

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
May 7, 2008 - 5:00 p.m.**

In Attendance were:

Shelly Fabrizio, Planning Commission Chairman
Chris Peatross, Planning Commission
Dean Burton, Planning Commission
Leon Sweat, Planning Commission
Randy Mair, Planning Commission
John Jorgensen, Planning Commission
Kent Olsen, Planning Commission
Mike Hyde, Community Development Administrator
Laraine Dickinson, Planning Secretary

Visitors:

Lanny Ross
Todd Bro
Kirk Grant
Bennie Mitchell
Bob West
Roger Brockbank
Carl & Sharon Foote
Ray & LeiAn Snyder
Norval & Gaylene Glines
Errol Whiting
Willard Mathisen
James & Nanette Markey
Ben Justice

Agenda Item

Mountain Vista Estates
Iowa Tanklines, Inc.
Prairie View Estates

Three Thousand West Parkway

Canyon Breeze Subdivision

Chairman Fabrizio opened the meeting at 5:00 PM.

PUBLIC HEARINGS:

- A. Request by Lanny Ross for preliminary plat approval of the Mountain Vista Estates Subdivision, Phase 1, consisting of 13 lots located east of 4000 West, about .4 mile north of Ioka Lane.**

Mr. Hyde stated that this proposed subdivision would be in two phases with the first phase consisting of 13 lots at or slightly over one acre in size. The property location is on the east side of 4000 West, about four tenths of a mile north of the Ioka Lane. The water to this subdivision would be provided by Johnson Water District.

Mr. Hyde stated that Tri-County Health Department issued a letter dated January 4, 2008 stating that approved wastewater systems exist on Lots 6 and 8 and that the remaining lots are feasible to develop with septic systems.

Mr. Hyde stated that since these lots are 1-acre in size the roads would need to be paved and the developer is planning on doing this. The property is flat in nature so drainage problems are not anticipated.

Mr. Hyde stated that the preliminary plat does not show sufficient right of way for a couple of the roads. In the southeast corner, that road does not extend to the east end of the plat and on 3810 West, that road does not go to the boundary of the phase. So on the final plat those would need to extend to the boundaries of Phase 1 with temporary easement for turn arounds because at this time they would be dead end streets. Also, 3930 West would need a temporary turn around until Phase 2 is developed.

Commissioner Olsen asked who pays for the street signs that need to be in place upon final plat approval? Mr. Hyde stated that the County Road Department has been adding them to their orders and have also been installing them where they are needed.

Commissioner Jorgensen asked if there would be access into the property on the east side of the subdivision? Mr. Hyde stated that when the property to the east is developed there would be access there.

Commissioner Olsen asked do the roads need to be paved? Mr. Hyde stated that they do because of the 1-acre lot size. Commissioner Olsen asked if 4000 West was paved and Mr. Hyde stated that it was paved just shy of the subdivision but that the County Road Department would be paving between Ioka Lane and the Pole Line Road the next time they are in the Roosevelt area which would be approximately 2010. Mr. Hyde stated that Mr. Ross would be responsible for the roads in the subdivision.

Chairman Fabrizio asked if the applicant had anything to add? Mr. Ross stated that he did not.

Errol Whiting asked to comment on what Mr. Hyde stated as to the County Road Department providing the necessary equipment and such including the asphalt, road base etc. What this means to me is that the tax payers are going to be paying for this? Chairman Fabrizio stated that the developer would be paying for the paving inside the subdivision. Mr. Whiting stated that he misunderstood and Mr. Hyde stated that the Road Department had been providing the road signs but not the road improvements.

Chairman Fabrizio asked if there were any other comments or questions? There were none, so the public hearing was closed.

Commissioner Peatross motioned that the Planning Commission adopt the Findings of Fact and Conclusions set forth in this Staff Report and approve the preliminary plat of the Mountain Vista Estates Subdivision, subject to the following conditions:

1. The final plat shall show 2650 South and 3810 West right of way dedicated to the boundary of Phase 1, with easements for a temporary turnaround.
2. The final plat shall show an easement for a temporary turnaround at the north end of 3930 West.
3. All roads serving lots in this subdivision shall be constructed to paved county standards and accepted by the County Road Department prior to final plat approval, unless bonding is provided.
4. All water lines and fire hydrants shall be constructed and an operating permit received from the Utah Division of Drinking Water prior to final plat approval, unless bonding is provided.
5. The developer shall be responsible for providing street signs at the street intersections. The developer shall coordinate with the County Road Department in the purchase, manufacture and installation of such signs.

Commissioner Mair seconded that motion and it passed unanimously.

B. Request for a Conditional Use Permit by Iowa Tanklines, Inc., to establish a produced water disposal facility on a 100-acre parcel located in the Pleasant Valley area, 12368 South Wells Draw Road.

Mr. Hyde stated that Iowa Tanklines proposes to purchase 100 acres from Todd Moon, on the west side of the Wells Draw Road, for the purpose of constructing a produced water disposal facility used to evaporate wastewater from the oil and gas industry. Mr. Hyde stated that the nearest homes are well over a mile to the northeast.

Mr. Hyde stated that the county requires a Conditional Use Permit for water disposal facilities and requires that they be at least a mile away from any city, town, residential use or State Highway. In the case it would be about 3 miles south of Highway 40, six miles southwest of Myton and 1¼ mile from the nearest residential use.

Mr. Hyde stated that it is required to have fencing around these types of facilities to keep wildlife, livestock and unauthorized personnel from getting in. Mr. Hyde stated that the applicant is willing to provide fencing.

Mr. Hyde stated that the State of Utah Division Oil, Gas and Mining must issue a permit before the ponds are put into operation.

Mr. Hyde stated that there is a mandatory odor control requirement and the applicant is willing to do this. Some ways of doing this are with misters on the ponds to keep the water circulating; they also can provide a chemical treatment if needed.

Mr. Hyde stated that bonding is required in the event that these ponds are closed down to assure that the property is reclaimed. Mr. Hyde stated that the number of ponds proposed here is six as shown on the site plan although only two would be constructed at this time the others would be built upon demand. They would be built in three phases as needed with two ponds per phase. Mr. Hyde stated that the bonding in \$25,000.00 per acre of pond.

Mr. Hyde stated that the Conditional Use Permit criteria, determines whether or not this would not be detrimental to the public health, safety or general welfare. In this case, due to the remote location of the proposed facility the public's health, safety and welfare would not be adversely impacted.

Mr. Hyde stated that the proposed location is in compliance with the goals and policies of the Duchesne County General Plan. Also, the parcel is of adequate size for this type of facility. The proposed site would be a 100-acre parcel, which is large enough and remotely located from developed properties.

Chairman Fabrizio asked if there were any questions or comments?

Commissioner Burton asked if DOGM had asked for any leak detection for the ponds? Todd Bro stated that this was part of the design with the berms for leak detection and this would be included in the construction.

As there were no additional questions or comments, the public hearing was closed.

Commissioner Sweat motioned that the Planning Commission approve the Conditional Use Permit requested by Iowa Tanklines, Inc. subject to the following conditions:

1. Prior to start of construction, the applicants shall submit to the county a copy of their DOGM permit.
2. Prior to start of facility operation, the applicants shall construct the required fencing and post the required bonding.
3. After operations begin, applicants agree to take action to mitigate odors if the county receives complaints.

Commissioner Jorgensen seconded that motion and it passed unanimously.

C. Request by Kirk and Kellee Grant for approval of the Prairie View Estates Subdivision, consisting of 4 lots located between the Duchesne LDS Stake Center and the UDOT maintenance shop, north of Duchesne City.

1. Preliminary plat

Mr. Hyde stated that this proposed residential subdivision, consisting of 4 lots each 1¼ - acre in size is located between the Duchesne LDS Stake Center and the Duchesne UDOT Maintenance Shop, north of Duchesne City.

Mr. Hyde stated that there is county road frontage on the southwest corner and Mr. Grant is proposing to run a private driveway within a 30-foot wide easement along the west side of these lots. Mr. Hyde stated that County Code changed in 2006 to allow up to five residential lots to be served by a private drive, this eliminates Mr. Grant having to provide a full 66-foot right of way. Mr. Hyde stated that in the future, if the property to the west of Mr. Grant's is developed, there could be a 30-foot easement along there which would make this a full size city street. So, the roads in this subdivision would be privately maintained.

Mr. Hyde stated that there is both Duchesne City water and sewer running along the east side of the property that continues north into the UDOT maintenance facility and the jail. Mr. Hyde stated that there is also a natural gas line to the east of the property.

Mr. Hyde stated that, regarding fire protection, the nearest fire hydrant is near the LDS Stake Center and at the UDOT facility and so this property is located in the center. There is a proposed fire hydrant that would be located in the middle of this subdivision on the Duchesne City water line. The plat map shows a 25-foot fire lane easement with a hammerhead turn around for fire trucks to access the fire hydrant.

Mr. Hyde stated that the lots in this proposed subdivision could be ½ acre in size because there is sewer and water, so it would be possible in the future that these lots could be subdivided into smaller lots.

Commissioner Jorgensen asked; if the road needs to be paved or just graveled? Mr. Hyde stated that since it is being developed to a private driveway standard it can be graveled but if it were to be developed as a public roadway then, with the smaller lot size, it would need to be paved. Commissioner Jorgensen asked if the fire access needed to be paved? Mr. Hyde stated that it did not, it just needs to be provided with adequate rock base to support a fire truck.

Chairman Fabrizio asked how close this subdivision was to the airport and would there be any interference? Mr. Hyde referred to the aerial photos and stated that this proposed subdivision is quite a distance to the south and southwest of the airport so there should not be a problem there.

Commissioner Mair asked if the private driveway would have an address or street sign? Mr. Hyde stated that the street would be 21250 West and will need a street sign.

Chairman Fabrizio asked if there were any questions or comments? There were none, so the public hearing was closed.

Commissioner Mair motioned that the Planning Commission adopt the Findings of Fact and Conclusions set forth in this Staff Report and approve the preliminary plat of the Prairie View Estates Subdivision, subject to the following conditions:

1. Developer shall provide an additional fire hydrant, with improved fire truck access, on the Duchesne City water system at a location approved by the Fire Department, prior to the recording of the final plat, unless bonding is posted.
2. Developer shall work with the County Public Works Department in the provision of street signs, which shall be installed prior to occupancy of homes in the subdivision.

Commissioner Olsen seconded that motion and it passed unanimously.

a. Final plat

Mr. Hyde stated that on the final plat we check to see if any public improvements have been completed. In this case, the road is not a public road and the water and sewer lines are already in. Also, the Title Report has been received.

The public hearing was closed.

Commissioner Sweat motioned that the Planning Commission recommend to the County Commission the adoption of the Findings of Fact and Conclusions set forth in this report and approval of the final plat of the Prairie View Estates Subdivision, subject to the following conditions:

1. Developer shall provide an additional fire hydrant, with improved fire truck access, on the Duchesne City water system at a location approved by the Fire Department, prior to the recording of the final plat, unless bonding is posted.
2. Developer shall work with the County Public Works Department in the provision of street signs, which shall be installed prior to occupancy of homes in the subdivision.

Commissioner Mair seconded that motion and it passed unanimously.

3. Request by Bob West and Roger Brockbank for preliminary plat approval of the Three Thousand West Parkway Subdivision, Phase 1, consisting of 14 lots located at 950 South 3000 West, between the Roosevelt airport and the South Cove Road.

Mr. Hyde stated that the property is located on the west side of 3000 West, between the Roosevelt Municipal Airport and the South Cove Road north of Burdick Paving and Leon Ross Drilling. The first phase of this proposed Industrial Subdivision would be consisting of 14-lots, one acre in size.

Mr. Hyde stated that there were six additional lots just west of 3000 West that were proposed to be in this phase but they did not pass the perc test. Mr. Hyde stated that there needs to be ground water monitoring for a year before those six lots can be deemed suitable for septic systems. So, a twenty-lot phase one became a fourteen-lot phase 1. Mr. Hyde stated that an approval letter dated April 8, 2008 was received from the Health Department.

Mr. Hyde stated that the road has already been roughed in with access to 3000 West and there is good visibility in both directions. Mr. Hyde stated that the road would need to be paved due to the heavy truck traffic and the sandy soil. Mr. Hyde stated that the County Road Department would be requiring at least 18 inches of 6-inch minus rock, at least 4 inches of $\frac{3}{4}$ inch road base and at least $3\frac{1}{2}$ inches of asphalt.

Mr. Hyde stated that Roosevelt City would provide the water to this area. In this case, the Roosevelt Engineer indicated that the current water system can supply just less than 900 gallons per minute and it is suggested to have 1000 per minute for fire flows. Mr. Hyde stated that the city has indicated in a letter dated April 21, 2008 that they plan to connect the water line in 3000 West with the water line in 1500 South during the 2008 construction season, which would boost fire flows over the minimum required.

Mr. Hyde stated that the water lines and fire hydrants would need to be constructed and an operating permit received from the Utah Division of Drinking Water prior to final plat approval.

Mr. Hyde stated that a street sign must be installed at the corner of 950 South and 3000 West.

Commissioner Sweat asked regarding condition #2, stating that all water lines and fire hydrants be constructed and operating permit received; does that include the additional fire hydrant needed for paragraph 3 of the Engineering letter, which states the average space of hydrants needs to 500 feet to comply with State Division of Drinking Water standards? Mr. Hyde stated that the plans would need to show the additional hydrant. Mr. Hyde stated that on the preliminary plat it shows where the fire hydrants are, with one being on the northwest corners of lot 4, 6 and 8.

Chairman Fabrizio asked if there were any questions or comments?

Mr. West stated that he had concerns with the Staff Report page 9 in regards to how the roads were to be constructed and asked for Mr. Hyde to explain it further. Mr. Hyde stated since this would be an industrial subdivision with heavy truck traffic as opposed to a residential subdivision and with the sandy soil in this area, the Road Department is going to require a little more rock which was described earlier in the Staff Report. Mr. West asked Commissioner Sweat what the estimated cost would be? Commissioner Sweat stated that it is going to be costly but the cost is immaterial because if this were what it takes to keep the road intact, then what the Road Department requires would need to be met. Mr. West stated that last year in Roosevelt City about $\frac{1}{2}$ mile from this

location we were able to do normal road base and they suggested that we not use asphalt because of the heavy traffic. Mr. Hyde suggested that if Mr. West had concerns with the standard that the County Road Department has recommended here, you should talk to Glen Murphy the County Road Supervisor and if he is willing to write a letter stating that you can use something less, then the Planning Commission is willing to accept that. Mr. West stated that they are planning on doing some soil samples so that they would have more information to base this on. Mr. Hyde stated that if the road department is willing to accept less then the planning commission could put that in their motion. Mr. Hyde stated that in the recommendation the specifics could be eliminated and whatever the County Road Department recommends that would be the condition on final plat approval.

As there were no additional questions or comments, the public hearing was closed.

Commissioner Olsen motioned that the Planning Commission adopt the Findings of Fact and Conclusions set forth in this Staff Report and approve the preliminary plat of the Three Thousand West Parkway, subject to the following conditions:

1. All roads serving lots in this subdivision, including the temporary turn-around at the west end of Phase 1, shall be constructed to paved county standards and accepted by the County Road Department prior to final plat approval, unless bonding is provided. The temporary turn-around may be graveled.
2. All water lines and fire hydrants shall be constructed and an operating permit received from the Utah Division of Drinking Water prior to final plat approval, unless bonding is provided.
3. The developer shall be responsible for providing a street sign at the intersection of 950 South and 3000 West. The developer shall coordinate with the County Road Department in the purchase, manufacture and installation of such signage, prior to the occupancy of any buildings within the subdivision.

Commissioner Peatross seconded that motion and six voting for and Commissioner Mair voting against because the County Road Department had already made their recommendation for the road.

- 4. Request by Carl Foote for approval of the Canyon Breeze Meadow Subdivision, consisting of 6 lots located at 11650 North, 2000 West, 2.5 miles north of Neola.**
 - a. Preliminary plat**

Mr. Hyde stated that this proposed subdivision consists of 6 lots ranging from 2.5 to 3.65 acres in size and the applicant is building his home on Lot 1. The property is located on the west side of 2000 West about 2.5 miles north of Neola.

Mr. Hyde stated that the zoning in this area is a 5-acre zone; however, the way the zoning ordinance is structured, if you have Health Department approval with wells and septic tanks you are able to divide down to 2½-acre lot size or if there is culinary water it

can be subdivided down to a 1-acre lot. Mr. Hyde stated that, in this case, there is Health Department approval for septic systems and private wells on 2½-acre lots, with an approval letter dated February 28, 2008.

Mr. Hyde stated that the biggest issue here is water and the Planning Department has received several calls and letters from surrounding property owners with concerns about well water. This property is located north of the Neola Water District. Mr. Hyde stated that the applicant has submitted a letter from the Division of Water Rights signed by Robert Leake (Regional Engineer). It states that the engineer routinely accepts applications for wells for individual homes, 0.25 acre of irrigation for lawn and garden and up to 10 equivalent livestock units. However, property owners have concerns, as their wells in this area have not been performing that well lately with drought conditions over the past several years. Mr. Hyde stated that the Planning Commission could accept this letter at face value or an option would be to ask Mr. Leake for a more detailed study to see how the existing wells are performing and who has had to drill deeper and then get back with us with more detailed analysis.

Mr. Hyde stated that another issue with this subdivision is the road. With the 2½-acre lots it is on the borderline between where the county allows pavement and where the county allows gravel. In this case, Mr. Foote has requested a variance to the paving standard and had Burdick Paving give an estimate showing the cost to be \$49,875.00 to have the road paved. If the cost is spread over the six lots, the cost would be up to \$8,000.00 per lot to have the road paved. Mr. Hyde stated that the County Road Department does not want to accept this road as a gravel road because they have paved a number of other roads in the Neola area. They don't have any other gravel roads in the area, so this would be out of the way for them to grade this road. So, Mr. Foote has indicated that the road would be maintained by the property owners as a private road. Mr. Hyde stated that the road is being designed with a temporary turn around at the west end of the road in case the road can be extended to the west in the future.

Mr. Hyde stated that in regards to fire protection, since there is no water service in this area for fire hydrants, the county has in the past required residential sprinkler systems in each home.

Mr. Hyde stated that if the Planning Commission has concerns with wells in this area after testimony then you could recess this until the June 4, 2008 meeting to allow the State to take a closer look at this.

Carl Foote stated that he has met all the requirements that were needed to propose this subdivision.

Mr. Hyde asked Mr. Foote if he had drilled a new well for his new home. Mr. Foote indicated that he had which was down 80 feet and the water level was up to 30 feet. Mr. Foote stated that when he had his well drilled he asked if it needed to be witched and the person drilling stated that, no you can drill almost anywhere in this area and

you are sure to hit water. Someone asked Mr. Foote how long ago it was when the well was drilled? Mr. Foote stated that it was sometime last fall. Commissioner Burton asked if there was a GMP (gallons per minute) done on the well? Mr. Foote stated that it was 30 gallons per minute. Commissioner Burton asked Mr. Hyde what was needed for fire protection and Mr. Hyde stated that it was 1000 gallons per minutes for a fire hydrant but that 30 gallons per minute would be sufficient for a home and supply a tank for sprinkler system.

Commissioner Jorgensen stated that if the road is going to be graveled and if the home needs to have a sprinkler system for fire protection has this been included in the covenants so that future property owners are aware of what has been proposed? Mr. Foote stated that there are covenants and it states in them that the road would not be a county maintained road but there is not anything stating that there needs to be a sprinkling systems for fire but that could be added.

Commissioner Mair asked if the road is a private road what would happen in the event that in the future there was more development to the west? Mr. Hyde stated that this could cause problems for future development. Mr. Hyde referred the Planning Commission to page 5 of the Staff Report in regards to paving and not paving. Commissioner Jorgensen suggested that if there is a possibility to have the road paved then it should be for future development and because of dust control.

Chairman Fabrizio asked if there were any questions or comments?

Scott Hacking (DEQ Engineer with Tri-County) stated that he has not been in the area long enough to comment on the wells in this area or the water. Mr. Hacking stated that at their next health meeting it is going to be proposed that there be a 200-foot radius around any well, but the Commission agreed that there is no reason to discuss since it has not yet been adopted so there would be no effect on this proposed subdivision. Commissioner Olsen asked what are the existing requirements now and Mr. Hacking stated that it is determined on a case-by-case basis with Tri-County Health making the decision.

Ben Justice stated that he lives $\frac{1}{4}$ mile south of this subdivision and has been there about two years and has not had any problems with his well. He stated that he has no objection to this subdivision being approved.

Nanette Markey stated that she lives near the back corner of this proposed subdivision. She stated that she moved here in 1990 with the well at 165 feet deep and with the drought years that we have had in the past my well went dry and so in 2000 we had to redrill but the new well depth is 80 feet. Mrs. Markey stated that she has huge concerns with more wells going and septic systems and does not feel that any more research would change any of the existing conditions that are there now.

Commissioner Jorgensen asked if Mrs. Markey protested any of the water wells going in and Mrs. Markey stated that she had let Mr. Hyde know of her concerns.

Commissioner Jorgensen stated that they needed to protest to the Utah Division of Water Rights if there is any concerns or problems.

Willard Mathisen stated that his well is 49 feet deep and when he applied for his well permit, 10-acres was required before approval. Mr. Mathisen stated that if the zoning is 5 acres then a lot should be that because before you know it the area is so congested that you don't want to be there. Mr. Mathisen stated that the wells south of the canal there is not any problems but the ones north of the canal are always having problems. Mr. Mathisen stated that his sister and brother-in-law (Gwen & Jim Penfield) the second house from the Indian fence have had to drill their well deeper.

Mr. Mathisen stated that the fall and winter months are the worst time of year for water problems with wells in this area because during the spring and summer months there is a lot of seepage from the canal.

Ray Snyder stated that he has more concerns with the septic systems and it is a known fact that subdivisions are a big contributor to ground water contamination and these contaminants can travel as far as 600 feet. Mr. Snyder stated that he felt that this subdivision is completely out of the question. Mr. Snyder stated that between the Health Department and Water Division they needed to take a closer look at the situation. Mr. Snyder stated that his property is located just to the south and has a real problem with that many new septic systems going in. Commissioner Olsen asked Mr. Snyder how deep is your well? Mr. Snyder stated that it was approximately 40 feet and he is about 200 feet from the canal.

Norval Glines stated that his property is about 300 feet south of the proposed subdivision. Mr. Glines stated that his main concern is the water and currently his well is at 130 feet and is cased down 100 feet due to the conditions. He also stated that his well just barely supports his family and if the lawn sprinklers are on for 20 minutes the well starts sucking air and it's been this way since I redrilled about 20 years ago. So, my concern is if there is already this type of problem with water what's going to happen with more new homes.

Commissioner Jorgensen asked Mr. Glines if he opposed any of the wells going in? Mr. Glines stated that he did not when Mr. Foote applied for his well permit but if I had known that there was going to be six more lots I would have opposed it and very strongly. Commissioner Jorgensen stated that if it was opposed then you would have recourse but if not then there is nothing to go back on.

Commissioner Sweat asked Mr. Glines when you stated that your well runs dry in about 20 minutes do you have any idea what the recovery time is? Mr. Glines stated that it takes about 30 to 40 minutes with completely shutting the water off it comes within the 40-foot level. Mr. Glines stated that his family has learned to be conservative but with more new wells coming in how conservative can you be.

Errol Whiting stated that he owns property around where Mr. Foote has proposed his subdivision. Mr. Whiting stated that just recently he sold five acres to his son for a new home and if he had known that it was possible to sell only 2 ½ acres he would have but

the county informed him that he could not obtain a building permit with anything less than five acres. Mr. Whiting stated that he did not understand why less than a year ago you needed five acres to get a building and now you can with only 2 ½ acres what's the change.

Mr. Whiting stated that he had spoke with Val Larsen at the sawmill and he stated that Mr. Larsen had spoke with Mr. Hyde in which he stated that Mr. Hyde had stated that it was pretty much a done deal because Tri-County Health Department had given their approval and so there wasn't anything else that needed to be done.

Mr. Whiting stated that his son has to be very careful with his well because he can run it dry. So, if there are these types of problems with the wells in the area, I do not understand why more wells approved to be drilled in this area.

Mr. Whiting stated in regards to the sprinkler systems being suggested in each home for fire protection, I have had a home burn to the ground and you could have had twenty sprinkler systems and it wouldn't have done a bit of good because the first thing that happened was that the breaker was blown and then you don't have any power to pump the water. So there are problems with the sprinkler systems, the road and the septic systems, so there must be something wrong as Tri-County is planning on changing the laws. Mr. Whiting stated that he was very much opposed to this subdivision going in and told Mr. Foote that he could go anywhere else in the county to develop but not here.

Mr. Hyde stated that the zoning map shows that most of the private property in the county is a five-acre zone but before 2004 there were many requests for rezones in the county especially from people who were obtaining culinary water from Johnson or Upper Country Water for a rezone from AR-5 to R-1. So, at that time, the county changed the zoning ordinance so even if the base zone was AR-5 if there was culinary water available then it would be automatically considered R-1 or if the person is able to get health department approval and a well permit you are automatically in a R-2½ zone and that is what has happened here. Mr. Hyde stated that information concerning zoning ordinance and subdivision ordinance rules and regulations could be acquired from the Planning Department if there are any questions.

Mr. Hyde stated that he wanted to clarify the comment made that he supposedly told someone that this was a done deal. I don't have a vote in this matter all I do is make recommendations, these are public hearings and the Planning Commission are the people who make the decisions.

Chairman Fabrizio asked if there were any questions or comments?

Mr. Glines wondered if the Division of Drinking Water Rights have gone in and inspected this and made their recommendations that the 2½ acres are sufficient to support these wells and what criteria did they base that decision on. Mr. Glines was referred to the letter from Division of Water Rights and then he commented that in this

case the owners of each individual lots needs to apply for their well permits individually. So in short you are telling me that I need to take time out of my personal life and oppose each one of them to keep my water rights reserved? Mr. Glines felt that the burden is being put on the surrounding property owners so I think that an extensive study should be done before this goes any further. Mr. Hyde stated that the Planning Commission has several options before deciding what can be done here and the County Commissioners has the final say on this.

Mr. Snyder stated that on the 20 acres surrounding and including the proposed subdivision there are already four homes and if this subdivision were approved there would be nine homes in 20 acres area. There were three homes that are on one-acre lots and it was stated that those were probably done before the five-acre zoning went into effect.

There was no additional testimony in opposition.

Mr. Foote stated that he would like to withdraw his application and was sorry that he had wasted everyone time. He stated that he didn't want to upset anyone and this was a dream but if it's going to cause hard feelings, I want to withdraw this application.

Commissioner Peatross stated that he would like to clarify that some of the comments made and there has been a lot of feeling. Some here feel that this was somehow some kind of loophole or end run and it's not. Two and half acres are part of the conditions in the AR-5 ordinance, so anyone has the right to do this and Mr. Foote has not received any special exceptions to get around the rules.

Mr. Peatross stated that the conditions have been met and I would not deny this proposal based on density but it was also stated that there are problems with water and we don't regulate wells and so the only thing that could be done since the letter is a year old is to get it updated and make aware of the concerns of the surrounding property owners.

Chairman Fabrizio asked if there were any questions or comments?

Commissioner Jorgensen stated that people are going to sell land and so everyone needs to know what the ordinances are and be able to accept it if you are going to sell land. So if land is being sold at some time it could be developed and if a person does not like the way the ordinances are then that person should take it to the County Commission to have it changed but it should not be taken personally and attack a person for trying to have his or her dreams come true.

Chairman Fabrizio stated that Mr. Foote would be free to resubmit if it were his desire at a later date.

Mr. Mathisen thanked Mr. Foote for withdrawing his application.

Mr. Hyde stated that since Mr. Foote had withdrawn his application the Commission did not need to make any further action. Mr. Hyde stated that if Mr. Foote would like to talk about options for his property Mr. Hyde stated he would be willing to go over them. Mr. Hyde stated that he would also like to commend Mr. Foote for being sensitive to his neighbor's concerns.

Minutes: Approval of the April 2, 2008 minutes

Commissioner Sweat motioned to approve the April 2, 2008 minutes as written. Commissioner Jorgensen seconded that motion and it passed unanimously.

Adjournment:

Commissioner Jorgensen motioned to adjourn the meeting at 7:05 PM
Commissioner Mair seconded that motion and it passed unanimously.