



1 6:12:56 PM **Clark** – Pressurized water? Irrigation on it? What provision on it for water? **Bernard** –  
2 Irrigation will be private wells and there will be a private septic. There will be a deal in there that they  
3 can't water more than ½ acre off that. **Clark** – I'm trying to remember issues on transferring surface water  
4 rights on subdivisions and pressurized water with existing surface water rights; anything come with that?  
5 **Bernard** – As far as trying to use the existing? Is that what you're wondering? **Clark** – I was wondering if  
6 there's any provisions to provide that water. **Bernard** – It's currently all flood irrigated, so there's no  
7 functional reason with that water supply. We will try to trade some surface water rights for irrigation  
8 rights for underground stuff, we'll see what happens with that. If we can't trade, we'll just have to buy,  
9 and that's not easy.

10 6:14:12 PM **Hall** asked about the 4 exits. **Bernard** indicated where they are on the plat. One goes to  
11 3700 E, one to 3800 E, one into Woodhaven, and one goes north into currently unplatted ground. **Bernard**  
12 stated that the owners to the north were in the process of designing something there.

13 6:14:51 PM **Hall** – Which one is the park? **Bernard** indicated and said that's where the community  
14 mailbox would be.

15 6:15:18 PM **Ashcraft** – You mentioned something with Road and Bridge, that you had agreed to do  
16 turnarounds or something? **Bernard** – Turn lanes off of 3700 and 3800 so cars could decelerate to  
17 approach. **Ashcraft** – And you said something about sidewalks and making it narrow because it is close to  
18 the city? **Bernard** – We made the 1 acre lots narrower to make the sidewalk more affordable and keep  
19 the look more like the city. Everyone will be able to access the park off the sidewalk. I think it gives it a lot  
20 better feel.

21 6:15:58 PM **Hall** – All are 1 acre or more? **Bernard** – Yes.

22 6:16:11 PM **Lewis** – How close is this to the city impact area? **Bernard** said it was just across the street.

23 6:16:23 PM **Hall** – Does the city have intentions to put utilities down 3800? **Bernard** – I haven't seen  
24 the city put utilities anywhere. They want someone else to do it, so no.

25 6:16:39 PM **Clark** – Any considerations of working with the city to put utilities in that area? **Bernard** –  
26 It's not really a consideration. I don't want to see four houses per acres. It's more of a country feel. Its  
27 nicer homes that I'm shooting for there. I could probably make more money going through the city, but I  
28 really prefer to stay larger lots. As a developer, if I'm forced to go to the city with streetlights, curb and  
29 gutter, etc., I'm going to go to the most lots that I can. And I see those in the city right now. It's really  
30 small. This will be a nicer subdivision and create kind of a buffer between the high-density city and the  
31 rural area.

32 6:17:34 PM **Ashcraft** – This is surface water currently? Does that involve a canal company? **Bernard** –  
33 Yeah there are water rights off the canal company. **Ashcraft** – Is there going to be any complications with  
34 the canal company? **Bernard** – Not if I leave the water in the ditch and let them use it for transport.

35 6:18:15 PM **Bernard** indicated on the map where the canal is.

36 6:19:18 PM **Public Testimony Portion Opened:**

1 **In favor: Ryan Loftus** (10727 N Yellowstone Hwy, Idaho Falls) – I’m Jim’s engineer any technical questions  
2 you may have on the water or sewer. I’m not the surveyor. **Clark** – Did you look at traffic, is there any  
3 indication on what the traffic would look like on that? **Loftus** – It will be similar to Woodhaven.  
4 Woodhaven has 79 similarly sized lots, 1 acre. This will have 99 homes, so it will be similar. I don’t think  
5 you’ll see an increase traffic. With the school and traffic light, both intersections have left turn lanes. At  
6 3800 E 300 N, there are four lanes there. I expect most traffic will come off 300 and hit both 3800 and  
7 3700 equally. I think it will be spread out enough. They can drive through Woodhaven if they need to.

8 6:21:36 PM **Clark** – Is there any requirement for specific placement for well and septic and is it noted.  
9 **Loftus** – They would be placed so there’s not a conflict between well and septic. With 1 acre lots, there’s  
10 plenty of separation. That’s not usually on the plat, usually it’s a separate document. The developer’s done  
11 this in the past and has great success keeping wells on one side and septic on the other. These lots are  
12 150’ wide, so there’s enough room for 100’ of separation. **Clark** – You mentioned that document, is that  
13 usually referenced in the plat? **Loftus** – It’s not normally on the plat, but it can be recorded separately  
14 alongside it. That’s what we’ve done in other subdivisions.

15 6:23:01 PM **Stout read a letter from Central Fire.**

16 6:23:56 PM **Neutral: None**

17 6:24:03 PM **Speaking in Opposition: Stout read in a letter of opposition.**

18 6:26:53 PM **Rebuttal: Jim Bernard** – To touch on the ditch issue. I believe Steve Tanner maintains the  
19 ditch now. Anything that needs to be done we’ll do. I don’t want water coming into the subdivision. I just  
20 built the whole bank at Autumn Heights. I’m willing to work with them. They should have more water if  
21 I’m not watering the 80 acres. Part of the ditch I’ll pull out the head gates so there’s no leaking around it  
22 and it should make it a bit better for everyone.

23 6:27:48 PM **Lewis** – Can you shorten the ditch at all? **Bernard** – I’ll take a look at it. I wrote down their  
24 name and I’m going to see where their ditch goes to see if there’s a way to shorten it. I’m not sure if there  
25 is. If there’s a shorter route, we’ll look into that and culverts and new head gates.

26 6:28:30 PM **Discussion of the Board:**

27 6:28:45 PM **Lewis** – Rigby doesn’t want to get real involved with their utilities. They’re not in the AOI  
28 and he’s meeting the subdivision ordinance that I see.

29 6:29:10 PM **Clark** verified that this would be under the new subdivision ordinance.

30 6:29:21 PM **Steel** – The impact study is underway currently, and this is the preliminary and we don’t  
31 need those results for the preliminary.

32 6:29:39 PM **Lewis** – In the new ordinance we ask them to talk about fire suppression. It sounds like  
33 they’re working with Central Fire. They talked with the county on the turn lanes. That was an issue before.  
34 He’s met requirements for 1 acre lots, there are plenty of accesses from what I see. The only problem is  
35 that Rigby won’t extend services.

1 6:30:19 PM **Clark** – With respect to having an irrigation plan on subdivisions. I'm not familiar with  
2 that. I'm going to look to you guys. **Hall** – Are you saying it needs to be on the plat itself? **Clark** – Yes, that's  
3 what I mean.

4 6:30:51 PM **Stout** – You are correct. In his application, there is an irrigation plan listing out how his  
5 water rights are distributed, but it's not on the plat. **Lewis** – In talking to the engineer, it sounds like we  
6 don't want that on the plat, it gets crowded. **Hathaway** – You have to have the irrigation plan on the plat  
7 or the commissioners will kick it back and wonder where it is. What they're talking about is placement of  
8 the well and sewers. That can be on the plat or on a supplemental document. **Lewis** – But the irrigation  
9 plan has to be on the plat? **Hathaway** – Correct.

10 6:31:31 PM **Clark** – This is a preliminary, just things we need to ask for. **Lewis** – So he can still add that  
11 and put it on the final. **Hathaway** – This is just the time for you to see if there's anything missing that you  
12 believe needs to be included for the final.

13 6:31:59 PM **Lewis** – We must have done something right, there wasn't any opposition other than one  
14 person complaining about a ditch.

15 6:32:06 PM **Clark** – If you look at 3-4-1-9 (c) it says it shall be provided with a surface water right unless  
16 there's a waiver. For completeness, that's something that needs to be brought up. I didn't see the letters  
17 mentioned there, it's something to discuss before a final. It may be something for staff to discuss with the  
18 application.

19 6:33:17 PM **Lewis** – He did mention that he would make sure that everyone knew that they couldn't  
20 irrigate more than ½ acre with their well. The way the lots are designed, I'm not sure if they're going to  
21 need much more than that. **Hathaway** – They can't irrigate more than ½ acre with their well, but the  
22 irrigation plan is for anything else. **Hall** – That's no different than any other 1 acre lot in the county. **Lewis**  
23 – Yeah, but he's going to make sure that it's in the covenants or on the plat so they know that.

24 6:33:50 PM **Clark** – Back to the zoning regulation that says it's supposed to have it. Staff described the  
25 process of the final plat coming to them and how the changes could be applied.

26 6:34:43 PM **Lewis** – This is saying that it needs a waiver if there's not an irrigation plan, is that what  
27 I'm reading? **Hall** – I might be confused on this irrigation plan. **Clark** – In section, 3-4-1-9. **Lewis** – I see  
28 that, but there's also a loophole to ask the county commissioners and get away with it. **Clark** – We're not  
29 saying that. We're hearing the proposal and our job is to see things that need to be addressed. **Lewis** –  
30 We need a waiver or a plan. **Hathaway** – In reality Mr. Bernard needs a plan and he has outlined a plan  
31 that should work. He will need a letter from Canal Company saying there is adequate water. We'll work  
32 with him on that. I doubt that you would see a waiver in this circumstance. That will be more and more  
33 scrutinized.

34 6:36:09 PM **Clark** – It was mentioned by Central Fire, let's make sure they add any pertinent fire  
35 information on there as well.

36 6:36:25 PM **Steel** – Given the proximity to the city, do we want to encourage a conversation with  
37 them? **Stout** – Under the previous submittal, he received a letter from Rigby. They said they won't extend  
38 services as it sits currently. They've had the conversation.

1 6:37:02 PM **Clark** – Historically, the city has had the opportunity to include that within the AOI and  
2 they chose not to. He has presented a good proposal and it flows well, with the traffic access in and out.  
3 The location is good as well. It's adjacent to the AOI and it is appropriate. As the applicant mentioned, it  
4 gives a decreasing density coming off of the city. We'd love to see municipal services, but in this case it's  
5 not feasible, reasonable, or expected. The other thing we might suggest be added is something in respect  
6 to the ditches. It's an interesting issue. The letter quoted some state regulations. It implies that the users  
7 of the ditch are liable for the care and upkeep as well. In many cases, if an adjacent land owner is not  
8 using that water, the courts have found that it's the users of the ditch that can maintain and those  
9 adjacent to cannot deny access. It would be beneficial to show the ditches and any changes that are  
10 proposed.

11 6:39:20 PM **Ashcraft** – I would agree with that and looking at the comprehensive plan, it goes along  
12 with most of these goals and policies in chapter 8. **Policy 8-15** details canals. It outlines what should be  
13 done in this situation.

14 6:40:04 PM **Clark** clarified with staff what action would be taken on this preliminary plat.

15 6:40:32 PM **Ashcraft moves to encourage the applicant to move forward towards final plat.** To also  
16 include what we've discussed in regards to the fire suppression supply, the ditch/canal issues, and to label  
17 the irrigation plan and well and septic placement. **Clark** – I wouldn't worry about well and septic, it can be  
18 on a separate document. **Lewis** – NP study has to be done before final. **Hall** – They're working on that.  
19 **Clark** – We can put the note that it needs to be completed and referenced on the plat.

20 6:42:07 PM **Hall seconds. Staff listed the recommendations given: irrigation plan, fire protection**  
21 **information, state the ditch information on the plat, state the well and septic information on a separate**  
22 **document, and ensure that the NP Level 2 is completed.**

23 **Clark** – Even though we have the motion. One additional comment going back to the ordinance. 3-5-4-4  
24 no 7. Never mind, that's for a PUD. **Taylor** said that they were referencing the old subdivision ordinance.  
25 **Clark** – I was under the impression that we had added a traffic study. **Stout** – It is in section **110-93**.

26 6:44:06 PM **Adam withdraws his second. Ashcraft allows amendment of adding a traffic study to**  
27 **motion. Hall seconds. All in favor.**

---

28  
29 6:44:52 PM **Public Hearing No.2 Conditional Use Permit / Curt and Susan Daniger / Located at 445 N**  
30 **3600 E, Lewisville, Jefferson County, Idaho/ To propose placing a temporary dwelling on the property for**  
31 **their children to live in.**

32 6:45:10 PM **The Staff report was read by Assistant Planner Erik Stout.**

33 6:46:03 PM **Presenting: Curt and Susan Daniger (445 N 3600 E) – Mrs. Daniger** – Our children are  
34 adults, I want to make that clear. Our daughter would be here but she was working. She is divorced and  
35 we'd like her close to us. She wants a small mobile home on the property. **Clark** asked them point at  
36 where and how it would fit. The Danigers indicated on the site plan where it would be. **Mr. Daniger** –  
37 There is a road that's already here and has been used. It's packed really tight, but I'm still going to do  
38 some road base. There is a little bit of a valley in here but it has a flat spot and it's where we plan on  
39 putting the home. I've checked with Rocky Mountain Power. It's just a matter of getting the Conditional  
40 Use Permit for that.

1 6:48:25 PM **Clark** – What about sewer or water? **Mr. Daniger** – There was a report for the water,  
2 how deep it was. I checked with someone, they said that they will use the old permit from 2016 and that  
3 report was sufficient enough to use a plastic septic because it's a small home. I have access to water. We  
4 just need to have power to that.

5 6:49:09 PM **Lewis** – Was there an existing home there already? **Mr. Daniger** – A hundred and  
6 something years ago there was there was one where the barn is. That was demolished. The last tenant  
7 built the house where we live. There was never a home right there.

8 6:49:37 PM **Hall** – What's out there now? **Mrs. Daniger** – Weeds. **Mr. Daniger** – Yeah, I just mow it.  
9 It has rock base everywhere. It's a pretty solid place. **Mrs. Daniger** – It's not close to anyone.

10 6:49:59 PM **Hall** – There's just fields on all sides? **Lewis** – You said they were going to use an existing  
11 permit, I was just curious. **Mr. Daniger** – They were going to refer to an existing permit, so I wouldn't  
12 have to do a study on the water height. I've put a few in before I wanted to know what you wanted.

13 6:50:32 PM **Hall** – Are you going to have to dig a well for it? **Mr. Daniger** – I've already got a well  
14 there that's adequate and irrigation well and water rights and there's another well that's not being used  
15 on my property. They're all 3 in a row behind the barn. It's already tapped it just doesn't have a pump.

16 6:51:16 PM **Clark** – You intend to put another septic in? **Mr. Daniger** said yes. **Hall** – But just  
17 temporary? It sounds like plastic that can come out later? **Mr. Daniger** – Correct. I guess that was your  
18 requirement for your use permit for temporary housing. **Hall** – That I don't know, because public health  
19 does that.

20 6:51:38 PM **Stout** – Public health governs septic, we don't have any say in those. The only thing  
21 that we require is when they come in for their building permit if this is approved, that they have to have  
22 an approved septic permit. **Hall** – So we don't need to worry about that to an extent.

23 6:52:04 PM **Ashcraft** – What do you mean by temporary? **Mr. Daniger** – When I went to the mobile  
24 home place to order it, they said that this county likes to say whenever we die, you have to pull it out or  
25 refile for another use permit.

26 6:52:28 PM **Hall** – Do you have intentions to leave it there indefinitely? **Mrs. Daniger** – We plan on  
27 living there indefinitely. It's in a family trust, which my daughter is listed in.

28 6:52:42 PM **Steel** – How is it temporary if it's meant to be there long-term? **Mrs. Daniger** – We're  
29 only temporary. Eventually we're going to go away. **Mr. Daniger** – We're only doing what you require.

30 6:52:55 PM **Hall** – It's not them as much as us. We did this for another one. We put a mobile home  
31 on the property that was only 5 years and it would be revisited. They're saying temporary in the sense of  
32 when someone passes away. I haven't been here long enough to experience this in a temporary  
33 structure that is longer. I don't know what is defined as temporary.

34 6:53:55 PM **Hathaway** – It's a CUP and it is evaluated every use. If the commission approves it, you  
35 can use it for family, but you can't leave it there and rent it. It only stays there as long as your family  
36 lives there as long as the conditions that are provided are met.

37 6:54:35 PM **Public Testimony Portion Opened:**

38 6:54:53 PM **In favor:** None

1 **Neutral:** None

2 **Speaking in Opposition:** None

3 **Rebuttal:** None

4 6:55:12 PM **Discussion of the Board:**

5 6:55:16 PM **Hall** – This is pretty cut and dry. We need to decide what conditions to place. There is  
6 nothing close around that is going to frustrate anyone. I think the property is big enough. They've done  
7 their due diligence with septic and water. I would like to hear discussion on this temporary concept. What  
8 do we define as temporary?

9 6:56:12 PM **Clark** – **Section 3.11.6** addresses manufactured homes. It lists a number of conditions. **2**  
10 **(a-e)**. In this case, it's a temporary unit and it's for a family member of one level of consanguinity. By virtue  
11 of a having a CUP it makes it temporary. It's one level. Basically that line meets the requirement. I don't  
12 know if it explains it. We're not relying on it.

13 6:58:04 PM **Hall** – We're not worried as much about the temporary status as much as the CUP which  
14 requires one level of consanguinity.

15 6:58:20 PM **Lewis** – Last meeting we had a similar one in a subdivision, we didn't approve it because  
16 of the question of temporary. **Clark** – The key factor in that was that it was in the subdivision. **Lewis** – But  
17 we had the same kind of issue. **Steel** – I thought we don't uphold covenants. **Clark** – No but it fits in  
18 subdivision ordinance as opposed to the zoning ordinance.

19 6:58:59 PM **Lewis** – The CUP and the length being temporary is null and void. It sounds conditional  
20 and they check it once a year. **Clark** – But in that same thing is the condition is one level of consanguinity.  
21 When that condition changes, then the Conditional Use Permit is no longer valid. The unit would have to  
22 be removed unless it is reapproved. **Lewis** – Unless another family member moves in and then it continues  
23 on and on.

24 7:00:01 PM **Lane** – Can it be on a permanent foundation? **Clark** – No, in this case it cannot be on a  
25 permanent foundation. **Lewis** – It's a crazy concept to figure conditional use with no term limit.

26 7:00:29 PM **Hathaway** – It's conditional, because it's on an ongoing basis. **Steel** – If she got married  
27 and moved out, they couldn't rent it out. Or for whatever could change that.

28 7:00:52 PM **Hall** – Any recommendations we would have? **Lewis** asked about the zoning. **Staff**  
29 indicated the zoning on the map. **Hall** – If anything, that makes me feel better about it.

30 7:01:46 PM **Ashcraft** – This is allowed under the **Land Use Table** with a CUP. In **3.7.4**, it has standards  
31 for a residential yard. They won't have any trouble there. **Clark** – One of the conditions would be having  
32 a blood relative of not more than one level of consanguinity.

33 7:02:42 PM **Lewis moves to approve CUP for the temporary dwelling as long as it meets the**  
34 **requirements in 3.7.4.** **Clark** – Add that they have to get the **septic permit and building permit. Annual**  
35 **review. Not more than one level on consanguinity.** **Lewis** – Include **3.11.6 2 (a-f).** **Steel** seconds. **All in**  
36 **favor. Motion carries.**

1 7:04:53 PM Lewis moves to adjourn. Hall seconds. All in favor. Meeting adjourned.

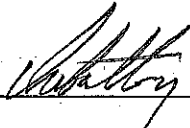
2

3 Date of Document completion: August 5, 2021

4

5

6

  
\_\_\_\_\_

7 Kevin Hathaway

8

9 Jefferson County

10 Planning and Zoning

11 Administrator

  
\_\_\_\_\_

Warren Albertson

Jefferson County

Planning and Zoning

Chairman of the Board