Jefferson County
Planning and Zoning Public Hearing
July 1, 2021 6:00 PM

Planning and Zoning Commission Present: Warren Albertson - Chairman, Corey Beebe, Ryan Ashcraft, Heath Lewis, Adam Hall and Lane Steel.

Staff Present: Mark Taylor – Prosecuting Attorney
Kevin Hathaway – Planning and Zoning Administrator
Jenny Kerr – Planner
Erik Stout – Assistant Planner
Samantha Farr – Administrative Assistant

6:02:49 PM Chairman Albertson opened the meeting. Kerr led the Pledge of Allegiance. The staff was introduced.

6:04:17 PM Commissioner Ashcraft moved to approve the minutes from the June 3, 2021 Planning and Zoning meeting. Commissioner Lewis seconded. All in favor.

6:05:14 PM Commissioner Steel moved to approve the written decisions for Brian Lott, Maddux, Cardwell, Dillon, Stucki, from the June 3, 2021 meeting. Commissioner Beebe seconded. All in favor.

6:06:36 PM No ex parte communications disclosed. Lewis and Steel will recuse on the Cedar Cove Preliminary Plat for Young & Young Livestock. Albertson allowed time for people to sign up to speak.

6:10:57 PM Chairman Albertson read the proceedings of the public hearing.

6:16:21 PM Public Hearing No.1 Conditional Use Permit/ Richard Aitken/ Located near 3458 E 100 N, Rigby, Jefferson County, ID/ To propose placing a single wide on his property as his primary home.

6:16:39 PM The Staff report was read by Planner Jenny Kerr.

6:17:50 PM Presenting: Richard Aitken (3425 E 465 N, Lewisville, ID) – I’m living in a trailer now and want to move it onto my own land and have a new place to live.

6:19:19 PM Albertson – This is a 0.32 acre lot? Aitken said that it was.

6:19:42 PM Ashcraft asked what the other structure on the site plan was. Aitken – It’s a future shop. Once the trailer’s there I’ll get started on it. Ashcraft – Is there a septic system there? Aitken – No, I’d
have to put one in and start from scratch. Showed a drawn plan of where the septic would be. I haven’t put that or the well in yet.

6:20:47 PM Albertson – Have you talked to East Idaho Public Health? Aitken – I have talked to them, I haven’t gone that far though. I need to get past here first.

6:21:00 PM Ashcraft asked if the well was there. Aitken said he would have to drill a well. Aitken entered the document showing the septic plan in as an exhibit.

6:21:47 PM Beebe asked about the setback. Aitken indicated that it was 65’. Beebe – This is R-5. What are the setbacks, 80’? Aitken – it’s under an acre, we were told it might be 65’. Beebe – You can’t shift it to 80’ for you encroach on the other line? Aitken – Won’t leave much room for the sewer. The other side is railroad easement.

6:22:42 PM Hall – It says it’s 14’ by 52’, is that the size? Aitken said yes.

6:22:57 PM Beebe – It looks like there’s a main drain field off the septic and a replacement. Aitken – A future one in case you have a problem. You have to have both of them.

6:23:44 PM Lewis asked if this was in the city limits. Aitken said no, it’s off 100 N near the Lewisville Hwy.

6:24:30 PM Beebe – Is this just you living there. Aitken – At this particular time, yes.

6:24:56 PM Ashcraft – This is permanent, you don’t have intention of changing in 10 years? Aitken – It’s probably permanent for me. I’ll probably build a shop and maybe get rid of that or maybe add on.

6:25:29 PM Beebe – What’s in the back now?

6:25:36 PM Aitken – Trucks, they’re movable.

6:26:00 PM Beebe – Is that a home on the lot on left side? Aitken – That’s a shop and an old warehouse. Indicated on the map.

6:26:35 PM Public Testimony Portion Opened:

6:26:50 PM In favor: Neil Andrus (3 N 3500 E) – I live just around the corner. A little background on the property, about 15 years ago, I purchased it from a widow lady who wanted get rid of it. Originally the lines were way off from where they are now. You may be aware of differences in the property lines. This piece was supposed to be further to the right. It wound up being clear through to the railroad tracks. It was over a half acre originally. Where it gets down to that size, is because of correcting the mistakes of the past. When I purchased it, I did a little bit of research on it and made sure that it had a grandfathered building right on it. And 15 years ago, it did, unless something has drastically changed.

6:28:25 PM Albertson – If it was prior to the last time zoning was done, then yes. We’ll have to ask that question of staff.

6:28:38 PM Andrus – I believe the property was split off sometime in the 1950s. One brother wound up with one part and one brother wound up with the other and this was the widow’s. I’ve talked to a few of my neighbors. One that is really close doesn’t have an objection to any housing. In fact, it will
look better than the weeds because someone will be living on the property and taking care of it. And a couple of other people have expressed no qualms about having building on it.

6:29:26 PM      Hall asked if Andrus still owned the property. Andrus confirmed that he sold it to Aitken 8-10 years ago.

Neutral: None

6:30:08 PM      Speaking in Opposition: Prudy Gneiting (3479 E 100 N) – I’ve lived there a long time. I’ve had the house for about 50 years. I don’t remember a building being on that piece of property. It’s been vacant for lots of years. I guess you don’t begrudge anyone having a place to live, but in that particular mile there, there’s not a trailer house, except where there’s a manufactured home not far. We have property that’s about ½ mile down. My son just moved from Colorado. I had to jump through a number of hoops to get him to be able to get a building permit. He had to have 5 acres, which is what is required. It’s not fair for someone else to put something on a third of an acre, when the rest of us have to abide by the 5 acre rule. That’s what we did. That happened this last fall. I’m opposed to this. It’s not a big part and putting the single-wide is not something that is conducive to our neighborhood. Submitted a petition from the surrounding neighbors as an exhibit.

6:32:29 PM      Gary Gneiting (3479 E 100 N) – I’m the spouse of Prudy. I echo what she said. We had to have it surveyed for the property we sold our son. You couldn’t get by with 4.9, it had to be 5.0. We had to skew a ditch around a little ways so it would meet the criteria. It’s a piece of property that’s been there a long time. I’ve lived there all my life and I knew there was a separate fenced off place. It was kind of a no-man’s land there. There aren’t any trailer homes on that mile that I know of. That would be my feeling on it. It doesn’t seem to lend itself right there with the railroad tracks. In fact, as Nell mentioned, it was across the railroad tracks at one time. It doesn’t some conducive to the neighborhood and the regulations they described.

6:34:17 PM      Barry Ferguson (3464 E 100 N) – I live within a stone’s through of where this property is at. Reading the DEQ regulations for requirements for setbacks and the size of the sewage drain fields and the secondary drain field. I find it hard to believe it could fit on this lot. There are no trailer homes in that area and it would depreciate the property values. If he wanted to build a home and use the trailer as temporary home while he built, I wouldn’t have a problem. But for the trailer house to sit there in perpetuity, I have a problem with.

6:35:30 PM      Jeff Metcalf (3458 E 150 N) – I’m right next to the property. The railroad tracks and my property are either side of it. I own the property around both sides. When we bought this in 2015, the fences were in the wrong place, we had it surveyed. The fences had to be moved to comply with the survey. That’s what you see now. I’m against the trailer, partly because the size of the lot, obviously being a third of an acre, there’s not a lot of room. Another thing that has not been brought up is the safety of the location. The railroad comes through 3-4 times a week. It’s already a blind corner because of the warehouse when you’re heading east on 100 N. if you put more structures there heading west, that creates another blind intersection. We used to have stop signs there and as traffic went through, they treated them like a yield sign. Now they’ve been changed to yield signs. With the congestion of homes between Lewisville and the railroad tracks, the speed limit should be slowed down there but it’s not. You see people launch over the railroad tracks like it’s the Dukes of Hazzard. It’s not a safe intersection to add a couple more driveways according to his plans. I think there’s a safety issue. I echo the other concerns. An older single-wide is not going to help our property values, but I think there’s a bigger safety issue there.
I have my doubts on if that stuff can fit on the third of an acre. The county’s rule is 5 acres in that area. To allow it, that’s not very consistent and I don’t agree with that. If we allow that, I guess I can split my lot up into third of an acre lots and put single-wide trailers. It would set precedence.

6:38:55 PM  Ashcraft – Do you know how many feet the warehouse is from the road, do you own that?
Metcalf – No, I own on the east side. It’s a commercial business and there are trucks and stuff coming and going onto 100 N close to the intersection. If I was going to guess it’s 2-30’ to the center road to the edge of the pavement and then 15-20’ before you get to the building, maybe 25’. It’s not in accordance with current setbacks.

6:40:06 PM  Michelle Metcalf declined to speak.

6:40:15 PM  Rebuttal: Altken – That drive way along my property line. There’s already a driveway there that’s being used, not by me. I’ll be back past that so it doesn’t block a road. Whenever you deal with railroad tracks it don’t matter what you do, they are a hazard and they always win. I don’t know if there’s a yield sign.

6:42:04 PM  Discussion of the Board:

6:42:11 PM  Ashcraft asked about the paper Gneiting submitted. The petition (Exhibit A) was passed around to the commission.

6:42:43 PM  Lewis – Is there a building permit issued or that could be obtained on this parcel? Staff said they’re checking on it but it appears to be a pre-existing non-conforming lot. Lewis – If there is, does he have to have a special use permit to do this? Staff stated that it’s a single wide, which requires a Conditional Use Permit.

6:43:27 PM  Hall – The conditional use permit is for the single wide. Would that be the reason why it comes here? In 3.11.6 it says it needs to be 24’ wide. Hathaway – If it’s 24’ it doesn’t require anything but a building permit, if it has a building right. If it’s under 24’ it requires a Conditional Use Permit.

6:44:32 PM  Hall – It’s not our department’s place to decide, but can a septic go there? I’m under the impression that anything under 1 acre can’t have one. Hathaway – We don’t have anything. EIPH will evaluate whether a septic can be placed there or not and meet setbacks. Hall – Regardless, our ordinance doesn’t allow it. Hathaway – Unless it’s a pre-existing lot. Albertson – The issue is it’s a pre-existing, non-conforming lot. Hall – So the fact that it’s pre-existing, non-conforming is the reason we’re here.

6:45:05 PM  Steel – So what about the 65’? I guess there’s confusion there, I thought it had to be 80’. Staff stated that the R-5 zone requires an 80’ setback, but there are some differences for smaller lots in the R-1 zone.

6:45:23 PM  Albertson – But on the other side of that, you have a legal non-conforming lot in an R-5. Staff verified that it’s a legal non-conforming lot and that there is a build right.

6:45:43 PM  Albertson – But with that, you have to meet the setbacks. So you’ll apply the R-5 setbacks of 80’ from the centerline?

6:45:58 PM  Beebe asked about the width, which is 14’.
6:46:06 PM  Steel — It seems like there's an issue with the fact of it being temporary. Temporary has to have a condition to be temporary; farm labor, etc.?

6:46:24 PM  Albertson — It's what needs to be sorted through. Because the single wide is allowed to care for family member of one level of consanguinity, it is allowed for farm labor, there are conditions where it is allowed. Steel — But permanent housing is not one of those conditions. Lewis — The last 3 conditional use permits, that's been a huge issue, the length of time. What is conditional? We come back to the same answer; we review these every year. Albertson — Staff does. Lewis — There's really no limit on the condition of time.

6:47:20 PM  Albertson — Right. I believe you can make the argument that where it's an individual seeking to place it on the property. You can allow it if it's one level of consanguinity, you can allow it if it is the owner. It can be there. If it was 24' wide and met the setbacks, there would be a building permit and it would go in. The sticking point seems to be the single-wide trailer. It is a legal non-conforming lot, but you still have to meet setbacks.

6:48:11 PM  Lewis — If this wasn't a single-wide trailer, we wouldn't be here. Albertson — They would still have to meet setbacks. Lewis — But would that be in this meeting? I'm just asking the questions. The single-wide trailer is why it's CUP, because it does have a building right? Staff said that was correct.

6:48:59 PM  Albertson — It's a legal non-conforming lot, there has been adjustments to the lot lines prior that account for the smaller lot size. Lewis and Clark made a lot of mistakes when they started surveying this country.

6:49:20 PM  Beebe — Why isn't this a variance? Hathaway — Because it's a CUP to allow a single-wide, which is the only way for a single-wide to be in the county. A variance would be for if it wasn't a pre-existing, non-conforming lot. In this case, it is a pre-existing non-conforming lot. It's small, but with a buildable right.

6:49:57 PM  Albertson — We have had those in the past. It's allowed to have a house built on it, even if it was in an R-5 or an Ag-10 zone. The build right was there because the lot existed before the zoning being redone. You still have to meet the setbacks.

6:50:32 PM  Lewis asked how many more non-conforming lots are out there. Albertson said there are a lot in the county.

6:50:40 PM  Hall — This would be non-conforming even if it was 4.9 acres, wouldn't it? I think the problem runs into, this is a very small lot. I understand that it has a build right, but how this got done to begin with 70 years ago, is that what we're saying? Hathaway — At least 2005. Albertson — That's when we changed the ordinance. Through the survey they found out that the property line was supposed to be on the other side of the tracks. There was a mistake made in the surveying, or whatever. The non-conforming lot was created that way, by survey and shrunk by survey from the original 0.5 acres to what it is now.

6:51:54 PM  Beebe — To make this fit, if the mobile home were turned and moved back to meet the 80' setback, it may not have room for a shop, and you were able to get a clearance from EIPH and if it was 24' wide, then there would be no problem. Hall — It wouldn't come to us. Beebe — This is asking us to say it's okay to put a 14' versus a 24'. And violate the setback, there's two of them. Does ordinance let us do that? I have a hard time coming up with the justification to say they can do this.
Albertson – We are bound by the ordinance. In this case, because of the lot size, that’s why it’s here. Beebe – Usually we have something that says, “you can do this if...”

Albertson – Yeah usually, but we have faced similar situations before. It was small lot, it did have a build right, there was opposition. We have to make that decision. Steel – I feel like the non-conforming lot is not the issue. I think it comes down to if he met the minimum setbacks and size, it would be a yay, so if that’s not the case it should be a nay.

Steel moves to deny the Conditional Use Permit because it does not meet the minimum setbacks under the current plan. Hall seconds. Findings of fact are due to the configuration of the site plan and not being able to meet the setbacks. Hall – I would also state that a septic system on this size is going to cause problems. Albertson – That’s EIPH’s decision. Hall – Doesn’t our ordinance say it has to be on an acres? It was discussed that what Hall was referring to was the subdivision ordinance, in this instance it would fall under the Zoning Ordinance and EIPH would have say over the septic. All in favor. Motion Carries.

Public Hearing No.2 Preliminary Plat/ Young & Young Livestock LLC/ Located near 4315 E 240 N, Rigby, Jefferson County, ID/ To propose an 18 lot subdivision.

The Staff report was read by Planner Jenny Kerr.

Lewis and Steel are recusing themselves from this hearing.

Jenny read a letter from Central Fire.

Presenting: Jeff Stokes representing Young & Young Livestock (6333 Willow Creek Rd, Mountain Green, UT) – I have met with staff and discussed an irrigation plan. Stokes submitted the irrigation plan. My family purchased this property in February this year. In purchasing it and looking over the property, we would like to subdivide. That’s basically the purpose of our preliminary plat is to review what is permitted in the county. It’s in the R-5 zone and we’re submitting this as a cluster permit. We’ve met with staff several times to discuss what we need to do. This is our first step at discussing the permit with you. We did want to follow the clustering permit as opposed to dividing it out into the 5 acre parcels primarily because there’s some good agricultural land and there’s some land that’s better suited for raising children than for raising crops. Also, affordability. We know there’s a one acre minimum with these cluster developments. That gives us a better opportunity for some people in the community afford some of these lots as opposed to the 5 acre lots which price people out of them a lot of the time. We did want to have variety and flexibility with this subdivision. There’s a very large lot that can be maintained as an agricultural parcel for production, a couple medium lots—a 15 acre lot and a 5 acre lot. A majority of the lots will be over an acre, 1.4 or larger, and then 5 lots at 1 acre. The nature of the parcel, coming off Clark, we have a 60’ area that was set aside for the purpose of access to this lot. We’re going to use that as a public road to extend service to all the lots.

Albertson – By using the clustering, it ends the further division of the rest of the property. Stokes – Yes, I like that because it doesn’t divide the county into unusable lots. Don’t get me wrong, 5 acres can be very valuable to the person who bought the parcel, but for larger agricultural operations the larger parcels are nice to have. It’s serviced by a pivot that would likely continue to be used for the irrigation of the larger parcel. The irrigation plan utilizes the irrigation lines there and we will provide access to irrigation to each lot.
Albertson – What’s going to go on the 15 acre lot, is it going to be farmed? Stokes- I’m not sure what the owner would do with it, it’s not farmed currently. Looked at the aerial image. You can see it’s a cove of cedars. It’s a remainder parcel, the agricultural land has kind of always been that way. We’ll provide access to irrigation for that property, but I don’t anticipate them using very much of it for agricultural purposes.

Beebe – You were just talking about the back 15? And what about the big one at the front? Albertson – It has a center pivot on it and is farmed, right? Stokes – Right. Beebe – And it will continue to be farmed? Stokes – I would hope so. Albertson explained the clustering permit works in this case not allowing further divisions. Stokes – Unless the zone changed, which in this area would probably be never, it would never be able to have more than 18 lots. Albertson asked about the NP study. Stokes – Yes, we haven’t done the NP study yet, we wanted to get through this to make sure we understand where we need to stand. We have been in contact with them and are working with them to get everything completed there. We’ve put test pits in and paid the fees. We hope it will be done.

Albertson – Everything is good with the water rights? Stokes – Yes, it’s about 88% when I looked at the division and what’s currently being irrigated. About 83% of the 88 acres are being irrigated. There is another pivot that the other parcels use. It just isn’t a great piece of ag land as far as it’s not super productive on that 15-20 acres there that the majority of these lots are going on. That’s below the 15 acres. Again, that’s why dividing this into smaller parcels makes sense.

Ashcraft – Is this surface or ground water for the pivot? Stokes – The North Rudy Canal services the irrigation for this property. It is pumped and piped. Currently, in the middle where you see the stub out is where the pivot for the 20 acres is approximately located. The line goes out to there. The roads will be public right-of-ways of 60’ and it’s our intent to dedicate them to the county. With that it’s our desire that all of this lot, including the larger lot would use this property as access. So if they would put a house on the 45 acre lot, they wouldn’t be off of Holbrook or Clark. Albertson – So, you have access to the larger piece off the road that goes through. Stokes – Yeah, we want this area to look agricultural from the main arteries. That’s the purpose of tucking these in and putting in longer roads, to nestle the lots away from the main arteries.

Albertson – I don’t see on here, how long are these roads in feet to get to the very back? Stokes – We’ve studied that. The leg that goes from the knuckle to the cul-de-sac is 800’. The other leg from the street to the intersection is approximately 1300’.

Beebe asked if there was a quorum for this. Albertson described what the quorum is and what was needed to make a decision.

Albertson – You are aware under the new subdivision ordinance that there is the possibility and probability of needing a central sewer and/or well? Stokes – We are understanding that there is a process. Albertson – That will come about by the NP study. Stokes – Yes, we know what we’re facing. I do want to be able to work with, in regards to the letter from the fire district on the path to provide the fire protection. Albertson – it’ll depend on the size of a community well. The NFPA requires 2000 gallons/minute, but it also takes into account water tenders and how many gallons the fire department can bring as well. I believe Central Fire has signed up to speak in the neutral column. Stokes – Thank you. I know that there has to be a path with all of the communities here. We’re new here, but there’s lots in other subdivisions that probably need the same.
7:16:33 PM  Albertson – There is, and things have changed somewhat with the new subdivision ordinance. We’ve always taken into account the NFPA with regards to subdivisions, road placement, cul-de-sacs, etc. It’s an important factor because if there is a fire, we need to be able to get to it in a timely manner and we need to have access to water to put the fire out. In some of our outlying areas, we don’t have hydrants at all.

7:17:30 PM  Ashcraft – Through the clustering permit, the number of lots is supposed to match the zoning size. 18 is just over so the total is just under the 5 and 17 lots would be just over? I just wondered why I went with the 18. Stokes – Optimisms I guess. Rounding up. It depends on the interpretation with you guys and how you want it to work. Some communities round up, some round down. That’s really what it is. The other issue with this too, it was a thoughtful process, we wanted to maintain the look. We could probably make the same money at the end of the day if it was 5 acre lots or even more. But we want to maintain ag. land and more importantly we wanted to maintain the character of the community. That’s why we like the larger central lot. That’s why we put in a longer road. We’ll pay a little bit more. We could have opted to just put the 18 lots against the two public roads and save ourselves a ton. The optimism is to keep it affordable. Adding 1 more will help us do that. If it’s not permissible, we’re coming to you with those questions. Albertson – Right, and there is a variety of lots. Like you said before, there are acre lots and then it goes up to 1.4, and the back lot on the end is a 5, and then the 15 and the 45. The clustering permit does allow a variation of lot sizes for a different look.

7:20:04 PM  Stokes – A couple of things to be sensitive to our neighbors. Our setbacks, we enlarged that to be 50’ setback along the perimeter of our property. We increased that to a 60’ if possible on the east side for fire or something if we have to have an alternate access. We haven’t decided yet. To be able to put a fire access along the bigger 45 acres to the street. And along the road we went 30’ and then 50’ so 80’ from the property line. More space for easements or access, etc. We have a higher setback for the side lots than the interior lots.

7:21:28 PM  Ashcraft – Does that pivot cross the property line in the corner? Stokes – yeah, it’s been adjusted. Before it was helping neighbors. We’ve adjusted a little bit to keep it inside the property. The aerials are pretty good to show what the pivots historically were doing. Ashcraft – It doesn’t cross now? You’ve adjusted it? Stokes – I hope so, that was the intent was, you know how pivots go.

7:22:24 PM  Beebe – I apologize if you’ve already addressed this, access to this will be off 4300? On Clark Rd? Stokes – Yes, we’re going to intersect that road with another public road that terminates there. Beebe – And that’s the single entrance? Stokes – Right. And like I said, we’re going to run a line down the eastern side if there needs to be emergency access or egress. That’s why there’s a 60’ setback on that property line.

7:23:58 PM  Public Testimony Portion Opened:

7:24:02 PM  In favor: Heath Lewis (4102 E 525 N) – Jeff did a good job of presenting. Just for clarification of the water line. Lewis indicated on the screen. Currently the pivot is going here, through the neighbor’s property, if we develop, we’ll drop off one stand and it will shorten up. The main line, there’s a pump right here in the canal, and there’s a line going to the center point and a line that goes out through here. This pivot here will be removed. We’ll maintain pressurized irrigation for these people. This back pivot here is not real suitable for farming. We’ve looked at turning it into a gravel pit before, but we don’t want to do that to the neighborhood. There’s already one 1-1.5 miles away. There’s desire for more homes out there.
7:25:53 PM  Ashcraft – Is the intent at some point to put a house on lot one? Lewis – Yes.

7:26:17 PM  Matt Lindsey declined to speak.

7:26:33 PM  Neutral: Verl Jarvie (4173 E 550 N) – I’m a volunteer with Central Fire helping with  code enforcement for the future. We’re going to start requesting fire protection water for developments of 5 or more lots. With the growth of the construction and our own call volume that’s increasing, we’re seeing a greater need for fire protection. As mentioned before, most of that has been provided by tenders. But if we have more than 2 fires going at one time, we don’t have the water to provide that. With the new growth, we’re going to try to start requesting it per the fire code that requires fire protection and fire flow. In other words, a certain amount of water and certain spacing. We’re going to reduce what the code says we can. Typically we’re going to be reducing by half the flow and for times the spacing. We’re going to try to make it as easy to get there, whether that be hydrants, an underground cistern, or an open pond or an attachment to pivot, well, or irrigation system. Right now we don’t have anything, but we will have cut sheets for the developer in the future to show the standard and several ways they can get there.

7:29:00 PM  Ashcraft – And you said you’re going to request this for divisions with 5 or more lots?
Jarvie – Yes, Ashcraft. Jarvie – Did I understand correctly, you’re going to decrease the pressure but increase the access points? Jarvie – So, before the number came out of 2000 gallons per minute, under the fire code for houses is 1000 gpm. We’re going to go 500. Then with that, for hydrant spacing, if you’re doing hydrants, which we no in some places we’re not getting a 6” pipe there and that kind of volume. In town you would typically see 1000 gpm of pressure with 500’ spacing. We’re going to go 500 gallons with 2000’ spacing. Hopefully we’re going to try to do a credit system, where if you go down to your neighbor and the two of you go together, that counts for you. We’re still trying to work that out. We’d like to see the whole shebang, but we know we just don’t have the water system out there. So how do we get there from here?

7:30:33 PM  Albertson – 2000 gallons a minute, I understand that. That’s a lot of water. Most center pivots are running 1000 gpm. If it comes down to wells if it’s a central well in a subdivision, it’ll probably be somewhere around the 500 gallon mark. Jarvie – And if we can just put the connections on it and use our hose. We’re trying to find a balance.

7:31:17 PM  Speaking in Opposition: Richard Howard (4315 E 240 N) – Thanks for listening. Lewis have been good neighbors. Some of the concerns I do have one, access for the number of homes back there. 18 homes won’t be 18 cars, it’s going to be double that. Getting in and out is one thing I’m worried about. It’s been nice that the community well could be a possibility, the water table is okay, but not great. The number of wells in the condensed area is another concern. I’m glad to hear that could be addressed. Because the other homes are all zoned R-5, it brings a look to the area and we would like to keep that. That’s why we moved out there, because of that R-5. That would change the whole area out there. Even though they would all be in one area. There’s some rocky land out there that’s maybe better suited for a home. The R-5 is where we would like to keep it. Another thing, we have to road adjacent to the road and our neighbors have their fence line on the south. In the winter, where will the snow go? There is no space for snow removal it will come onto our land. That’s a concern. The big thing though, the R-5 there is what we like. We like to keep it. It gives it the county look even though it’s the same number of homes. One of the other concerns I have, even though it’s a cluster and at the current time, that wouldn’t allow homes to be built on the rest of the land. That could change 10 years down the road or 5 years down the road. That’s a concern to us now. It would be just an application and a change in zoning procedures to have 40 homes out there. If we’re looking at the long term. The R-5 is the way I would keep it being the person
who would be looking at those homes coming down the driveway. My mother-in-law lives right there and our neighbors and my sister-in-law that aren’t able to be here tonight. The three of us live right there on 240 N. I appreciate your time. Indicated on the map where he and his family live and the access road where the new road would be, on the other side of the fence from the existing private access.

7:36:56 PM   Lenore Johnson (227 N 4300 E) – I have so many questions I know you can’t answer. I do have to make you aware as we talk about the wells. There are three people whose wells have gone dry over the past couple of years. My mother-in-law was without water for 3 weeks. Her neighbor down from her, Mr. Edwards, was out of water for the same amount of time. This is all on 4300, just south of 200. There are people who have gone dry that I’m not aware of. I plan on looking in to that because of the new building. We have a subdivision that went in with 82 lots in the same vicinity. My second concern is the sewer. We have a lot out there. This is an older place. We love our children. We like them to be more in the country where it’s at now. Also, I think once you give an inch, they’re going to take a mile. Once they start, it’s not going to stop. I didn’t think about the fire issue that we have. That’s about what I have. Right now, a lot of it’s farmed, I think they have feeder cord on there. It’s nice to see the ag out there and it’s nice to keep it kind of country. We enjoy living out there and enjoy our neighbors.

7:39:46 PM   Rose Marie Johnson (199 N 4300 E) – I don’t know much about this lot, so I can’t tell a lot. I don’t do north, south, east, or west, I just do places. I have a few concerns of course the well is one of them, mine went dry. The sewer is a concern. One thing nobody has mentioned is the church. I live right across from the Clark church. It’s great, I don’t take anything away from somebody trying to have a house, but our environment is getting very difficult. The church is growing. Kids on scooters. I sit there and watch people pass stop signs. I yelled at a guy the other. It was a construction guy. Another gal was coming down the road. If he wouldn’t have stopped, he would have hit her. It’s getting congested, the kids are all out there on their bikes and scooters. I looked at this plot and another question is where they are going to put the road. The church is here, I live here, and there’s a canal here. Are his lots in the back? Are his lots in the front? If he is going to have a leeway to come out he’s going to have to put it across the canal or out the major road. Albertson directed her to the map where the applicant has proposed the road on the map. I just think it’s a concern for people. We’re building so much on every corner and there’s not going to be anything left.

7:42:47 PM   Marsha McNabb (4329 E 240 N) – I haven’t had but a week or to find out, I had visitors I live in the back part of this property. It’s untouched property. It’s organic. I’ve been there for 44 years. And BYU-I professors came out to my house years and years go and he said the property was untouched and it was so full of different so many different things medically and at the time I had three kids and was a single mom and I worked my tail off and wanted to pursue this. I’m in the back of the property. There’s no way in or out but that road. Looked at the map to where she lives. Anyways, it was recommended that it be preserved at all costs. I don’t think we have properties like this and it should be preserved. As far as the fire control, it’s ridiculous, if this goes in there it will burn it all up within a year. You can’t put 18 families back in this thing. I’m totally unprepared for this. Believe me, there is going to be a battle. Why is this being changed into a 1 acre thing instead of the 5 acres like the others? There’s no sewage. There’s water problems. I can’t figure why they want to cram 18 houses and families in there. It’s going to destroy my place. I can’t understand. We don’t have anything like this in Rigby. It should be taken care of. It should be preserved. There needs to be more explanation of what the heck is going on. I don’t have copies of these papers and things. Albertson – I think they explained conclusively what’s going on. You can make request and get copies of them if you’d like.
7:47:16 PM  McNabb – Are you planning on making a decision tonight, or am I going to have a chance?
Albertson – They are filing for a preliminary plat. We will make a decision on the possibly on the preliminary plat tonight. McNabb – How can you do that kind of stuff over and above the people who live there? Albertson – They have property rights just like you. They have the right to ask to do what they want with their property, just as you do, so yes, they have the right to come ask for it. Hall – Keep in mind, we’ll talk more about it when we discuss it. Listen to our discussion too.

7:48:22 PM  Kyle Christensen (253 N 4300 E) – I live just to the north of where they’re proposing that. My main concern with the application as far as a cluster in an R-5. I would hate to see that be a precedence on these acreages on 4300 that were just bought and purchased and have them come in and do 1 acre lots out there when right now it’s zoned for 5. That is my main concern that it remains the 5 and that just by submitting a cluster, then as you continue east that it doesn’t continue to happen.

7:50:17 PM  Earl Cole (4311 E 265 N) – I’m here in opposition to this in the cluster situation. I’d be fine with 5 acre lots. That’s the way it’s zoned. Make 5 acre ranchettes, make it easy, and spread out the water and sewer. I think that would be sufficient.

7:51:13 PM  Nancy Cole (4311 E 265 N) – My concern is traffic. There are lots of kids and 4300 is how many miles per hour? The road is in horrendous condition. That’s my concern, with that many more vehicles entering that roadway. My second is water. Blackstone is half a mile away I believe they’re on one acre lots and there are over 80 homes. I think that will affect our water on 4300. They’re on their own septic as well. I don’t want that by us, I don’t want our water and sewer being contaminated. I agree with the 5 acre lot. I don’t have a problem back in the cedars where they can’t grow anything. My thought was, do these people that are trying to develop this live on 5 acres or more? Are they okay living on 1 acre spots and having their water and septic contaminated?

7:52:55 PM  Kerr read in a letter of opposition.

7:54:32 PM  Rebuttal: Stokes (6333 Willow Creek Rd, Mountain Green, UT) – I don’t live on even an acre, but the community I live in is really pretty too. The thing that happens when people move in is that they say don’t tell anyone else. This is a beautiful community. It has beautiful people in it. From an outsider looking in you guys are wonderful. I’m originally from Grace, ID, so I know the value of rural life and I love it. I’ve been working for a developer for a majority of my career. I’ve see developments all across the intermountain west. I know what the fabric of community looks like and what the fabric of an area looks like. When you take a Google Earth look at what happens to a community when it goes from 40 acre farm ground to 5 acre ranchettes does, it does change a bit. It’s still rural and still attractive to a lot of people. I thought the cluster program was a great option to maintain the existing fabric of the community by grouping units together and not so tight that it’s in a tight subdivision. It’s still rural and we don’t want to change that. We’re building the equivalent of the zone requirements. It’s an R-5, we’re just trying to move those lots together and giving a mix of sizes. Instead of putting 3 lots on the north end, we’re only going to have one. So in preserving the cedars, there will only be one dwelling there. All of the road will be public and paved. Dust will hopefully be minimized by that. I understand the concerns of wells and septic systems. We’re not putting more than we’re permitted to do. There will never be more than 18 lots on this parcel until zones migrate this way. The way I understand the zoning from staff, to get an R-1 you have to be touching an R-1. That’s how development goes. So, if the communities aren’t accepting R-1 in this area, it may never be R-1. Am I wrong? Albertson – It’s to be contiguous. Stokes – I’m hoping that you consider this and hope you continue the cluster. There will never be 18 more on these two parcels of ground. It is a 60’ right-of-way that’s similar to the rest of the roads for snow removal. I don’t see any
opposition on our side to allow the people to the north to use the paved roads instead of their roads. I do appreciate the comments, both the negative and the positives. It helps me as a developer understand the community.

**7:59:53 PM** Discussion of the Board: Beebe – Where is the AOI line now? Is it close to this? Hall – Two miles away. Staff said it ends at 4100 E.

**8:00:42 PM** Hall – I don’t know how I feel about the clustering. I know it’s in there for that. I like the fact that R-5 is meant to be 5 acres. There’s advantages and disadvantages to this clustering because it does preserve that. There is opportunity that lot 18 could get sold and want to get rezoned. When the city starts to expands, the impact area will expand. It would make more sense that it’s not a massive lot, but once they’re 5 acre lots, that’s a bit tougher to split. I don’t know the area there enough. The right to build and use their land, everybody is entitled to that opportunity to figure out what they want to do with their land. And, as long as they follow the ordinance, that’s when it comes to us to make the decision if they are conforming. Is it an ordinance for the clustering to come to us? Regardless a plat will come to us for pre-approval. Even if this was all the land, we’re going to make a decision whether this can be split up in the fashion they want or if we’re going to recommend that we want it to stay 5 acres. That’s where we need to make a decision on what we like or don’t like about this concept as we make a decision to recommend to the commissioners.

**8:03:17 PM** Beebe – As I look at this and the growth in Jefferson County, originally it looks appealing with the large open spaces and trying to preserve what is there and building in the middle. But I think we have the AOI is where we should focus our building and increased density. But outside of that, because of the growth that we are experiencing, I think we need to maintain what that area is. It’s R-5, I think we should maintain that. It’s one of our goals in the comprehensive plan to try to maintain those areas. I appreciate the comment, but you can’t guarantee that no more than 18 lots. As growth continues and the AOI spreads out, I could see this could eventually gets rezone and have more homes on it. All the adjacent homes are R-5 or larger. I think the nearest subdivision to this is Blackstone about a half mile to the west. Those are on acre lots. I feel that the discussion here on this plat is whether or not to allow the clustering.

**8:05:38 PM** Albertson – We are considering the clustering as well as the preliminary plat. Hall – But if the clustering is not what we want, that will deny the plat.

**8:05:55 PM** Hathaway read the definition of clustering. That’s why you cluster to preserve farm ground. This is saying that we’re going to restrict as much land for smaller lots for homes so we can maintain farm ground or prime ag ground. That’s why you cluster in conjunction with the subdivision. If you do 5 acre lots, they’re difficult to irrigate. Every time we have an application for a 5 acre subdivision, it’s becoming more and more difficult with irrigation. So really, this application is desirable and it will restrict future division. If the AOI extends, there could be an R-1 subdivision, but that won’t affect these lots. They’re already one acre. It would only allow the rest to develop one acre subdivision lots, which isn’t allowed unless the AOI extends out there. It is protected from future development. There will be no more splits until a zone change or something else happens. In order for the zone change, every parcel would have to be rezoned to R-1 in order to allow further splitting. The possibility for further splitting beyond this is not likely. When you consider the application you have to consider on that basis.

**8:08:21 PM** Beebe – I think that’s what I understood and what I was voicing. There’s no guarantee that it won’t divided at some future date.
Hathaway – The division rights are used up. Beebe – You could never divide. Hathaway – Not unless the zoning changed.

Hall – What would it take to have a zone change? Next year someone can come in and say I want lot 18 to be zoned R-1? Hathaway – You can say that but if it's not contiguous to R-1, it will never happen. That's against state code and county ordinance. Hall – Is Blackstone the closest R-1? Hathaway – I don’t think Blackstone is R-1. I think it’s a subdivision like this one that is in an R-5 zone subdivided into smaller lots. If anything, clustering provides more of a buffer.

Beebe – To that end, if it did extend and it was contiguous with and R-1, you could subdivide your R-5s. I guess there is no protection. Hall – You could split the 5 acre lot into 1 acre lots, if the zone change.

Hathaway – If the AOI extends, they’re likely planning to annex. The city’s infrastructure could protect against water and sewer development.

Albertson asked about the zoning on the map shows all R-5.

Hathaway – There’s miles and miles around that would have to be rezoned in order for that to change. I don’t see that in any of our lifetimes, the chances are slim.

Ashcraft – Whether it’s clustered or not, you could possibly have 18 homes there using water and sewer. Whether they’re spread out or clustered, it’s the same number of wells and septic systems. It’s just closer together in clustering. The NP study will look at water table. Is there a traffic study required? Hathaway – Yes, as a preliminary plat, those are things you can cite as a recommendation for the final plat.

Beebe – I believe whether you have 18 wells inside a 100’ circle or spread out across that isn’t going make a difference on your water table. It’s still going to be 18 wells and that area isn’t big enough to make a difference. I don’t think the hydraulics in that area are going to make a difference.

Albertson – It’s a matter of 5 acres. There are 18 wells going in one way or another, that’s the max, as it stands right now. The clustering becomes a matter of placement. Putting it up to the top and leaving the rest of the acreage to be farmed and open. That’s what the clustering permit does.

Ashcraft – The clustering also could reduce the number of inlets to access the property. They’re going to access from one place. Beebe – It would be a concentrated inlet. Ashcraft – Which there are pros and cons.

Hall – I don’t know if I’m as concerned about that. We have subdivisions with 100 homes with only 2 access. I live in one. I bet we have 95 in Rocky Mountain Estates and I don’t think I’ve ever been concerned about the in and out. Not everyone is going in and out at the same time. I don’t think it’s going to put a dent in as much traffic as people think it might. We can put that in the traffic study and have them take a look at it. As far as road ways, it would be a county road. Do we need to be concerned about where the county puts snow? Albertson – We have nothing from Road and Bridge. Hathaway – They will evaluate that for the final. Hall – They would do that for the final, so those concerns would be taken care of. Hathaway – And they’ll work with the traffic study. Hall – Sometimes the one could be a benefit with this few of homes. And I say few loosely, because a lot of people think that’s a lot of homes until they see the other side of the county with 150 homes going in. I’m not against or for clustering, it’s
been a good discussion. I've never been on the commission when we've come across it yet, so I haven't had the chance to hear the pros or cons regarding it. I feel a lot better knowing that it can't really be swapped up to 1 acre lots in 5 years just because we put it there. The zone change could happen, but that's very unlikely because there's nothing R-1 even close around it.

8:16:58 PM  Ashcraft – It sounds like it is the most the most marginal farm ground. The comp plan wants us to preserve prime agricultural land. Hall – Some of it's prime. It seems like there is a lot of demand for some bigger lots. I think these guys are trying to accommodate bigger lots and some 1 acre lots. The growth is happening because there's open land. I'm grateful that we have R-1 instead of some areas that have houses 5' away from each other. It's crazy in some places. And even though we're putting in 1 acre lots and people can do what they want with their land if it meets the ordinances and general guidelines, I think we're doing the best we can to allow people to do what they need to do on their land.

8:18:29 PM  Ashcraft – It looks like it complies with the comprehensive plan. The clustering permit, like we've said, people have a right. Hall – The clustering fits within the comprehensive plan, do you agree? Albertson – I agree. Hall – The maintaining the ag green space fits with the comprehensive plan. The zoning is part of the clustering permit for 18 lots. We need to discuss to round up or round down.

8:19:23 PM  Albertson – If you take the total acreage, there's 17.6 buildable on R-5. Hall – I'm not concerned with 17 versus 18 unless someone tells me there's a reason why. That's one less well and septic. In all the studies I've done on 1 acre lots with EIPH, on 1 acre lots the drain fields in this area, I would think is not a concern. That's where the county is protected by making the developer do the NP studies to figure that out. That's the point of the new subdivision ordinance, to make sure the developers make sure the county water and septic systems, that our residents and county are protected. I've heard that others don't like it, but we're making them spend money to make sure they're protected.

8:21:11 PM  Albertson – It's become necessary because of the growth and potential of pollution. When you look at how many new homes are going in and how many are going in within a half mile of where we're sitting right now: 200 and then another 200. The NP study is very important. Hall – That's a critical factor. The plan was to continue to farm it, but that's up to the person who buys it. Worst case scenario, they're not going to buy a 49 acre lot and put a double wide on it and wonder what to do with the rest.

8:22:22 PM  Albertson – Maybe, maybe not. I think you have to consider the comp plan. Refers to Policies 8-4 and 8-7. I don't know that this creates a negative impact with using the clustering. The fact of the matter is, instead of having all the houses spread out over 88 acres, you move them up and have variety in lot sizes. The clustering provides for a variation in the lot sizes but it still maintains the farm ground and open space. There is one build right in the 15 acres, so, the cedars are going to stay, unless the people don't want them. And if they don't want them, they don't have to have them. Hall – It's that rather than or 3 houses in there.

8:24:29 PM  Albertson – The comp plan is the guide to come to the decision on these matters. The ordinances trump the comp plan, but the comp plan always needs to be considered.

8:24:54 PM  Beebe – I think it meets the ordinance as far as clustering, so it does lead to the comp plan. Read Goal 8-4. I think that if you're trying to preserve what's there, this is a pretty good strategy. You're concentrating homes in that center portion rather than scattering them and leaving the cedars as they are. If you find 16 people who want to live next to each other, put them together and let them live
on 1 acre lots. **Read Goal 8-5.** What does that mean? **Albertson** — I believe that falls under the category of water and sewer, fire protection, police protection, etc.

8:26:41 PM  **Beebe** — So this does it this puts it together and makes it easier. 20-30 years down the road, if you want to tie into city services, this makes it a lot easier. **Albertson** — It does. **Hathaway** — You can make that a condition for where they place the wells/septic systems to connect to future city services. If you want to get more direct as far as that part of the criteria.

8:27:27 PM  **Albertson** — By the same token, we're going to rely heavily on NP study, whether they're going to have community systems. **Hall** — Will that come back to us in the final? **Hathaway** — The NP study will be required before the final plat. **Hall** — So could we make that condition at that point? **Albertson** — I think you place that condition now. **Ashcraft** — The condition would be to adhere to the study. **Albertson** — Adhere to the NP 2 study in regards to the water and sewer.

8:28:12 PM  **Hall** — I'm trying to find something that tells us no, that we can't, so we have a devil's advocate here. **Ashcraft** — To find something that would trump the individual's right to use the land as they see fit and I haven't found it. **Hall** — And following the subdivision ordinance.

8:28:53 PM  **Beebe** — Read 8-6, which refers to properties bordering another county, and 8.7 which staff said would refer to commercial properties bordering residential.

8:29:42 PM  **Ryan** — I think we can all relate to the idea of growth and maybe we don't want people to move in. We have to manage growth. We can't stop it. I know a lot of people would probably like to stop growth. That could be a taking of a person's right to use their property as they see fit. We have to do the best we can to manage that. That's what the guidelines and the ordinances try to get us to do. What they proposed seems to fit. Like Adam, I'm trying to find something that trumps their right.

8:30:32 PM  **Beebe** — I agree, I sympathize with everyone that's opposed. We're all concerned about the growth. We have to manage it until we have some law that comes out and says no more building in Jefferson County, we have our ordinance that guides us and we follow that.

8:31:00 PM  **Beebe** moves that to approve based on **Zoning Ordinance Section 3.12.0** and it's in harmony with **Section 8 of the Comprehensive Plan. Albertson** asked counsel if granting the permit would infringe on the rights of the surrounding property owners? **Taylor** said that he does not believe that it does. **This motion would recommend to approve the clustering permit and preliminary plat for continuation requiring the traffic study and NP study as required by the ordinance. Hall** — I'm still struggling with clustering, so I'm not going to second it right now. I see it both ways. It's not that I have questions. I want R-5 to stay R-5. I understand that its 18 acres regardless and there are people who want to buy 1 acre lots. I know that the folks in opposition, most of them are going to be looking at the 1 acre lots. I'm not necessarily concerned about that. Where I'm on the side of that it makes sense. There's not a lot of stuff in the cedars that it doesn't make a lot of sense to 5 acres in some of those areas. I love the fact that we're leaving the ag land. I guess I'm waiting for you.

8:34:49 PM  **Taylor** — The issue is you're struggling with is a public policy issue of should we allow clustering. Unfortunately that's not the issue because our statutes allow it. If you don't like clustering then you would need to change the ordinance. **Hall** — Yes, but is my job to approve the permit? **Taylor** — you do need to follow the ordinance. It would not be a good grounds for denying clustering, because the ordinance allows it to be there. If you don't like clustering, then you can amend the ordinance. You can't say you're not going to allow it because you don't like it, because the ordinance allows it. **Hall** — I'm not
going to not approve it as much as I’m just not going to make the decision to second it. It’s much different, right? Taylor – Absolutely, just making it clear that not liking is not grounds to deny.

Albertson – It’s not a matter of whether you can sign up to the ordinance or not. We are bound by the ordinance. If it does fit within the parameters of the ordinance, we are bound to follow that. I’m not trying to coerce you. Hall – I don’t feel coerced. I’m stalling. Albertson – That’s fine and we can argue more if you like. I’m not trying to make light of any of this. Hall – Like I said, I can’t find anything that tells us why not. I didn’t make the motion. I’ll be quiet.

Ashcraft – Reading through the ordinance of clustering, I can’t find anything that would deny this. Clustering of less than 4 lots don’t even come to the commission.

Hall – I love the fact that nothing can happen with the big lot. You’re telling me that that 49 acre parcel is not going to come back to us within the next 5 years to put 49 one acre lots. Hathaway – I cannot imagine any scenario that would have this come before you to consider. Hall – That’s the biggest thing that concerns me.

Albertson – I had to address this earlier on. As a property owner, they have the right to lay their money down and ask for something. In 5 years, someone may come in and ask for it. There’s nothing to stop them from coming and asking, but there’s a lot of reasons to deny it if it did come up. Hall – That’s a great answer. Albertson – Our property rights should be one of the most closely held to our hearts that we have in this country besides freedom of speech and the other amendments. As long as we don’t infringe on the property rights of others. I know that’s poor wording, but that’s my simple terms of what it is. Everyone has the right to ask. When you consider everything we have heard on this board, it would boggle your mind. Every individual property owner can pay the fee and ask. If it fits within the ordinances, it’s theirs. That’s the right of owning property. But if it doesn’t fit in the ordinances, then no, it can’t happen. Or if you are trampling on the rights of others, no, it’s not supposed to happen.

Hall – Do you see anything that would hold this back or make you question whether it is the right move, with anything we’ve talked about.

Albertson – Personally I do not. 1. It’s 18 wells one way or another; 2. It’s preserving open space and farm ground; 3. It fits in the clustering permit. At any rate, it fits in the comp plan. I know it’s going against the grain with a lot of people, I get that. It does fit in the comp plan, the clustering, and they have the right to ask for it, they’ve received their due process. Everyone has had the opportunity to speak for, neutral, or against. I do not discard any opinions. At the end of the day, we’re bound by the ordinance.

Beebe – I think that’s one of the challenges is to set aside personal bias whether we agree with everybody or not. We have to set it aside and say, here’s the ordinance and we live by it. Me making a motion doesn’t mean I agree or disagree, it means that the ordinance allows it and we have to live by it. And we searched pretty hard for a reason not to and the ordinance allows it.

Ashcraft – I don’t know that I would say it’s the right thing to do, because I don’t know the property or the land, but I think it’s the owner’s right and it’s allowed in the ordinance. I don’t know if it’s the right thing to do. Hall – Was that a second? Ashcraft – Yeah, with that I’ll second it.

Albertson asked the process of approving or recommending approval for this. Hathaway stated that this would be recommending to move forward in the process to the final plat. There will be
another hearing for the final plat. Staff and counsel described the process going forward to the final and when it would go forward to the commissioners.

**8:46:21 PM**   Beebe moved to recommend that they move forward towards the final plat with the clustering permit in accordance with Section 3.12.0 and Chapter 8 in the Comprehensive Plan and that they adhere to the new subdivision ordinance with traffic study and NP Study and Central Fire’s recommendation for fire suppression. Ashcraft seconded. All in favor. Motion carries.

**8:48:41 PM**   Hall moves to adjourn. Beebe seconds. All in favor.

Date of Document completion: August 5, 2021

Kevin Hathaway
Jefferson County
Planning and Zoning
Administrator

Warren Albertson
Jefferson County
Planning and Zoning
Chairman of the Board