commercial so I can have high density. But there's no commercial services there. Thank you.

Commissioner Todd Smith: Thank you Dennis. Any questions for Dennis? Okay any others would like to speak? They just keep coming in.

My name is Sarah Mace 7927 S. 400 W. So, a lot of things I wanted to talk about have already been touched on. I'm just going to touch a little bit more on the roads and the more traffic coming from being commercial. I can't tell you how many times I've had to call the sheriff's office and ask them to come out and watch the drivers and everything because they speed right past Big Judd's and I know it's just a matter of time before a little kid gets hit. And they speed right past my house. I live right across from the fire station and can't tell you how many times I see people zoom by, how many times I've had to call the sheriff's office and asked them to come out watch and you know slow people down. That's my biggest concern with it being commercial is someone's going to get hurt. So, that's what I had.

Commissioner Todd Smith: Did you get her name, Any questions? Okay, Thank you. Any others? Okay, Um on the written correspondence. We don't need to actually read the letters in do we, Troy? Okay, just mention that, we did, I do have a letter from Tina Erickson, Um concerned her overcrowding Archer,

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traffic, so forth. Um I have one from Grant and Katie Bagley. Basically, saying they don't need, see the need for any more commercial land in Archer. Too much density on 2 ½ acres. Were there two others?

Commissioner Brent Mendenhall: There was one from Tracy Parker.

Commissioner Todd Smith: Okay, I didn't have that one in my print, I knew there was one from Tracy.

Commissioner Brent Mendenhall: Tracy Parker. Refers to minimal acres, permanent homes do not sound like a business commercial adventure, adventure question that. Commercial zoning is not the best choice to help regulate and maintain standards now and in the future. No clear master plan for growth in the area.

Commissioner Todd Smith: okay, Was that all Melissa? Just the three? And then Marjorie's Right, that she referenced to. Okay at this time we will ask Mrs. Price or Mr. Brown, to come up and address us on the concerns that have been brought up.

Marjorie Price: Thank you, because this is a hearing about a zone change request, Michael and I have conferred and I'm going to respond, simply to anything that is outside the zone change discussion. I'm going to respond only to factual errors in statements that were made this evening. Sharon, Miss Weekes, stood and talked at length about what you can or cannot do in a commercial zone and I did reference earlier that there is a residential aspect to commercially zoned property. So, I won't go back over that. "Tangential" ??? to that was a townhouse was mentioned, perhaps there would be a townhouse built and I would highlight that yes, a townhouse is mentioned as a residential use in a commercially zoned area. So, Miss Weekes is correct. There was mentioned of children and cars and I would by Miss Weekes and others and then just by the most recent speaker, which I really appreciated. And my stance has not changed, I am concerned about traffic in that area, but in a different way and here is my main concern I found it a bit ironic that it was the owner of Judd's who spoke at a recent hearing and talked about his concerns about traffic. That was not easy for me to follow since it is Judd's that draws and I've been counting on a daily basis. 30 to 50 cars per night at the corner of the busy highway and south 400 W. And I have often marveled at just how many cars can be crammed into a small amount of space. And wondered about boats and cars and trucks that are parked in the shoulder or emergency lane of the highway when parking spaces are not to be found. And so again, as far as my contribution to traffic, factually I am out there every evening almost without exception and I have physically counted the number of vehicles that have traveled up and down south 400 W and it's an average of about 5 to 6 per night total. Those vehicles are sometimes large farm equipment rumbles by. Sometimes it's a family car. Often, it is a local teenager. I assume local, I should correct myself, a teenager zipping by on a motorcycle and or kids and parents zipping by on an ATV. Total 5-6 vehicles, so the traffic pattern is not heavy on S 400 W. It is very heavy at the head of S 400 W and the highway. Miss, Weekes also referred.

Commissioner Doug Smith: Can I ask you a question?

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Marjorie: Please.

Commissioner Doug Smith: We've heard about these foundations and things like that. Have you made some, I guess, stipulation or provision for driveways and roads and things to access those?

Marjorie: Yep, in the chart that I gave you, if you want to refer to it all the regulatory bodies that I have had to confer with and meet their permissions in that particular case, the county road and bridge. And I would correct the record that there are tiny or almost no easements to Donald Erickson's property or to mine. There are three 20-foot-wide easements to the property, and have been noted and are in the county record. And so, did I answer your question or perhaps.

Commissioner Doug Smith: You talk about parking these boats and things like that, is there place to park vehicles by these tiny homes?

Marjorie: Single driveway serving everything. I don't know how many times I can reiterate that this is not a mobile home park. It is not a mobile home park. It is not a mobile home park. This was and is with only a few minor changes when my engineer and I sat down to design the property, capacity wise you could put in perhaps 5 cottages that are not tiny homes by the classic sense. These are 900 sq. ft. homes my neighbors' home is smaller than the homes going in here. These are cottages, call them what you will, they are 900 sq. ft. in size at least and there will only be 4 of them. That is not a mobile home park.

Commissioner Doug Smith: One other question, What about provisions for sewer? Are each of them going to have their own individual or are you going to somehow tie them together? And also, the water.

Marjorie: Perfect question for me. Because Miss Weeks referred to the fact that I do not have a permit to build on the one house that has been put in on the property thus far. In fact, I had permits for both lots this one where my home will be located and this one. When we changed to a rezone or commercial property. Chris Ellis and you might ask John Macken as well. Chris Ellis and John Macken for two-years, John Macken for two years and more recently Chris Ellis, when we changed to commercial aspect and moved to an administrative permit to allow me to sell homes because home buyers were coming to me in sufficient numbers and saying I don't want to rent, I need a home. I want to own, can I own? So, the question was put on the table, can they own instead of rent? The question was answered to me "Yes" with a small plot plan which is legal and was told to me at the time doesn't require a public hearing.

Commissioner Todd Smith: Are we talking on just the one lot that's already commercial?

Marjorie: Yes.

Commissioner Todd Smith: When you said there would be 4 homes total per lot.

Marjorie: Yes, My home here. That makes 5. If we added Donald Erickson's land and divided it into 5 ½ acre lots. Which was the intent. You would, you could have 5 up to 10 homes but even that was backed

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off. Because one of those lots would by necessity house a well, another well and more parking. And the parking issue was address at length in fact on the current plan, there is a huge swath of the property designated for parking. These homes only accommodate two people. They are small homes. We are talking about 8 people. And on the back lot.

Commissioner Todd Smith: On, look up on the maps, you're talking about on that lot right there, correct?

Commissioner Brent Mendenhall: And though I see here, just for clarification, I see drain field, so there is was an issue raised on community well and community drain field. Is that what it is a community drain field?

Marjorie: Yes, but with clarification. It is an easement, it is a drain field easement. When we moved from building rental properties to homes that individuals could purchase. The question was raised by county health, how will you manage the septic system. And so, the answer is now, after much deliberation but through John Macken's office with Chris Ellis up through department of environmental quality.

Commissioner Doug Smith: These people that you are speaking of, are they part of the health department.

Commissioner Todd Smith: Yeah, Yeah, they are John and Chris.

Cross talk about Department of Health.

Marjorie: I have gotten so familiar with them, I apologize, all of the deliberations we have been through we have come back around to. It is better for all concerned, and we have the space for it, to build individual septic systems for each home. And that has been the last piece to go in. And that permit has been requested and in progress with Chris Ellis' office.

Voice: But not?

Marjorie: If it were to be denied, that home can actually be tied into the septic system on the front lot which has been permitted.

Commissioner Doug Smith: Thank you.

Marjorie: Water Quality, I have submitted to the board of commissioners this morning, data from the US Department of Agriculture regarding water use and I have some personal concerns I will tell you. After having surveyed my land by survey, I don't mean legal survey. But walking the land and seeing the deep divots that exist in the canal, and having watched over two summers now, horses being allowed to loaf in the water, to swim in the water, to cross over the canal, there's a tremendous amount of manure in or near the canal, there's a lot of algae blooms. I don't know what the quality of the water is, um if I am being held to a standard and I and I am happy to do so, by regulatory bodies regarding the quality of water my septic systems would or would not create. I would like to know, I would like assurances that the water

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quality right now is of, is at an appropriate threshold, with the use that has gone on at that property. I'll hurry up here.

This is not a subdivision, I will reiterate it as many times as I have reiterated the fact that this is not a mobile home park. This is not a subdivision. Subdivision according to county definitions, I'll read it first then I will hand it to you. A subdivision will be platted at 5 or more lots. That's the critical number as I understand it. 5 or more lots. I was only allowing a short plat development section 101-120.05 There is no required public infrastructure and services or community or natural open space required for a short plat development. Not a subdivision. Before applying for the short plat development, the developer should schedule a preapplication conference with the administrator and any other departments or agencies requested by the administrator. I will tell you, I'm sad not to see Bradley Petersen here this evening. My interactions with him have been credibly professional in my opinion and my experience over the past two years and I will tell you, that he was very deliberate in bringing multiple stake holders to the table, multiple times in these discussions and would never make, never did make a decision on his own. Without consulting county fire, county health, legal counsel and the list goes on. But as far as applicability this is my understanding of the code as it is written any lot split up to 4 lots results as a small-scale development, not a subdivision. And it is Kirsten has and I thank her for pointing out distinctions as she sees them. We had a lengthy discussion about at what point does a development become a subdivision. Because that was not my goal. It was small, as I hope you saw represented on the site plan. Her reading of the code and perhaps she is correct, is that if you sell four lots but retain a fifth, which at the time it is contiguous but there is some question as to whether because my lots were zoned differently when I purchased them. The front lot was trans Ag the back lot was commercial and so , in all of my dealings, we only focused on the use of the back lot. The commercial lot for these homes. Nevertheless, not wanting to go into that subdivision status, to date Mr. Judd had asked whether or not I was even being successful with the development, I will tell you that I have preliminarily sold three of the four lots on that back parcel. There is a demand for smaller more affordable homes. I know that from experience and if selling ¼ on that back lot. Plus living in my home puts me in a subdivision status. I will back off and not only eliminate the 5th cottage that we initially considered but I would happily back off and only have three homes that are owned and sold on that back lot. Giving us four total including mine.

Commissioner Todd Smith: Mrs. Price, may I ask a question. Going, looking at this, you have stated that it is not a mobile home park. You made that very clear. It's not a subdivision. What is it?

Marjorie: It's a development of small homes. Not, tiny homes.

Commissioner Todd Smith: As I look at our zone change, and I know we are supposed to be focused on the zone change but it's hard to not tie the two together. You know, I think we all agree to that correct? We know your intended use, we can't ignore it. So, on the, as I look at the land use table, apartment condominiums are permitted. Row houses are permitted, live work units are permitted, duplex and single-

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family dwellings do require conditional use permit. So, if we change this to a commercial zone, Mr. Ruebush is correct that each one will require a conditional use permit.

Marjorie: Actually, and I that's one thing about code and law, is that must surely be subject to interpretation. Or we wouldn't have meetings like this.

Commissioner Todd Smith: I wish we were black and white enough that we didn't but we never will be.

Marjorie: I wish so too because it has been a long two year. And I would prefer that it would have been so clearly spelled out in black and white from the beginning. I noted a question during that part of the deliberation this evening. Let's take a live work unit, in larger cities they are often not clearly defined but you get it from just the definition. Live work as was clearly shared this afternoon. There was a time when if I owed a pizza restaurant. I lived in a small home above it and it was my live work unit. A live work unit now, can be someone who telecommutes and maybe they are into technology and they work even out of state but they live in their home and work from home.

Commissioner Todd Smith: How do you suggest we monitor that?

Marjorie: I'm not sure I want to go down that road. But college kids do it all the time. I teach at the college part time. Used to teach full time and I never had a class who didn't have a couple of entrepreneurs in there who were starting businesses while they were living in and going to college.

Commissioner Todd Smith: That was just a side question, so continue on.

Marjorie: But to answer your question, and I'm sure there is anything wrong with that but if I have a live work unit and I'm one family of two people living in that live work unit or a detached town home or condominium by its nature is it not a single-family home now? It's a live work unit with one family living in the unit. Is that not a single family?

Commissioner Brent Mendenhall: Mr. Chairman, I'm thinking that this might be where Miss Ruebush was headed with her comments. Was the process, that all of the definitions that we need to make here. We have seen in other meetings, that we have gotten off and here and these definitions don't always fit the broad umbrella that we want them to fit. I'm not putting words in your mouth. Not interpreting what you are trying to say but I believe that's what she was trying tell us was we have to make sure the process is clearly defined so that we don't have what is a work unit? What is the next step? What do we do to make sure tiny homes are recognized? They are not a mobile home park, they are not this and they are not that and that's the first step of many which you've experienced over the last two years. Especially now, is to make sure that we do this one piece at a time. And this is the first piece, do we make commercial or don't we?

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Marjorie: I will tell that I am a tiny home fan. I think they are fabulous. I would like to reiterate that these are not tiny homes. They may be small 900 sq. ft. home may be small to someone who is accustomed to a 1500 plus sq. ft. home but by definition they are not tiny homes.

Commissioner Todd Smith: Yeah, you got a question?

Commissioner Doug Smith: I see we've got a commercial block right here what we are talking about. What does that have to do with the other two that we are dealing with? That we are actually changing the zone on?

Marjorie: It was a . . .

Commissioner Doug Smith: I mean this lot is really irrelevant. To our discussion.

Marjorie: The lot, the two parcels I originally purchased, the way we planned them out as you see here were completely relevant to the zoning. The one was commercially zone and the other was Transitional Agriculture. And we used them accordingly, to the plan. The issue of rezoning the additional property is where this all bubbled up. Is I had multiple families coming and asking, you heard from one this evening, was I going to build any more homes? My initial answer was no. I have no plans, but the requests kept coming and Mr. Erickson did approach me and asked if I might be interested. He saw what we were doing here , asked if I might be interested in purchasing the property? I said, Maybe. I was not sure I wanted to go down that road. I would have been happy to just complete the project just as it was, Taking two years of my time full time. But never the less the question came up. And because when the pandemic hit and the local housing prices sky rocketed, I thought maybe there is a need. For some, for small affordable homes. Perhaps a home of 900 to 1500 sq. ft. Max. on half acre lot. Can it be done? No, not unless its zoned as something else. It couldn't be done on a transitional agricultural lot. And that's how the whole topic came to be.

Commissioner Doug Smith: So those other two lots are really what we talking about tonight? Is that correct?

Commissioner Todd Smith: On the zone change. That is correct.

Commissioner Doug Smith: Isn't that what we are talking about is a zone change?

Commissioner Todd Smith: Yes,

Marjorie: The recommendation was made to me, as long as you are going to ask for a rezone why don't you ask for front lot to be rezoned and then Donald Erickson's parcels to be rezoned.

Commissioner Todd Smith: which Is this one,

Marjorie: Correct

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Commissioner Doug Smith: Really this one right here, is already commercial.

Marjorie: It was when I bought it. That's why I bought it.

Commissioner Todd Smith: That one's zoned commercial.

Marjorie: There will never be 19 homes. In the development. I would like to make that clear as well. That number has been shared several times, or 16 homes perhaps. 16 homes No, 9 maybe.

Commissioner Doug Smith: On all three properties?

Marjorie: All three. One on the front three or four in the back. Probably 4 per half acre. On Mr. Erickson's property. Because we need space for a well. A Well is very critical, as you know.

Commissioner Todd Smith: Will you restate that? Not 4 per half acre. 4 each ½ acre.

Marjorie: No, One home per half acre.

Commissioner Todd Smith: You said 4 per half acre and Brent about

Commissioner Brent Mendenhall: I just, I just about fell out of my chair. 4 per half acre.

Commissioner Todd Smith: I heard Brent just gasp for air.

Marjorie: The greatest, there's been much discussion. The Greatest density that is planned for this development is the four homes on that commercial lot. So, you see my sight plan. You know the number of homes that have been discussed. Nancy Perkins, attorney and concerned. I did submit, you, I imagine. If it's made public record Ms. Perkins, you will get an opportunity to read. The questions that I had also about water quality and appropriate use of land. When it comes to pasturing and horse management and some of the canal issues that I see happening. I did talk to the president of the Lenroot canal company, and I would just share, I had some concerns, I wanted to know, I'm told that at times Lenroot Canal company or the corps of engineers will come through and check canals just to make sure they are maintained properly, and I was told that there are three major concerns whenever a canal is checked. Because it feeds from the Snake River and downstream into fishing areas. What's in a canal is very critical the ditch must be clear. There must be a usable head gate, and the users must have legal shares in the canal. My concern is about the condition of the water and the land surrounding it, I see after having horses' pasture there for at least two years since I've been here. I don't know how long prior to that I also will, to correct the record. Ms. Perkins called me early on, which I appreciated, and the only concern.

Ms. Perkins: Marjorie, you called me.

Marjorie: Sorry,

Ms. Perkins: You called me. I did not have your phone number. Mr. Petersen.

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Margorie: Um, that's not the . . . I do remember Bradley trying to put us together and I remember that.

Mr. Perkins: I asked for your number and he would not give it to me.

Commissioner Todd Smith: Okay, it doesn't matter.

Marjorie: Perhaps, it was Bradley, recommended that I call you, I don't remember, but somehow, we spoke with each other. The main concern that you shared with me and main concern, in fact the only concern Tina Bell Erickson said to me at the one time we met was. They wanted to keep that property as horse pasture. That's what Ms. Perkins and I spoke about for almost an hour. And there were no concerns shared with me about water quality, density um any of the other concerns that have been raised in any of these meetings. Whether or not property would allow to be maintained as horse pasture and in fact, Mr. Erickson has told me that he gave the neighbor's, who are using it as horse pasture a year, to consider buying it and preserving it as horse pasture, but they turned it down because they felt he was asking too much money. Perhaps, I was a sucker, when I came along and saw the property and thought Huh, zoned commercial, I think I'll sink all of my retirement money and all of the equity from my home into this property in order to produce a couple of homes in a development that might people and that might generate some revenue. Whether or not it is zoned a townsite zone, I find that really interesting because we'd noted in meetings past I would have had a lot more flexibility had this been discussed as a townsite issue. But that was not allowed. Not tiny homes.

Commissioner Todd Smith: Is that everything?

Marjorie: Yes, thank you for your patience.

Commissioner: Yep, you bet. Mr. Brown.

Brown: Thank you commissioners, I'll be brief, we have spent some good time here this evening. I just wanted to hit on a couple points here as we wrap up our presentation concerning this appeal that has been undertaken. I'll just remind the commissioners that although as Mr. Evans noted to me, this is what is called in the law " De Novo" appeal your considering everything as if you are hearing it for the first time. I do think it is important to remember though, that with as much emphasis as has been made to focus on procedure tonight, the procedure that proceeded what we are doing tonight was that the Planning and Zoning Commission has heard, considered, that it evaluated all these issues, made a recommendation to you who approved this zone change application. I think it is important to note, that whenever we deal with zone change applications there is always a concern raised about whether a particular zone change is unique for the area in which it is being proposed, we call this spot zoning, which I'm sure is a term that comes up frequently in these proceedings before you. This is actually not an instance, in fact, this is a, As Mr. Dyer noted is quite consistent with what's on the ground right now. We have on the ground right now in this area, a cluster of existing commercially zoned parcels. And so, to make this commercial change, or to make this change to a commercial parcel, would not dramatically alter

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the landscape of existing zoning designations for parcels in the area, in fact, these parcels border existing parcels that are zoned as commercial property. As we noted in the beginning, a proceeding like this clearly involves balancing competing interests, And I am certainly not going to sit here and tell you that every single factor that you could consider in reaching your decision tilts in the favor of approving the zone change application.

I would be disingenuous to suggest that there are not legitimate concerns that have been brought by the opponents of this application. That being said, on the balance and when all factors are considered and with the very, very important property rights, private property rights of the applicant to consider, the decision to approve the zone change application was reached previously should be confirmed again tonight. It's been a little bit concerning tonight to hear as the opponents of the zone change application have express their reservations to you that it, there seems to be this temptation to suggest that the worst-case scenario will almost certainly unfold if commercial property results from this proceeding this evening. It would be just as inappropriate, for someone to come in here and ask you to change an existing commercial property to something else and to thereby deprive the owner of that property the benefit of the commercial zone designation. On the fear that maybe in the future that property will be used for some inappropriate purpose or some purpose that is not fitting with the standards of this community. As it would be to deny the applicant the opportunity to seek a zone change application when various factors that this body is directed to consider tend to support approving the application.

I want to touch on just one other issue, that came up when we got into the weeds a little bit about the proposed development and I think everyone has acknowledged in the room tonight that the limited scope of the hearing tonight is to consider the application for zone change. Never the less we got into this discussion about which permitted, conditionally permitted uses on the matric would be allowed in this particular type of development if Ms. Price were to proceed as she plans to do and I would just invite you to consider that whether a particular unit would constitute a single family home or a live work unit one of which is permitted unconditionally under the commercial zone designation and one which requires a conditional use permit. Is not the basis for your denying an application for a zone change tonight? If, in fact, there were right now, acknowledging, that a live home rather a live work unit is one in which you would have to police whether there is actually living and working going on at all times. I'm not suggesting that is necessarily appropriate. But even if there were some hesitation to acknowledge a particular unit on this commercially zoned property as live work. Then that is an issue that would be appropriately undertaken in connection with a requirement that a conditional use permit be sought. It is not a threshold issue as to whether you can grant an application for a zone change to commercial property as we have here before us. So, in conclusion, Commissioners, again thank you again very much for your time and consideration given to an issue that, obviously has generated a lot of interest and concern we believe that the same factors that lead to the planning and zoning commission recommending the approval of this application exists the opponents whose concerns are of course well taken and well considered.

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Have not made sufficient showing to support a decision to deny an application of this nature, especially given immediate proximity in which the property is located around other commercially zoned properties. So, we would ask the commission to deny the appeal and confirm its earlier decision to approve the zone change application to commercial. Thank you.

Commissioner Todd Smith: okay, Thank you. At this time, we will close the public hearing portion of our discussion here tonight. First, I just want to thank everybody, we appreciate your comments, your discussions, your questions, your answers. We know that public it can be terrifying first of all to come and speak and we appreciate you coming prepared to do that. And we appreciate you being civil. We all are neighbors and we do live and work next to each other and we do appreciate this. We know that emotions can run high during public hearings and things that we do and don't want on our properties and our neighbors properties, so, Commissioners at this point, we will go through the hearing factors here in a second but at this point we have a decision to make our options are the following we can either, we can discuss it, we can approve it, we can deny it, we can table it, and make a discussion in the future, at a future meeting. If you don't feel like you are ready to make the decision here tonight. I don't like that third option, because I don't like putting things off. It's just good to get them done, but if you feel that you need more time, then it is certainly an option. I do believe and Troy correct me if I am wrong on this one, we can do a zone change with a specific use tied to that zone change. Is that correct?

I made the attorney think.

Troy Evans: *[Can't hear response]*.

Commissioner Todd Smith: We have done that in the past. When you recused yourself and Mr. Zollinger was our attorney?

Troy Evans: *[Can't hear response]*.

Commissioner Todd Smith: And what I mean by that is you can, I believe that we can do a zone change, if we approve it but make it specific for the use stated or to only be used for a specific purpose so that it alleviates some of the fears of the neighbors. That there will be a gas station next door, for example. We'll give the attorney some time to look that one up. But, I, anyway, option.

So, with that commissioners, Lets. I will, let me pull up on the screen, as we go through these, these are the factors that we need to consider, when looking at a zone change. Can you read those, Doug?

Commissioner Todd Smith: That's what I understand, I'm Sorry, does this one over here. Okay, I can change that. There is no one on our zoom anyway. So, we will change that one

Commissioner Brent Mendenhall: Shut that one off, the one that is jumping.

"Restart"

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Commissioner Todd Smith: No, I don't know how to do that. Did that one come up? Okay, Sorry about that one. That TV has been giving us some trouble. So, we will get our IT guy on that. But, Actually I want to do this, so those are our hearing factors, just to go through them when we are considering a zone change, these are the 12 things that we should consider.

1. To protect property rights and enhance property values;

Commissioner Todd Smith: Does it do that?

Commissioner Brent Mendenhall: I don't know about the enhancing the property values but it does protect property rights. Of the owner.

Commissioner Todd Smith: okay, right, and does it?

Commissioner Doug Smith: You know in a lot of ways, that someone might argue that it devalues property but in reality, it will probably enhance any property out there.

Commissioner Brent Mendenhall: I don't know about

2. To provide for the protection and enhancement of the local economy;

Commissioner Doug Smith: Well, it will probably give a few extra hamburgers to Big Judd's. More people more hamburgers. I don't think that will be a problem.

Commissioner Todd Smith: Yeah, I don't see an adverse thing there either.

3. To ensure that important environmental features are protected and enhanced;

Are there important environmental features that we need to be concerned with on this property?

Commissioner Brent Mendenhall: the canal delivery system, the letters we have received from Fremont-Madison Irrigation District that if there is a delivery system it must be maintained or show how the water will be delivered. I don't know delivery that is happening with the canal down there. So that would be something we would have to consider.

Commissioner Doug Smith: Is that property, does that canal run through your property or on somebody else's.?

Commissioner Todd Smith: It's on the back.

Commissioner Brent Mendenhall: On the back side.

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Marjorie: There is flood irrigation happening on the property, it's not clear to me who owns the pump or operates.

Commissioner Doug Smith: Does the water go through your property?

Commissioner Brent Mendenhall: On down,

Marjorie: the canal water, all the way down the

Commissioner Todd Smith: On the west side.

Commissioner Doug Smith: So, you'll have to maintain that. Is what it amounts to.

Commissioner Brent Mendenhall: and the irrigation ditch. They are all over that.

Commissioner Todd Smith: Private Ditch

Someone: Any future development.

Marjorie: We have to protect the integrity of it.

Commissioner Todd Smith:

4. To encourage the protection of prime agriculture lands for the production of crops;

Commissioner Doug Smith: Its horse pasture. Is that what we're

Marjorie: Its currently used as horse pasture and has been used as horse pasture. On the other side of the canal is large expanse of agricultural land. As far as I know, crops are being grown.

Commissioner Todd Smith: But this piece of property itself would not be considered prime ag land. Production of crops certainly. Um. . .

5. To avoid undue concentration of population and overcrowding of land;

Commissioner Brent Mendenhall: I read that one, that one stands out. Let's go to #6 for a minute.

6. To ensure the development on land is commensurate with the physical characteristics of the land;

Commissioner Doug Smith: I don't think that.....

Commissioner Todd Smith:

7. To protect life and property in areas subject to natural hazards and disasters;

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Commissioner Brent Mendenhall: Not necessarily applicable there.

Commissioner Todd Smith: Yeah,

8. To protect recreational resources;

Again, not really a concern.

9. To avoid undue water, air and noise pollution;

Commissioner Brent Mendenhall: That's where #5 is a concern

Commissioner Todd Smith: Okay,

10. To promote trails and recreation;

Commissioner Todd Smith: Again, not really a concern.

11. To ensure safety from fire and provide adequate open spaces for light and air;

Commissioner Todd Smith: Again, not too applicable on this property.

12. To implement the county comprehensive plan.

Commissioner Todd Smith: I do have a question on the Comprehensive Plan. Troy, umm it is, the comprehensive plan on this I believe has this as a townsite. It takes a second to load, looks like there's some mix, Melissa, correct me if I am wrong, townsite and retail. There on the corner is retail, area.

Melissa: "Cannot hear"

Commissioner Todd Smith: Okay,

Commissioner Doug Smith: So, that's the townsite?

Commissioner Todd Smith: The Yellow is, the on the comprehensive plan map, the townsite area, which goes out about that big. Our properties in question are right here, right here, right here, so within, and I haven't looked it up, within the townsite comprehensive plan is commercial zoned allowed.

Melissa: It depends on if it's, I'll pull it up.

Commissioner Todd Smith: Okay, so back to our hearing factors, what are our concerns? 5 & 9?

Commissioner Brent Mendenhall: Yeah, and then during part of the discussion, I am concerned at the fact that we haven't had this kind of building or development on commercial property in this manner. And it

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concerns me that we, and I actually wrote down here to myself, "Which comes first the chicken or the egg?" do we go commercial zoning on this property? And then open the door for what might come? It concerned me that some lots have been presold without any idea of what is next and what will happen with processing and what is required where we have nothing on sidewalks or I don't even know what would be applicable. And so, I am concerned if we open the door for commercial especially where it has already been referred to that we already know the intent. I tried to hold back and say hey, it's either commercial or it's not. But once the intent was hit over and over again by both sides, I am concerned, I don't. Even on this plat where this is already a commercial with that kind of building going in, Is that anywhere else in the county? Anything like that?

Commissioner Todd Smith: Not that I know of.

Commissioner Brent Mendenhall: And that, that bothered me, I'll go with not being a tiny home but if it were, we weren't prepared for that. And so now I'm looking at this and going 'you know why? I'm not sure if that came back to us and I don't know what planning and zoning commission would do but if that came back to us now, I would go on what grounds do we allow that kind of development. I don't know. So, I'm not dead set against zoning it commercial. But to have Ms. Price know that the next step may be less pleasant than this. That it might be blocked because we don't know what we are getting into yet. With that kind of development. Does that make sense?

Commissioner Todd Smith: Yeah, yeah same, I mean I have the same concerns, so

Commissioner Brent Mendenhall: It hit #5, you know, is that an undue concentration? Is that the intent of commercial? Yes, it's permitted for living and work space and those kinds of things but for 4 homes on an acre? And then we open two other parcels for an acre a piece approximately and we put 4 more homes there and not against the zoning of it being commercial to close in those that are next to it. And making it so there isn't an island of non-commercial, trans ag in the middle. I have no objections to that but with the caveat that I don't know if we are prepared for the next step.

Commissioner Doug Smith: Why couldn't we, why couldn't those other lots be zoned residential like we've done out in Hibbard? Is it because there isn't enough ground?

Commissioner Brent Mendenhall: not enough acreage.

Commissioner Todd Smith: Yeah, I'm mean they are not contiguous to any other residential. Residential is typically closer to a city center. Where you allow a little higher density. You know with that being said though. The density out there. Some of those lots are not very big. Even some of them are already existing homes across the road and so forth. I mean you got .6 acres there, I mean there not, you know, they've been there for a long time, they're grandfathered in, so,

Commissioner Brent Mendenhall: Are the many, or any with a home on it that are less than ½ acre?

Commissioner Todd Smith: I don't know less than a half but there are some that are close to a half.

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Unknown voice: Place is a .3 something acres.

Voices talking

Commissioner Todd Smith: So, there are a few on the smaller . . .

Commissioner Brent Mendenhall: Nothing that we have purposefully developed?

Commissioner Todd Smith: No, no these are old lots. That are, I guess part of the original townsite, I don't know.

Commissioner Brent Mendenhall. So, we are in the middle of townsites'. Townsites are not an obscure thing for this county. We have 5 or 6 or 7.

Commissioner Doug Smith: Can you expound townsite?

Commissioner Todd Smith: They could apply for a townsite zone. If we deny that, they could come back and apply to have their zoning changed to townsite.

Commissioner Doug Smith: I guess my question is "Why would be deny this, where those things are permitted?" I mean, and that density that's been spoken of here is not any denser than what we have done out in Hibbard.

Commissioner Todd Smith: Well,

Commissioner Doug Smith: We're going to have to face somewhere along the line that there are going to be some density increases in this community. It's happening in a lot of places already.

Commissioner Brent Mendenhall: Mr. Chairman, would you put up again. The block showing Trans Ag and Commercial. The colored.... And then highlight the ones that we are considering right now.

Commissioner Todd Smith: Right there,

Commissioner Brent Mendenhall: That one and then the other one.

Commissioner Todd Smith: This is the one she already owns. This is the little corner taken out. Is that one that you have already sold?

Marjorie: Yes, with an administrative permit,

Commissioner Todd Smith: Martin Maze is part of your development?

Marjorie: *Cannot hear*

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Commissioner Todd Smith: so, these two are the

Commissioner Brent Mendenhall: And that strip through there, what is that?

Commissioner Todd Smith: You know, that is a good question.

Voice: That's my

Commissioner Todd Smith: That's Susan's

Susan: I don't know why its commercial, I have never.... we don't know.

Commissioner Todd Smith: It was just originally that put that way.

Commissioner Brent Mendenhall: Commissioner Doug Smith, I'm with you, I don't see a reason not to bring them all in whether Miss Briggs wants to put that as, into commercial or leave it as trans ag, that would be a choice of hers. That's commercial, for us to go back and make all those trans ag that would be worse. And so, to make them commercial, that's not what bothers me right now, I'm fine, I could vote right now and vote that, t's the next and I'm hoping that Marjorie knows.

Commissioner Doug Smith: it's that next step

Commissioner Brent Mendenhall: That's a relief to you folks. And I think we need to be prepared.

Commissioner Doug Smith: I think we need to make that decision to move ahead. And then whether she gets approved or not may be a real challenge for her. Because we may choose ... and all those other things,

Commissioner Brent Mendenhall: No Commission, you two can separate each other and not looking at the planning and zoning chair. Legally, I cannot influence that, but planning and zoning, we need to consider, what can we do to make this permissible and the regulations and everything. So, we have something to hang our hat on.

Commissioner Doug Smith: you know, I

Female Voice: You can't put everything on the list

Commissioner Todd Smith: No, and Sharon is correct, it is very hard. Because you are always going to miss something.

Commissioner Doug Smith: We do need to make some provisions for smaller homes and people that don't have \$500.00.00 to build a home. It is getting almost.... for a couple to start a home.

Commissioner Todd Smith: You know I stated this in finding of facts, that I look at the Archer, I called it the Archer but it is actually the Dalby townsite but I feel that there is enough commercial. That is my, one

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of my concerns. I mean, And I struggle with it, because I do almost always lean towards private property. I'm very liberal on my private property rights. Maybe liberal is the wrong word. I almost always error in the favor of the property owner. Um. Not always but

Commissioner Doug Smith: What is the designation for the piece of property that White Sparrow sits on?

Commissioner Todd Smith: It's down the road

Commissioner Brent Mendenhall: It's probably commercial.

Commissioner Todd Smith: It townsite as well, it's a non-conforming use.

Commissioner Brent Mendenhall: OHHH preexisting.

Commissioner Doug Smith: I mean it's been there for a long time.

Commissioner Todd Smith: It's actually ag. Did you find anything on ours?

Voice: I'm sending it right now.

Commissioner Todd Smith: And I will mention this too. When this came to our planning and zoning commission, Again I know this is a new hearing, as Mr. Brown stated, it wasn't a tied vote with our P & Z Three to Three if I remember right, with our chairwoman Oakey breaking that tie. So, it was not a unanimous decision amongst our planning and zoning commission. So, they struggled with it the same as we are here a little bit. But

Commissioner Brent Mendenhall: Tell me more about it.

Commissioner Doug Smith: I think when we voted on it, it was a split decision, also.

Commissioner Todd Smith: It was. We don't have tie votes though.

Commissioner Brent Mendenhall: Tell me more about your rational. That too much commercial or enough, not too much commercial.

Commissioner Todd Smith: You Know, I look at that area and other than Big Judd's we have the Whiteman's that have the auto repair shop and he also sells cars over there. Umm, we have a block of commercial that big with two businesses on it.

Commissioner Brent Mendenhall: Is Howell's or any of his warehouses or anything commercial? Or are they.

Commissioner Todd Smith: It is, I don't know what he uses those for, it's not certainly not retail certainly not people coming and going.

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Commissioner Brent Mendenhall: Storage of his honey and that or it used to be.

Commissioner Todd Smith: Which is that piece right there.

Commissioner Brent Mendenhall: Yes, across the street.

Commissioner Todd Smith: That's my one issue with it is. I feel we have enough commercial. In that area, but again at the same time, I like the free market approach as well.

Commissioner Brent Mendenhall: I like closing island. I like closing that up in the middle of the commercial. Because that creates problems down the road.

Commissioner Doug Smith: I like moving ahead and I know we're going to have to face this small home thing.

Commissioner Brent Mendenhall: And along with that Commissioner Doug, I don't know how many or you have been privy to the information from the Census. That we are, we've experienced a 41% growth. We can't stop that there is nothing we don't build walls at the border of Utah, California and Idaho. That just doesn't happen, as much as you might want to, it's not going to happen so the management is going to come here and here. And that growth is going to come with some property rights and change and I live out in the country and I've seen traffic increase substantially and speeds have gone up with the traffic. So yeah, well, Mr. Chairman, I am, I guess I'll make a motion and see where it falls.

Commissioner Todd Smith: okay,

Commissioner Brent Mendenhall: If you are willing to entertain that motion.

Commissioner Todd Smith: I am always willing to.

Commissioner Brent Mendenhall: Put the map back up for a moment and highlight the first one, its trans ag, what is that, ending in 2943 and then the other one 9260. Mr. Chairman, I would make a motion that we approve the zone change on lots 2943 and 9260. From Trans AG to commercial.

Commissioner Todd Smith: Motion made.

Commissioner Doug Smith: I'll second it.

Commissioner Todd Smith: We have a second. Any further discussion?

Commissioner Brent Mendenhall: It's been made, it's in the minutes. A vote we need to do.

Commissioner Todd Smith: Okay, all in favor.

Commissioner Doug Smith: Aye.

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Commissioner Brent Mendenhall: Aye.

Commissioner Todd Smith: Opposed, Aye.

Voice: Are there three RP numbers or . . .

Commissioner Brent Mendenhall: I thought there were only two.

Voice: Are you doing the Erickson application?

Commissioner Todd Smith: Ok, Thank you Mr. Brown. So, this one is already zoned commercial. So, the three on her application was this one, this one and this one. Is that correct?

Commissioner Brent Mendenhall: Mr. Chairman, I would like to amend my motion to include parcel ending 9351.

Commissioner Doug Smith: I'll second.

Commissioner Todd Smith: Amended motion, all in favor.

Commissioner Doug Smith: Aye.

Commissioner Brent Mendenhall: Aye.

Commissioner Todd Smith: And opposed, Aye.

Voice: Are you opposed?

Commissioner Todd Smith: I am

Voice: Just so we are clear, Affirmative to amend it from Trans Ag to Commercial. All three parcels.

Commissioner Todd Smith: Yes, yes, it is. Motion passes. So, moving forward we will get a finding of fact for us to sign at our next meeting as soon as possible. It might be a month from now. The next appeal would be to district court. Needs to be filed within 28 days of this meeting. Not of the findings of fact meeting. So. Okay with that we will close things out and I'll entertain a motion adjourn.

Commissioner Doug Smith: I'll make a motion to adjourn.

Commissioner Todd Smith: okay

Commissioner Brent Mendenhall: I'll second.

Commissioner Todd Smith:

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Voting: Unanimous on adjournment.

Commissioner Mendenhall made a motion to adjourn the meeting at 7:42 p.m. Commissioner Doug Smith seconded and voting was unanimous.

Approved:

Todd Smith, Commission Chairman
Brent Mendenhall, Commissioner
Douglas Smith, Commissioner

Attest:

Kim Muir, County Clerk