

PUBLIC MEETING – March 30, 2005

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Bill Carey, Chief Civil Deputy County Attorney Mike Sehestedt, Deputy County Attorney Colleen Dowdall, County Engineer Joe Jedrykowski, Public Works Assistant Director Chuck Wright and Public Works Director Greg Robertson. Commissioner Barbara Evans was on vacation.

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims lists in the amount of \$347,435.61. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Bid Award (Public Works): El Mar/New Meadows and Golden West Sewer Projects (RSID’s 8479 and 8480)

Greg Robertson presented the staff report.

Missoula County solicited bids from responsible contractors for lagoon reclamation and minor sewer work in El Mar/New Meadows Subdivision (RSID No. 8479) and Golden West Subdivision (RSID No. 8480). Three bids were received as follows:

Bidder	Amount
VECI	\$221,081.43
AAA Construction	\$325,966.90
Nelcon, Inc.	\$436,847.73

The apparent low bidder was VECI. The bids have been evaluated and certified by HDR Engineering and no irregularities were noted. It is the Department’s recommendation to award the bid to VECI in the amount of \$221,081.43 for lagoon reclamation and minor sewer work in El Mar/New Meadows and Golden West Subdivision, subject to the sale of SRF bonds and final approval from the Treasure State Endowment Program and the Department of Natural Resource and Conservation. Adequate funds for this project have been budgeted.

Chair Curtiss asked for public comments. There were none.

Commissioner Carey moved that the Board of County Commissioners award the contract to VECI in the amount of \$221,081.43 for lagoon reclamation and minor sewer work in El Mar/New Meadows (RSID No. 8479) and Golden West Subdivisions (RSID No. 8480), as the lowest and best bidder, contingent upon the sale of SRF bonds and final approval from the Treasure State Endowment Program and the Department of Natural Resource and Conservation. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Chair Curtiss asked if there was any need to make mention of the letter from HDR Engineering referring to left over funds from the STAG grant.

Mike Sehestedt stated there was no need.

Greg Robertson stated it was irrelevant.

Bid Award (Public Works): Country Crest and Mullan Trail Sewer Projects (RSID’s 8485 and 8486)

Greg Robertson presented the staff report.

These two subdivisions have been grouped together because of the similar nature of the improvements to be constructed. The work will connect both subdivisions to the Mullan Road backbone system. In the case of Mullan Trail, it will eliminate their three community systems.

Missoula County solicited bids from responsible contractors for construction of sewer mains in Country Crest Subdivision (RSID No. 8486) and Mullan Trail Subdivision (RSID No. 8485). Two bids were received as follows:

Bidder	Amount
L.S. Jensen	\$898,770.00
Nelcon, Inc.	\$1,053,421.25

The apparent low bidder was L.S. Jensen. The bids have been evaluated and certified by HDR Engineering and two irregularities were noted. Nelcon, Inc., failed to acknowledge the Contractor's Statement of Compliance Form and L.S. Jensen had several mathematical errors in their bid. The mathematical errors did not change their final bid price however. It is the Department's recommendation to award the bid to L.S. Jensen in the amount of \$898,770.00 for construction of sewer mains in Country Crest and Mullan Trail Subdivisions. Adequate funds for this project have been budgeted.

Mike Sehestedt stated that these are the sort of irregularities in the bid documents that the County reserves the right to waive. They are not irregularities or errors that go to the heart of the competitive bid process.

Greg Robertson stated this bid award is also subject to the sale of SRF bonds and DNRC and TSEP approval. The City is participating in this process and paying to eliminate two antiquated lift stations.

Chair Curtiss asked for public comments. There were none.

Commissioner Carey moved that the Board of County Commissioners award the contract to L.S. Jensen in the amount of \$898,770.00 for construction of sewer mains in Country Crest and Mullan Trail Subdivisions, subject to the sale of SRF bonds and approval from TSEP and DNRC. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing: Call for Transportation Project Proposals (CTEP) – POSTPONED FROM MARCH 23, 2005

Joe Jedrykowski presented the staff report.

Approximately a month ago, advertising to the public began in the Missoulian for nominations for Community Transportation Enhancement Projects (CTEP). A couple of proposals were received in the mail and the Public Works Department has a proposal of their own. He also asked if anyone in the audience had brought a proposal to be discussed today. There was no response from anyone in the audience.

A written proposal was received from Kittrel Mickelson who represents a group of citizens in the Roman Creek/Sorrel Springs area. They are requesting an asphalt walkway and bike path in a generally north/south direction that would tie in with the walkway along the Frenchtown Frontage Road that has been and continues to be constructed. It is an ideal location for a walkway, there is plenty of right-of-way and the topography is flat. Ms. Mickelson states that there are 149 households in the area, 73 school age children and lot of people that use the road for exercise, which is less than safe. He and Greg would both support this project. The total cost would be in the neighborhood of \$100,000. Approximately \$86,000 would be Federally funded with the County supporting \$13,000 - \$15,000. The County is also reimbursed for preliminary engineering and construction engineering services. He felt it would be a good project and would tie in with the existing A.J. Memorial Bike Path. It could be several years before the money could be earmarked for this project as there are several projects ahead of it, but it would be worthwhile to approve it for funds when they become available.

The second proposal received was from Susan R. Shinn. In her estimation, it would be a "good idea" to build a walkway parallel to Tower Street, south from Spurgin Road adjacent to the Little League ball fields, up the hill to North Avenue, which is the northwest corner of Big Sky High School property, and continue on to South Avenue. On the map he provided, he shows a dotted line running east/west on Spurgin, north/south on 27th Avenue, back west on Mount Avenue and then diagonally to Big Sky High School. This was a project the Commissioners approved a couple of years ago. The money has not yet been available in the budget to construct this project, but the extension of a walkway parallel to Tower Street ties in with the project of a walkway around the DNRC lands. There has been some trouble in acquiring right-of-way across DNRC land, they have been difficult to work with. When he reviewed the proposal on-site, he noted there is plenty of room to build a walkway parallel to Tower Street from Spurgin to North Avenue. Along Tower from North Avenue to South Avenue, there is curb and gutter on both sides of the street and the right-of-way is limited. An asphalt walkway might not work in that section, it may need to be a sidewalk on one or both sides of the street. He was not enthusiastic about that portion of the project. He felt that the asphalt walkway from Spurgin to North Avenue should be considered, but not the section between North Avenue and South

Avenue. He would recommend that the asphalt walkway from Spurgin to North Avenue parallel to Tower be accepted as a worthwhile project. He was also contemplating proceeding with the other project previously approved, but only along Spurgin and 27th Avenue. The area where they are experiencing problems with DNRC is west from the corner of 27th and Mount Avenue then southwesterly toward Big Sky High School. DNRC does not actually have a problem with giving the County right-of-way, they have a problem with a hard surface trail. They would rather see a gravel trail, however CTEP funds are not available for anything other than a hard surface, either concrete or asphalt. DNRC feels that a hard surface would lead to encroachments from motorcycles. There have been no problems with motorcycles on any walkways to date. There is also the issue of the Veteran's Cemetery and how they view the trail construction. He would propose that the Tower Street walkway from Spurgin to North Avenue be approved, or tie it in with Spurgin/27th Avenue project. More length costs more in any given fiscal year. The Spurgin/27th length is about 1.25 miles and another 1.0 miles on Tower, for a total of 2.25 miles. There are some irrigation ditches on Spurgin which could complicate matters. The total cost of the project could be close to \$300,000, and the County would have to fund about \$40,000, which is fairly significant. The details of timing and funding would be up to the Public Works Director and the County Engineer to decide. The concept of the walkway on Tower is good. The cost of just the walkway along Tower, about 1.0 miles, would be close to \$100,000, with the County portion being \$13,000.

The third project is being proposed by the Public Works Department. A couple of years ago, there was a walkway built in Lolo that parallels Highway 12. Since that walkway was built, more development has occurred along Highway 12.

Greg Robertson stated that in the last couple of years, several subdivisions have been approved, Beyer Meadows, Lolo Creek Trail, etc. During those hearings, there was concern expressed by landowners about the amount of pedestrian/bicycle traffic that the highway accommodates. Highway 12 is a State route with no dedicated pedestrian/bicycle facilities. It is fairly narrow and lends itself to the need for separate bike/ped facilities, especially with Traveler's Rest State Park and the extension of water and sewer which will bring more growth to the area. This is a school route that is not served by buses. There is adequate State right-of-way to install a bike/ped path. The project cost estimate is about \$100,000, with the County's share being between \$13,000 and \$15,000. It is entirely likely that one or more of the developers along there will pay the County's proportionate share of the match as their contribution toward this facility. The current walkway is along the south side of Highway 12 and the extension is proposed for the same side. Most of the new development is on the north side of Highway 12 but there are some problems on that side with an irrigation ditch immediately adjacent to the road and some utility conflicts. It would be more appropriate on the north side, but cost-wise, it is something the County could not afford to do.

Mike Sehestedt asked how long the irrigation ditch might be in use.

Greg Robertson stated it is still functioning as an irrigation ditch and there are water rights associated with it. There is a loose group of users that manage the system. He would expect it will continue to be in use for some time and it also functions as drainage for Sleeman Gulch and side watersheds.

Chair Curtiss asked if the one mile being proposed gets to the Lolo Creek Trail Subdivision.

Greg Robertson stated that it would go as far as Lolo Creek Trails, which is the end of the urban improvements planned out Highway 12 in connection with capital improvements associated with the sewer and water extensions.

Chair Curtiss asked if there was a way to get from the north side of Highway 12 to the trail on the south side by perhaps going under the highway. It has been noted many times that it is a dangerous road to cross.

Greg Robertson stated that had not been explored as an option. It is certainly a possibility but not a part of this initial proposal.

Commissioner Carey asked if the total cost of these three projects falls within the County's budget.

Greg Robertson stated that annually, the County received about \$200,000 from Federal highway funds for projects of this nature. These proposals will be entered into the queue and as other projects are completed, funds will be reallocated to the next project in line. There are already projects approved in Frenchtown and Seeley Lake. Projects will be done essentially in the order they were received.

Chair Curtiss asked how far in the future these projects might be.

Joe Jedrykowski stated they were probably three to four years out. Any time a project is built and money is saved with a low bid, that money goes into a pot, it does not have to be returned. Every once in awhile, there is a surplus

and another project can be added to what has been planned for a specific year. It would be at least three years before any of these projects would rise to the top of the list.

Greg Robertson stated that another unknown is authorization of the new Federal highway bills that are currently working through Congress and the amount of money that will be allocated to rural and urban enhancement projects. The amount the County receives may go up or it may go down.

Chair Curtiss asked if the Commissioners were to prioritize the projects.

Joe Jedrykowski stated that it would be better to leave prioritization to Public Works. Sometimes the priority stream is broken because of the amount of money available. A lower priority project might be constructed because there might be some excess money in the coffers.

Chair Curtiss opened the public hearing. There being no comments, the public hearing was closed.

Commissioner Carey moved that the Board of County Commissioners approved all three of the proposals for future CTEP projects in Fiscal Years 2006 and 2007, with changes and modifications as discussed. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing: Petition to Abandon a Portion of GLO Road, Book 1 Road (Lolo Trail Ranch/Woodman School area)

Chair Curtiss opened the public hearing.

A petition has been filed with the County Commissioners requesting to abandon a County road, street or alley.

The petition is to abandon those certain County roads located within the East ½ of the NW ¼ of Section 31, the East ½ of the Southwest ¼ and the Southeast ¼ of Section 30, the South ½ of Section 29, the NE ¼ of Section 32 and the North ½ of Section 33 of T12N, R21W, P.M.M., County of Missoula, State of Montana, bounded on the west by the West 1/16th lines of Sections 30 and 31, T12N, R21W, P.M.M., and bounded on the east by the most easterly line of Tract 2 of Certificate of Survey 4304, all within the ownership of Lolo Trail Ranch (AKA OZ Ranch), a subsidiary of the Potomac Corporation, more particularly described as follows:

- 1) General Land Office (GLO) road as shown on GLO plat, surveyed by Charles Albee in September to October, 1899 and approved August 4, 1900, by the Surveyor General's Office. This GLO road is described on said plat and the original surveyor's notes as "Road to Missoula" and located in the E ½ of the SW ¼ and the E ½ of Section 30, Sections 29 and 32, the W ½ of Section 33, and the W ½ of the E ½ of Section 33, T12N, R21W, P.M.M., County of Missoula, State of Montana.
- 2) Road Plat Book 1 road located in Sections 28, 29, 30 and the W ½ of Section 33 and the W ½ of the E ½ of Section 33, T12N, R21W, P.M.M., County of Missoula, State of Montana. This right-of-way is further described in the Road Plat Book 1 on page 057, Sheet 127, and page 067, Sheet 138 as Road File A 141, petitioned by C.E. Muzzie, and accepted June 4, 1895 in Commissioner's Journal Volume G, page 250. Alignment changed by road file A 145, petitioned by T.E. Magee, declared September 11, 1896 in Commissioner's Journal Volume G, page 421.
- 3) Right-of-way easements quitclaimed to Missoula County from the former Clearwater Short Line Railroad, as recorded in Book 111 of Deeds on pages 375 to 378, that are located outside an eighty (80) foot offset, on both sides, as measured perpendicular to the Right-of-way centerline of U.S. Highway 12 as shown on the State of Montana Right-of-way plan S-391 (2) dated October 19, 1961 through March 27, 1962, and located in Sections 29, 30, 31, 32, the W ½ and the W ½ of the E ½ of Section 33, T12N, R21W, P.M.M., County of Missoula, State of Montana.

The reasons for the request are as follows:

1. The right-of-way (ROWs) are not needed since every property (public or private) crossed or abutted by the ROWs is more readily accessible via U.S. Highway 12, which is paved and maintained, or by private roads with permanent easements.
2. Abandonment will avoid conflicts between the use of ROWs and current uses of the land for ranch operations.
3. Abandonment will avoid other trespass-related problems.

4. Abandonment will clear title to the underlying properties and will clarify that the public is not permitted access on the underlying privately owned lands.
5. Similar abandonment has been granted in the same townships for both GLO roads, Book 1 Roads, and Clearwater Short Line Railroad ROW outside the 160 foot Highway 12 ROW, as evidenced by Missoula County Board of County Commissioners Resolutions No. 96-084, 99-083, and 2000-075.

The following landowners have been notified:

Potomac Corporation P.O. Box 67 Wheeling, IL 60090	Potomac Corporation 2063 Foster Avenue Wheeling, IL 60090	Plum Creek Timberlands LP Attn: Jaime Schaefer Columbia Falls, MT 59912
State of Montana Capital Building Helena, MT 59601	Bruce and Betty Lou Duffalo 16950 Lolo Creek Road Lolo, MT 59847	Steve T. and Lorna D. Robertson 17350 Lolo Creek Road Lolo, MT 59847
Kory S. and Melinda J. Mytty P.O. Box 891 Lolo, MT 59847	Donald G. and Melva I. Campbell 17400 Lolo Creek Road Lolo, MT 59847	Woodman School District #18 U.S. Highway 12 Lolo, MT 59847

Charles Wright: I don't remember if you Commissioners looked at this before, but we tried to do this about five or six years ago and the Commissioners decided not to do it, but these roads ... first of all, my name is Charles Wright, I'm from the County Surveyors Office, and I've been working on these particular roads for a long time to get them vacated. They're trying to abandon these roads, they're also going to try to abandon this particular railroad right-of-way and the railroad right-of-way along in here. There's a letter in the file that states that the Highway Department doesn't have a problem with that, and in fact, there's no reason that the County would want to not abandon these roads. I think these roads need to be abandoned. They're only going to go to this area right here, it doesn't go all the way out to this area out here. This map was an earlier map, and they're going to probably come back in and try to do that later. But, it's my recommendation to abandon these roads that they're asking for.

Chair Curtiss: We do have to do a site visit and all that stuff. Is there anyone here that's ... Kim apparently has verified signatures, so Kim, if you'd like to let us know that you've done that.

Kim Cox: I'm Kim Cox from the Clerk and Recorder's Office and yes, I did verify the required signatures on the petition.

Chair Curtiss: Thank you Kim. Is there anyone here that wants to speak on this abandonment. If you can identify yourself for the record please.

John Shulman: Good afternoon, I'm John Shulman from Ecosystem Research Group. We've been asked by the ranch to help them with the abandonment of these roads. Also here is Jim Hayden, who is the foreman of the ranch and who lives up there and can answer any questions about whether there's any evidence of these on the ground or not. I don't really have much to add to what Chuck has said. These rights-of-way no longer serve any purpose, no property, public or private, is accessed by them. They are just an encumbrance at this point. We do have, from private owners in the area, from Plum Creek and the two residential owners on the eastern side, consent. They've said that they would have no objections to it. On the west side, I guess I would like to quickly explain why those roads are not included and that is because it may be the GLO road which is being used by several neighbors in there for their access and so, obviously, we don't want to abandon those until there is a private easement in place. We're in the process of trying to work out a reciprocal easement with them so that they can abandon the public road, most of them were unaware that the road, that there was a public right-of-way even through their property, so we shook them up a little bit, asked if they would object to us abandoning it. So, I guess, I don't really have too much to add to that. We do have copies of previous resolutions in which the Short Line Railroad and Book 1 and GLO roads in this area have been abandoned, if you want to recall those. Other than that, if you have any questions, we would be happy to answer them.

Chair Curtiss: My question for you would be, we just talked about doing a trail project further down, closer to Highway 93. Would these serve the purpose of a trail easement in the future or are they beyond what you would need for that.

John Shulman: Well, the problem is that they go right through a working ranch and that's kind of the problem with that. The Highway 12 right-of-way there varies from 100 feet to 160 feet and one of the contingencies with the Department of Transportation on abandonment of Short Line is that they not be abandoned closer than 80 feet from the centerline, so they requested 160 foot when it's available. It seems to me that should leave ample room for that.

Chair Curtiss: Actually, I wasn't Commissioner when the last one came up probably, but I did sit in on that hearing, I remember it pretty well in that one of the things that was talked about is the fact that the Highway Department really likes larger right-of-way. If they improve that road, they would need more right-of-way than the existing road has.

John Shulman: Right.

Chair Curtiss: 160 is enough.

John Shulman: Yeah, I think in that Resolution 2000-075 that I gave you, there's actually a pretty good history of that, that was done I believe by the County staff. It talks about that, not so many years ago.

Mike Sehestedt: Should be cautious, we're not reserving 160 feet throughout the length, it's just in those areas where we have the Clearwater/Short Line Railroad right-of-way that was quit claimed to the County, where we have parts of that right-of-way that extend outside the current road right-of-way boundaries, the Department of Highways wants us to not vacate anything that would reduce the potential right-of-way to under 80 feet on either side of centerline. I can illustrate on the map for you. I don't know the dimensions, but you can see, there are varying widths of Clearwater/Short Line right-of-way, it's this crosshatched area. For example, here there is not Clearwater/Short Line right-of-way, so there's nothing reserved there. Here, if it's, say, 100 feet, we'd vacate 20 feet, keep 80; here, if it's 40 feet, we wouldn't be vacating any of it. We determine how much of this crosshatched area is being vacated by striking a line 80 feet from centerline of highway and scribing it up.

John Shulman: Our GIS person was only supposed to crosshatch areas which were 80 feet beyond the centerline, so I believe that what's crosshatched is more than 80 feet from the centerline.

Chair Curtiss: Okay, thank you. This is a hearing, so we would take any other testimony on this and then we actually recess the hearing. We have to, by law, do a site visit, one Commissioner and either Public Works Director or Surveyor, visit the site and then reconvene the hearing and it would be next week or the week after. Is there anybody else that wanted to make comments before we recess this.

Mike Sehestedt: Would you like to have the Commissioners contact you prior to the site visit and make arrangements, and if so, who should they contact and where?

Jim Hayden: Yes, my name is Jim Hayden and my phone number is 273-6179.

Mike Sehestedt: Sometimes helps to have the property owner there to explain what they're looking at.

Chair Curtiss: Charlie, could you come up again and show us which ones, you said this map depicted more than they were asking to abandon.

Charlie Wright: This line right here is where the end, from here on out all these roads and right-of-ways are not going to be even addressed. When they do that, they're going to do that later. From this red line, all the way down to here. And I've been on the ground a couple of different times looking at all those things and those roads exist on the ground, you can see them.

Chair Curtiss: Okay, anybody else that wants to make comment today, and you have the opportunity to comment in two weeks also.

Mike Sehestedt: Essentially what happens in two weeks is the viewers make a report and if there's any further testimony responding to or explaining that, we accept it and then make the decision.

Chair Curtiss: That will be April 13, 2005. So, we'll recess the hearing until then. Should we contact you also or will Jim just get a hold of you.

Jim Shulman: 721-9420.

Hearing: Rezoning Request – 315 Anaconda in Milltown (from C-R1 “Residential” to C-C3 “Commercial”)

Jennie Dixon, Office of Planning and Grants, presented the staff report.

This is a request to rezone 315 Anaconda in Milltown. It is currently zoned C-R1, which is a "Residential" zone with a maximum density of 8 dwelling units per acre. The request is to rezone it to C-C3, a "Community Commercial" zone.

Staff recommends approval of the request; there are no conditions attached to it. Planning Board voted unanimously, 8-0, to recommend approval of the request as well. The application comes from John Perry, represented by Larry Nickel of Tri-West Real Estate, and Montana Rail Link, as a portion of this property is an MRL land lease. The property is on the northeastern fringe of the Milltown commercial center, adjacent to industrial on the east (Stimson Lumber Yard), commercial on the west and south and residential to the north. One building exists on the western portion of the property and that building is used for intermittent, seasonal commercial storage of equipment and supplies for a wilderness guide and outfitter business.

The applicant states that the property has been used for commercial activity for over 50 years, but County records only go back as far as 1989, which shows it was used as a meat shop at that time. The property has been for sale for over a year. The request is being made to aid in the sale of the property. The C-R1 "Residential" district was put in place in 1978. That zone allows for a minimum lot size of 5,400 square feet with duplexes allowed as special exceptions on a minimum of 8,000 square feet. The property contains enough land for a duplex, but not enough land for two single residential dwelling units. The proposed C-C3 zone allows such uses as professional office, transient lodging, retail trade and indoor recreation. If the rezoning is approved, residential use will not be permitted, except a caretaker's residence within the same building as other allowed uses.

The proposal does not comply with the land use designation of two dwelling units per acre. However, the staff report describes goals and objectives that are met through this request. Access to the property is from Anaconda Street, although the property is directly visible from Highway 200. Highway 200 connects with Anaconda about 500 feet south of the property. There is a 20 foot wide access easement along the rear of the property, which does serve this property. However, there is only about 19 feet of frontage along that access easement and parking currently is at the front of the building in a head-in parking configuration. Any use of this property must comply with off-street parking requirements in County Zoning. Rezoning this property to Commercial does not guarantee zoning compliance with commercial parking requirements. The applicant has been made aware of this.

The Health Department comment probably is the most significant agency comment in the packet. They stated that, depending on the use, the owner may be required to provide a public water supply. Also, the Health Department does not have any record for an approved septic system. That does not mean that there is not a septic system, they just don't have a record. They are concerned that this lot may not have sufficient area for increased activity, which could require a larger septic system and drainfield. Approval of an expanded commercial use would require that they have adequate room for a replacement area for the septic system. Depending on the proposed use of the property, the owner may also be required to upgrade the septic system to current standards. The Health Department requested that this be approached cautiously to ensure that it is not approved for use that could not be approved to meet water and wastewater standards.

Again, the rezoning to Commercial does not guarantee approval of a new septic permit and the applicant has also been made aware of this. Staff received one comment letter from a nearby resident, Ken Wise, opposed to the request. The map displayed shows the lumber yard, the residential use up against the river and the commercial uses. This property falls within the area being used for commercial even though it is zoned residential. Mr. Wise lives in the area shown as residential and was concerned about commercial activity coming into that residential area. Staff would not support rezoning in the residential neighborhood, but felt the subject property was appropriate for commercial rezoning.

Chair Curtiss opened the public hearing.

Larry Nickel stated he is representing the landowner. He distributed a letter he just received from the Bonner Development Group in support of the rezoning request.

Jennie Dixon stated that during agency review, Bruce Hall of Bonner Development Group was contacted but did not provide any comments. She was pleased to see BDG supports the rezoning request.

Larry Nickel stated he was pleased to see the letter himself. His recommendation is that the rezoning request be approved. The zoning was passed in the late 1970's to C-R1. However, long time residents of the community have said that this property has always been commercial and that is how they have always viewed it. It's been a butcher

shop, a bar, a cabinet shop or its current use of a fly fishing operation. The request seems appropriate for the type and style of structure that is there. He is in support of the rezoning from C-R1 to C-C3.

Chair Curtiss asked if the applicant is aware and understands that if the septic fails, there might not be room for a replacement, all the constraints of the lot.

Larry Nickel stated the applicant is aware of the situation. There is a prospective buyer who wants to open a physical therapy clinic.

Jennie Dixon stated the Health Department did not have any record of septic approval here, although it is most likely on a septic system. Mr. Nickel had indicated the septic situation would be investigated and wondered if that had been done.

Larry Nickel stated the septic system was scoped. There is a septic system there, it is a three ring, five ring system.

Chair Curtiss stated that is a cesspool.

Larry Nickel stated that was correct.

Jennie Dixon stated that if the system fails, it would have to be replaced with an approved septic system from the Health Department. Their concern is that the size of the land will limit the intensity of activity that can happen on this property. A physical therapy office may not be an intense use requiring a large septic system, other uses allowed in this zone may not be able to go here because there might not be enough land area for a larger septic system.

Larry Nickel stated that was understood. The owner of the property lived there for a couple of years with his spouse and one child, doing the normal things a family does, showering, laundry, bathroom facilities, etc. They never experienced any problems.

There being no further comments, the public hearing was closed.

Commissioner Carey moved that the request to rezone 315 Anaconda, legally described as COS 5303, Block 13, Lots 3 and 3B, be rezoned from C-R1 (Residential) to C-C3 (Community Commercial), based on the findings of fact in the staff report. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

There being no further business to come before the Board, the Commissioners were in recess at 2:30 p.m.