

PUBLIC MEETING – JUNE 15, 2005

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

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims list in the amount of \$744,185.20. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing: Creation of RSID 8487 – Paving of Interstate Place/Desmet Road

Jesse Sattley, Missoula County Public Works, presented the staff report.

This is the creation of Rural Special Improvement District 8487 – Paving of Interstate Place and Desmet Road. A condition was added to the Interstate Place Subdivision requiring that Interstate Place (Old Desmet Road) be upgraded to meet County Standards and that a Rural Special Improvement District be created to pay for the improvements. A petition was initiated by the proponent. On May 3, 2005, the Board signed a Resolution of Intent to Create Rural Special Improvement District No. 8487. Notice was mailed to all affect landowners within the proposed District. We have received no protests. So the staff recommends creation of RSID 8487.

Chair Curtiss: Thank you Jesse. So, on May 3rd, we did the Resolution of Intent, so today would be the Resolution to Create.

Jesse Sattley: That is correct.

Chair Curtiss: Is there anyone here who would like to make comment or ask for clarification on this RSID?

Daniel Summerfield, DJ & A Engineering: I wanted to let you know that I did work closely with Jesse in the formation of this RSID and that if you do have any questions about anything, and if I can answer them I would be happy to do so.

Chair Curtiss: Thank you Daniel. This is a hearing, is there anyone else who would like to speak on this? I guess it's not open from before so I would have to officially open the hearing – so that I can officially close it. If there is no one else who would like to speak on this I'll close the hearing.

Commissioner Evans moved that the Board of County Commissioners approve the creation of Rural Special Improvement District 8487, paving of Interstate Place and Desmet Road, in that it meets the requirements and no opposition or protests have been received. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing: Abandon a Portion of GLO Wagon Road, GLO Trail and Book 1 Road – Highway 12 (Longhorn Flat)

Chair Curtiss: Next we have a hearing; we have received a petition asking us to abandon a portion of the GLO Wagon Road, GLO Trail and a Book 1 Road along Highway 12. This is in regards to the Longhorn Flat subdivision. It is a hearing so I will open the hearing and I will ask for a staff report. I think that Mr. Wright will do that for us. Even though he is just going to read off the page because I don't know if he's seen it before.

Chuck Wright, Assistant Public Works Director, presented the staff report.

This particular area – the road that they are asking for abandonment on, is right along the existing highway and then it goes out into the field about halfway into the property. If you see the exhibit they show the old existing road or the old petition roads and GLO roads as shown on that particular exhibit.

Chair Curtiss: The request for abandonment is only on the property that is part of Longhorn Flats subdivision?

Chuck Wright: That is correct.

Chair Curtiss: The Commission did receive a letter from Dale Hendrickson in regard to this – so we do have that to consider. This is a hearing, and the way these work is when we are petitioned for road abandonments, then we have a hearing and we have to recess the hearing, because the law requires that one County Commissioner actually go out and look at the proposed abandonment and then we will make our decision next week. So is there anyone here that would like to speak about this abandonment?

Toby Dumont, Professional Consultants: I would like to maybe add a little, that exhibit goes all the way across through the other side of Sleeman Gulch, if I remember correctly, through some adjacent property.

Chair Curtiss: So it does take in land that is not just part of the subdivision?

Toby Dumont: Correct.

Chair Curtiss: Does the subdivision stop at Sleeman?

Toby Dumont: It stops just short of Sleeman and then there is a one 2-acre ownership adjacent to it.

Chair Curtiss: Okay, so is the other property, on the other side, does that belong to Hendrickson's?

Toby Dumont: No, that belongs to Russell Dexter and Drake Lemm.

Commissioner Evans: Will it impact the ability of the Hendrickson's to get to their property?

Toby Dumont: I have not seen the letter.

Chair Curtiss: We will make sure you have a copy. One of the reasons that we have to go out and look at the road is to make sure that we are not cutting off someone's access and also we can't cut off access to federal lands and waterways, I believe now. Toby, do you plan to join us when we make our site visit?

Toby Dumont: I can.

Chair Curtiss: It's up to you. I looked in the book and Charlie, are you available Tuesday afternoon at 1:30?

Chuck Wright: Yes.

Chair Curtiss: So we will plan to leave the Courthouse, for those who want to join us there, at about 1:30 and that would put us there pretty close to 2:00, I would guess.

Chuck Wright: You said Tuesday?

Chair Curtiss: Tuesday – next Tuesday, yes. Is there anyone else, you can look at that and next week we can talk about the impact once we have been out there and looked at it – on the Hendrickson's property. Is there anyone else that would like to make comment? There is, Mr. Hendrickson?

Stan Hendrickson: My brother and I own the parcel, it's been in the family for sixty years. We came home one day and found our gate closed and a "No Trespassing" sign and we can't get in without opening the gate. I thought that this was a kick in the pants. Our access to our upper field, which is nine acres, is through this road. I have an aerial photo, if they claim that this thing is not been used, I have an aerial photo that shows that this road is being used. I have photographs and I don't think too many people knew about this hearing, I alerted the people that didn't get notices. I got a notice because I adjoin it. This affects the people in Sleeman, it would abandon their access to their mailbox and where they park and they can walk up to the mailbox, because the mailboxes are on the highway, and that's a danger situation, so, it looks to me like this abandonment would harm them as well as take my access away that I have had for sixty year. I think that, boy, this is a good thing to pull on your

neighbor, to not come and discuss it with you but just to try to slip this in. If I hadn't, or my brother read the legals, we wouldn't have even known about it.

Chair Curtiss: So Mr. Hendrickson, is this the access that you use – do you have the map there?

Stan Hendrickson: Yes, I have maps and photographs.

Chair Curtiss: So the request is for a Book 1 Road, a GLO Trail that shows in a couple spots and a GLO road. Which one of those is the one that you use for access?

Stan Hendrickson: Right at the east side of Sleeman. Sleeman is the road that goes up the canyon of course. To the right of there is the 400 feet that they are trying to close us off of.

Chair Curtiss: So the first one?

Commissioner Evans: It would be helpful to see your map, your aerial photo Stan?

Mike Sehestedt: Stan can you come up and use this microphone to talk into while you're showing the Commissioners.

Stan Hendrickson: I don't need a microphone. I'm mad enough so I don't need a microphone.

Chair Curtiss: But our secretary will get us if you don't use it.

Stan Hendrickson: I was just kidding. This is the original, not homestead, but ranch, that my folks bought in 1945 and it's been in the family ever since. This is the old highway that came through here, this was our only access for quite a few years. But we have never quit using it and it's used today. This is where the mailboxes are – that photograph doesn't show as well as this one. This is the road that they propose to close and that doesn't look to me like that's a road that's not being used. This is the mailboxes where the Sleeman people go out that direction and they can pull in here and come back and park in the lower part, walk up and get their mail without getting on Highway 12.

Chair Curtiss: Mr. Hendrickson will you be able to meet us there on Tuesday so you can help point out some of this stuff?

Stan Hendrickson: I will make it a point to be there– either I or my brother – one of us will be there.

Commissioner Evans: And you will have calmed down by then? (giggles)

Stan Hendrickson: Am I going to need a microphone out there too?

Chair Curtiss: No. Okay.

Stan Hendrickson: Do you want these pictures?

Chair Curtiss: Actually your brother gave us some. We have the original in color. So this is a hearing which we will recess today and keep open next week. Is there anyone else that would like to make comment? Come on to the microphone and state your name please.

Jeanette Zentgraf: I live on Sleeman Creek. I support everything that Stan just said and then I have a statement here that I would like to read. My husband and I request that the County continue to maintain it's authority over three roads in the Longhorn Flat area, GLO Wagon Road, GLO Trail and Book 1 Road. We oppose the County's abandonment of parts of these three roads. The roads are located on or adjacent to the Lewis and Clark Trail and ancient Nez Perce and Salish travel routes. If these roads are abandoned, would-be developers who own the property would build on those trails and thereby obliterate them along with Montana's history. Last year, just about this time, we opposed what was approved, those very closely set houses on Highway 12, about ninety of them on a quarter acre plot. They are located opposite Travelers Rest and directly over or adjacent to the Lewis and Clark Trail and the Indian trails. We also asked you at that time to begin the pursuit of a scenic and history designation for Highway 12 because we see Highway 12 in great jeopardy by developers. If you believe as we do, that the rest of Highway 12 can and should be preserved with access to historic trails through rural areas and open space, rather than one subdivision after another, one development after another, you have to do some

important things. You have to make a formal request to the Montana Department of Transportation for Highway 12 to be designated as a scenic bypass. But that's only the beginning. Then, at your request, one of our State Legislators will have to introduce legislation in 2007 that increases the State's vested interest in the 1999 Scenic Highway Designation Law, by providing a budget for it. It passed but without a budget, obviously there was no vested interest by the State. The State would have to approve that and then once the State's desires are plainly spelled out in legislation that we are all happy with, then the National Government will come in, as they did in Virginia. I had left quite a detailed article about what Virginia did to develop what became a National Scenic Highway in the State of Virginia that connected Williamsburg, Jamestown and Yorktown – it's really beautiful. It's not impossible. It's just a matter of will. You would have to follow the same legal procedures that were followed in 1930 before the Colonial Parkway became a national reality. We made this suggestion and I've been in contact with Bill Carey's office asking what we could do to encourage this, if there was any volunteer work or anyway too feel out people along Highway 12 who own property, they would be involved. They would be a part of what is drawn up. It just didn't seem to go anywhere at all. You will have the support of well intentioned people should you ever decide to do this – such as Christine Christianson who is the Director of Planning at the Montana Department of Transportation, as well as members of the State Tourism and Advisory Council and people in the Department of Parks and if you need volunteers to ascertain support for such a designation among property owners along Highway 12, call on us, call on the people that are here from Sleeman Creek and others. Those of us here today, love the beauty of our mountains and greatly respect the ancient and more recent history of our trails which would be destroyed by one subdivision after another along Highway 12. Incidentally, the folks who want to have you abandon, you've had good authority over these (inaudible) and no harm to us. But those who want for you to abandon it certainly have plans to put tents there, I think thirty five or fifty tents on that very area, 4.9 acres.

Chair Curtiss: Thank you and thank you for doing the research for us. I know that we have talked about it before but nobody has followed through apparently. Any others that want to make comment?

Dale Hendrickson: You were asking a question a bit ago about which one of these roads we were concerned about – was it GLO Trail, GLO Road or Book 1 Road. When I was looking at this map down at the Surveyor's Office on their book of roads there, the surveyor was helping me look at that and said it was a real mess. You really can't tell, I don't think, what road is what in there. And I think that's why they named all three, because they are not sure either.

Chair Curtiss: Thank you. Anyone else? One more.

Chris Barns: I live up Sleeman as well. First of all I want to thank you for, in this case, looking at the abandonment before the approval of any development along this route as opposed to what happened with the subdivision further east on Highway 12 where the abandonment did not come until long after the developer's bulldozers had obliterated any historical or cultural value with these routes. I think it would be important for us to know when you make this decision, if you decide to approve the abandonment or abandon it rather, how that benefits the people of the County more than retaining the right-of-way. Thank you.

Chair Curtiss: Thank you. Anybody else?

Kathleen Stachowski: I live up Sleeman Creek. I just wanted to say also that I am opposed to the abandonment to private developers and I hope to not see any development down at the bottom of our road. Thanks.

Chair Curtiss: Anyone else? We will recess this hearing until next Wednesday (June 22, 2005) at 1:30 p.m. and it will be probably about the second thing on the agenda or so next week. For those of you that want to join Charlie and I as we do the site visit, we will be there somewhere between 1:30 and 2:00, probably closer to 2:00 – next Tuesday which is June 21st.

Hearing (Certificate of Survey): Daniels Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Parcel 19 of COS 351, located in the west one-half of Section 13, Township 15 North, Range 22 West.

Ken Daniels has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 10.55 acres in size located near Huson, Montana. Ken proposes to create one approximately 5.55 acre parcel for transfer to his son, Craig Eugene

Daniels, for residential purposes and keep the remaining approximately 5 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 351 was filed in June, 1974, creating 55 parcels, approximately 10 acres in size. Fred G. and Ann M. Nimmick deeded the property to Wayne W. Ludeman and Patricia A. Ludeman in July, 1982. In 1988, the Ludeman's deeded the property to Mark D. Webb and Thomas Hanou. A Warranty Deed was filed in October, 1992, deeding the property to Glenn A. Sandefur. In July, 2004, Mr. Sandefur deeded the property to Kenneth E. and Johan K. Daniels.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chair Curtiss: Thank you Colleen. Is Mr. Daniels here? Mr. Daniels, could you state your name for the record please.

Ken Daniels: Kenneth Eugene Daniels.

Chair Curtiss: Mr. Daniels, we have a list of questions that we ask our Deputy County Attorney to ask you so that all the answers to those questions are on the record also.

Ken Daniels: Very good.

Colleen Dowdall: Did you buy the property with the intent of dividing it?

Ken Daniels: Yes, I did.

Colleen Dowdall: Did you intend to go through subdivision review?

Ken Daniels: I intended to go the way that was legal and accessible and I know nothing about subdividing so, I just knew that it was legal to split it into two 5-acres and if I might continue on here, I bought it simply, my son wanted to live up close to me. So we bought the piece of property because really the only feasible way for him to have the house and property is if you could split off 5 acres and sell that and make it economically feasible. If that answers most of the questions, I have no idea.

Colleen Dowdall: It probably does answer many of them. So do you live on the property now?

Ken Daniels: I live on the property just below it.

Colleen Dowdall: I see. So are there any structures on that property?

Ken Daniels: Yes, my son is living on the piece of property in the existing house that was there.

Colleen Dowdall: So when it's divided, you will transfer that parcel that has the house to him?

Ken Daniels: Yes I will.

Colleen Dowdall: What will happen to the remainder parcel?

Ken Daniels: I will sell it to make it economically feasible for him.

Colleen Dowdall: Okay. Are you in the business of building or developing, building houses or developing property?

Ken Daniels: No I have never done this. I have rentals, but nothing like this ever.

Colleen Dowdall: Do you understand that if it is proven that you have evaded the Subdivision and Platting Act, you could be found guilty of a misdemeanor?

Ken Daniels: Yes I understand that. I don't want to be found guilty of any broken laws period.

Colleen Dowdall: Do you understand that we are not reviewing this request for adequate access in all weather for all vehicles, including emergency services?

Ken Daniels: I understand, the access will come off the main road the way I have talked to the engineers, so it will have adequate access, it's on a community water system so that really the only question is going to be the septic approval.

Colleen Dowdall: And the area is not zoned?

Ken Daniels: No it is not. It has –

Chair Curtiss: Covenants?

Ken Daniels: Yes covenants, correct.

Colleen Dowdall: That's all I have.

Chair Curtiss: So the existing house is on the parcel that you are giving to your son?

Ken Daniels: That is correct.

Commissioner Evans: Is there any legal reason we can't approve this Colleen?

Colleen Dowdall: We are at that point where it's just up to your discretion.

Chair Curtiss: So because he is gifting the one piece, he has the right to sell the other piece. But normally – see they put us in this horrible predicament, where we have to decide whether this technically should go through subdivision in order to divide it. Normally, you give a piece to your kids, but you are living on the other piece, but where you are living on a totally different section, this looks different.

Ken Daniels: Right, I'm not living on either piece of this property that we are talking about. Mine is a separate lot entirely.

Chair Curtiss: But it's all in your name?

Ken Daniels: Yes, this is in my name and this is called Lot 11, I believe. No it's called Lot 19, excuse me. I live on Lot 15, my son wanted to move up close to me, it's only a quarter of a mile away and this was really the only economic, the only way that he could possibly afford it, was if I could buy it and subdivide it and make it reasonable.

Chair Curtiss: So this is a hearing. I'll open the hearing for comment from anybody else that would like to make any comment. Seeing no one, I will close the hearing.

Commissioner Evans: Colleen what was the law, did it change, that the had a right to sell a piece of land?

Colleen Dowdall: The law hasn't changed, it is just using your discretion to determine whether there is an attempt to evade subdivision review. So the questions that I ask address many of the review criteria that have been approved by the Attorney General. So it is up to you to take the information in and decide whether the fact that this applicant has told you that he is going to sell the remainder makes it an evasion.

Commissioner Evans: In my mind there is a different between the words evade and avoid. Have we closed the hearing?

Chair Curtiss: Yes.

Commissioner Evans moved that the Board of County Commissioners approve the request by Ken Daniels to create one parcel by use of the family transfer exemption, based on the fact that there does not appear to be an attempt to evade the subdivision act.

Chair Curtiss: In my mind, the things that we are required to look at is whether or not you are given – the law allows to give a piece to your children or your parents or your spouse – but it just seems to me like what this really

is, is dividing the land into two pieces so that you can afford the one piece, or so that your son can, which to me, is what subdivision is all about.

Colleen Dowdall: I think what makes this a little more unique is that the father is living in the vicinity at least, they are not dividing the parcel so both of them can be sold, just one of them.

Chair Curtiss: So you think it's defensible?

Chair Curtiss seconded the motion.

Chair Curtiss: Any other discussion?

Commissioner Evans: No other than I think it's really good that your son wants to live next to you. My daughter built a house next to us so she can take care of me when I'm old. And I think it's a very nice idea.

The motion carried a vote of 2-0.

Chair Curtiss: Mr. Daniels you will receive a letter from our office in a couple weeks that says it has been approved and of course you will have the have a surveyor do the division and all that.

Ken Daniels: Thank you very much.

Chair Curtiss: You are welcome.

Hearing (Certificate of Survey): Kreis Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create family transfer parcels for that parcel described as Tract 1 of COS 4470, located in the north one-half of Section 18, Township 15 North, Range 22 West.

Richard J. and Laurie A. Kreis have submitted a request to create two additional parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 20 acres in size located near Nine Mile. Richard and Laurie propose to create two additional parcels, approximately 2 to 2.5 acres, for transfer to their sons, Richard Jacob Kreis, Jr. and William Robert Kreis, for residential purposes and keep the remaining approximately 15 acre parcel for residential purposes as well.

The history of the parcel is as follows: This property has been in the Kreis family for over 30 years. This parcel was created by the filing of COS 4470, in 1999. The purpose of the division of land was a family transfer, transferring 20 acres to Richard J. and Laurie A. Kreis.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chair Curtiss: Okay. So I am assuming you are Mrs. Kreis?

Laurie Kreis: Yes.

Chair Curtiss: Could you state your name for the record please?

Laurie Kreis: My name is Laurie Kreis.

Chair Curtiss: The one thing that Colleen didn't mention was the age of your children.

Laurie Kreis: My older son is twenty-five and my younger son is twenty-one.

Chair Curtiss: Okay so they are both of legal age. We will have Colleen ask you the list of questions also.

Colleen Dowdall: So you have owned the property since 1999 when the family transfer was done?

Laurie Kreis: Yes, actually my father-in-law gave it to us in 1978 and we built a house then. We didn't actually have it surveyed off and transferred until a later date.

Colleen Dowdall: So I'm not going to ask you if you bought the property with the intent of dividing it.

Laurie Kreis: We didn't.

Colleen Dowdall: Do you or your children intend to transfer any of the property within the next year.

Laurie Kreis: No.

Colleen Dowdall: Will the property be developed?

Laurie Kreis: No it will not.

Colleen Dowdall: Will the recipients, will your sons, be living on the property?

Laurie Kreis: Yes. They both plan on building a house.

Colleen Dowdall: And you will live on remainder?

Laurie Kreis: Yes.

Colleen Dowdall: Where do the recipients live now?

Laurie Kreis: One son is renting a trailer from my sister-in-law in the Six Mile area and the other son, William, is in Missoula renting a house.

Colleen Dowdall: Okay. Have you talked to anyone at Missoula County about going through subdivision review?

Laurie Kreis: No I haven't.

Colleen Dowdall: Are you in the business of building houses or developing property?

Laurie Kreis: No we aren't.

Colleen Dowdall: You were here when I asked the previous applicant if you understand the violation of the Subdivision and Platting Act can be a misdemeanor.

Laurie Kreis: Yes.

Colleen Dowdall: You understand that the request has not been reviewed by Missoula County for adequate access in all weather for all vehicles, including emergency services?

Laurie Kreis: Yes.

Colleen Dowdall: Is the property zoned?

Laurie Kreis: Not that I know of.

Colleen Dowdall: So you understand that we have not reviewed it for that purpose, to see if you are in compliance with zoning for floodplain or septic system, you still have those processes to go through.

Laurie Kreis: Yes.

Chair Curtiss: Any more questions? So this is a hearing and I will officially open the hearing. Is there anyone else besides Mrs. Kreis who would like to speak about this? Seeing none, we will close the hearing.

Commissioner Evans moved that the Board of County Commissioners approve the request by Richard J. and Laurie A. Kreis to create two additional parcels by use of the family transfer exemption, based on the fact that

there does not appear to be an attempt to evade subdivision review. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Chair Curtiss: You will also receive a letter in a few weeks.

Laurie Kreis: Okay, thank you.

Hearing (Certificate of Survey): Mercer Family Transfer

Chair Curtiss: Next we have the Mercer family transfer. I don't believe that the Mercer's are here. Is there someone here representing the Mercer's? We will do the staff report and then make a decision.

Colleen Dowdall presented the staff report.

This is a consideration of a request to create family transfer parcels for that parcel located in the northeast one-quarter of the southwest one-quarter, the north one-half of the southeast one-quarter, the southeast one-quarter of the northeast one-quarter of Section 7, Township 14 North, Range 19 West.

Thomas C. Mercer has submitted a request to create five additional parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 160 acres in size located in the LaValle Creek area, near Missoula, Montana. Thomas proposes to create five additional parcels, each approximately seven (7) acre in size, for transfer to family members (four adult children and his wife) for residential purposes and keep the remaining approximately 125 acre parcel for residential purposes as well.

- Tract 1: Michael E. Mercer, son
- Tract 2: John S. Mercer, son
- Tract 3: Tiffani A Mercer, daughter
- Tract 4: Ryan F. Mercer, son
- Tract 5: Jo Ann Mercer, wife

The history of the parcel is as follows: This ten (10) acre parcel was created with COS 229 in July, 1978. Roger E. Indreland filed a Warranty Deed in December, 1987, deeding the parcel to First Security Bank. First Security Bank filed a Warranty Deed in February, 1988, deeding the property to Capital Sources, Inc. Capital Sources, Inc. was a wholly owned corporation by Thomas C. Mercer. Mr. Mercer transferred ownership to himself about five years ago.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Colleen Dowdall: As you said the Mercer's are not here. So they answered the questions that I normally ask and I can go through some of those if you would like. Mr. Mercer asserts that he did purchase the property in 1985 under the name of his corporation and then about five years ago transferred ownership to himself as an individual. He retired then and wanted to dissolve the corporation. So he has owned the property for a collective total of twenty years. He did not buy the property with the intent of dividing it. He bought it to help a high school buddy, Roger Indreland, who owns the property north of this one, as he was in bankruptcy at the time and needed cash to save his ranch from foreclosure. He was going to hold it for him until he could re-purchase it and he recently released Mr. Mercer from that obligation. He does not intend to transfer, and neither do his children or wife, the property within the next year. The property is not intended to be developed, according to Mr. Mercer. One of his sons has expressed an interest in building a home here, but none of the children live in Missoula now. Michael Mercer lives in Dallas, Texas; Tiffani Mercer in Seattle; Ryan Mercer in Spokane. John Mercer is currently sailing around the world on his homemade sailboat, this is his fourth year at sea. Then his wife resides with him. He said the intended gift of the lots is partly for the purposes of encouraging the children to ultimately build their homes on the property; but they are young. He has only talked to Eli and Associates about the family subdivision with the purposes of estate planning. He is not attempting to evade subdivision review. He is attempting to avoid a formal subdivision due to the cost and lack of any present intention to actually improve the property. He understands that at we are not reviewing it for adequate services and that he also understands that he believes his surveyor is reviewing the proposal to find building sites that due comply with zoning, floodplain and will have approved septic systems. And actually not zoning, it is his understanding that this is also an exemption to any zoning compliance that would be applicable to a subdivision. So in our letter, if this is approved, we might want to make clear that although this property isn't zoned, it is not an exemption from anything but subdivision review.

Chair Curtiss: Okay, this is a hearing and I will open the hearing. Is there anyone here who would like to make any comments about this proposed family transfer? We do have the maps and such if anyone would like to look at them. The last few with people who lived out of state, we delayed action until they could come here. He did, however, answer all the questions that we would ask him on the record. He did sign it, it's not notarized.

Commissioner Evans: Does it have the strength of an oath, Colleen?

Colleen Dowdall: No. I'm looking at the letter from Steve Inabnit who said that Thomas Mercer had asked him to represent him at the public meeting, he said he agreed to do that but wanted him to answer the questions the Commissioners would ask him if he were present and he has enclosed them. Perhaps, we should delay it until we can see if Mr. Mercer can be here or what happened to Steve.

Commissioner Evans: The other thing I would like is, if he can't come and Steve can't come, I would like the questions notarized so they have the effect of being under oath.

Colleen Dowdall: So why don't we delay this for a little longer than a week, because, in the letter which was written May 13th, Mr. Mercer was in China for five weeks. It may take us a while to get a notarization – so July 13th.

Commissioner Evans: I won't be here.

Chair Curtiss: July 13th?

Commissioner Evans: Yes, I will be here then. I just think that if we have a notarized affidavit then that is the same thing as having them here and they are still held responsible for what they say. Is that so?

Chair Curtiss: So I will recess, rather than close, this hearing until July 13th and Colleen you will follow up with the surveyor.

Hearing (Certificate of Survey): Revocation of Agricultural Exemption (Doty)

Colleen Dowdall presented the staff report.

This is a consideration of a request to remove an agricultural covenant from that parcel described as Tract C of COS 3713, located in Section 35, Township 12 North, Range 20 West.

Martin and Cecelia Doty have submitted a request to remove an agricultural covenant from the property described on COS 3713, in the Lolo area. Martin and Cecelia live in the area and purchased the property with the intent/desire to build a larger home on it.

The Doty's consultant, Toby Dumont with Professional Consultants Inc., speculates that this Tract was created with the agricultural exemption due to the issues it has within the Floodplain. Due to the Floodplain issues, the parcel is not suitable for an on-site drain field. The owner and several neighbors are in the process of bringing public sewer to this and some adjacent properties. That would eliminate the need for an on-site drain field. The Doty's are seeking to have the Ag covenant revoked so that it can be developed in some way using the Lolo sewer system. The Ag covenant is an exemption from the Subdivision and Platting Act that we don't use very often, but it is usually used to create a parcel for agricultural purposes and it is required that if there is a covenant on the property, that no structures be built on it, particularly that require lifting of sanitary restrictions. The covenant stays on the land until the Commissioners and the party agree to its lifting. The result of lifting the Ag covenant would be that you would have a parcel of land with a legal description that would be capable of being transferred and developed.

Chair Curtiss: Thank you Colleen. Are either of the Doty's here? Okay. If you could state your name or names for the record.

Martin Doty: Martin and Cecelia Doty.

Chair Curtiss: We are always briefed on things that come before us before the meeting and we discussed this in our County Attorney meeting and because it's in the floodplain, it presented a different case for us than usual. So the County Attorney staff has worked on a proposal for us. I guess this is a hearing, so I'm going to open the

hearing. Just a proposal, it sounds like you want to build a house on this property, one house – you are not proposing to subdivide it further than that?

Martin Doty: Correct.

Chair Curtiss: We have some language that I think will work for you and for us.

Colleen Dowdall: Could you tell us in the meantime how big it is?

Martin Doty: It's just under twelve acres.

Colleen Dowdall: What are the uses on the property now?

Martin Doty: It's an actual gravel pit.

Colleen Dowdall: You aren't intending to subdivide?

Martin Doty: No.

Colleen Dowdall: Does the gravel pit take up the whole property?

Martin Doty: About half, I think it's permitted up to eight acres.

Colleen Dowdall: So you don't intend to subdivide it.

Martin Doty: No, we just want to build one single family home.

Colleen Dowdall: Have you applied for a floodplain permit?

Martin Doty: No, not yet.

Chair Curtiss: Do you have to reclaim the gravel pit?

Martin Doty: Yes.

Chair Curtiss: There is a plan for that?

Martin Doty: Yes.

Chair Curtiss: And you haven't applied because you don't have the approval for septic either?

Colleen Dowdall: When you have an Ag covenant, you've essentially created a parcel that hasn't gone through subdivision review and that wasn't necessary because it wasn't going to be developed. If you take the Ag covenant off, it is something that can be developed and the concern with that in this case is that with special issues like floodplain and increased development in the Lolo area and particularly in this place, we don't, through the exemption process have an opportunity to look at all those issues. It was my understanding that you were going to be going through subdivision review.

Martin Doty: No. We were told that if the sewer is developed and brought down, then it is one lot and we can only build one single family home on that lot, if we could get the Ag covenant lifted and the sewer is approved.

Colleen Dowdall: And get a floodplain permit. So what we were considering, given the subdivision, is that approving lifting the Agricultural Covenant with the condition that subdivision is approved, if you were going through subdivision review, because then we would know if the property is capable of being developed. So given that they are not going to do that, your decision has to be based on whether – I don't know why without subdivision review they could only put one house there under the Subdivision and Platting Act.

Chair Curtiss: But we still haven't gotten an opinion from the floodplain administrator at this time, right.

Commissioner Evans: I think if he gives them a permit, then he obviously would have said, in his mind, that it is okay.

Jeff Schalow, Senior Planner with the Office of Planning and Grants: I am also a Certified Floodplain Manager and supervise the appointed Floodplain Manager for the County. We prepared a map for this parcel, it is entirely within the floodplain.

Commissioner Evans: But not in the floodway?

Jeff Schalow: Not in the floodway, but entirely within the floodplain. The parcel does not have dry land access. If you were to allow them to build a structure here, through the permitting process we could ensure the structure would be elevated. However, the road will be inundated during a flood, the occupants and emergency personnel would be at significant risk during a 100 year flood event. There will be no ingress or egress, the road will be underwater. Aerials taken at the time of moderate flooding that occurred during the 1997 do show Lewis and Clark Drive under water. The Comp Plan refers to this parcel as being in the area of significant flood risk. The development rights, if there were any, were voluntarily given up by the previous landowner who requested that this lot, and that occurs on the subdivision exemption, be used exclusively for agricultural purposes, the specific language in the covenant: "I further certify that no building or structure requiring water or sewer will be erected or utilized on Tract C," and that simply means no septic system. The indication was any structure requiring water or sewer will not be erected on there. That is the exact language. Also, I would point out, on behalf of the floodplain, that it's been the County Commissioners policy not to support the creation of new residential subdivisions entirely within the floodplain and though this is not a subdivision, it is an analogous situation and essentially the same thing, you would be creating or establishing a building lot completely within the floodplain. Also, incidentally, I think what is actually going on here, I would note that the applicants do own property nearby and have a home there. That property is also in the floodplain and we have no record of any floodplain permit ever being issued for that development on their existing property and for their existing home.

Martin Doty: Our actual existing house is in this pocket, right here, that is actually out of the floodplain, on an above ground, elevated sand mound.

Jeff Schalow: Normally we would have a Certificate of Survey indicating that was the case.

Chair Curtiss: So are you saying that Monty Lane, Jeffrey Lane and Lewis and Clark Drive are all the accesses to that wet when it's high water.

Jeff Schalow: That's what it appear to be.

Martin Doty: We've lived down there eleven years and we've never seen –

Cecelia Doty: When it has the rain – the water, the road, the Lewis and Clark Road, the one that runs right along Miller Creek, that's the only one that was ever wet during that time.

Martin Doty: But that was further south of our property – down past our property where it gets wet.

Chair Curtiss: So what would be the access that you would probably be using for this lot if you built on it?

Cecelia Doty: We could use either the road off of Monty or off of Lewis and Clark. We have several, well, we actually have the three different options that could be the roads to it – whichever one that would – there is an existing road that they have lifted.

Martin Doty: It's been somewhat elevated, I mean, not much. The County does have a sand pile that they use during the winter, their equipment uses that road.

Cecelia Doty: So the County uses that road.

Chair Curtiss: So you must have an idea on the property where you think you might want to put your house. Could you show us where that is?

Martin Doty: We are proposing to put a house right on the corner. I've got a blown up aerial map, there are residences that have been built.

Commissioner Evans: So it would be accessed, in all likelihood then, by Jeffrey Lane?

Martin Doty: No, from Lewis and Clark.

Cecelia Doty: Or Monty, we could do an access either way.

Commissioner Evans: I don't recall Lewis and Clark ever being under water. Has it ever been?

Martin Doty: Not that we know of. We've been there ten years and it never has been.

Jeff Schalow: The aerial photos that we have from 1997 show it under water.

Chair Curtiss: Just that one end, Jeff?

Jeff Schalow: No, through the floodplain area.

Cecelia Doty: Was that just on Lewis and Clark, not on Monty?

Jeff Schalow: I would have to check.

Chair Curtiss: Could we delay this based on working with the floodplain administrator and seeing if there is a spot there that – it sounds like you guys have already done some research. So that they could actually go through that process first, with him knowing that we have to lift the one for them to –

Cecelia Doty: When we actually were looking at purchasing the land, we did go down and speak with a gentleman at the floodplain and we took all the paperwork in and asked him about that particular area and that was one of the reasons we purchased it, because he said there should be no reason you can't if you can get sewer down there. If you can get sewer –

Chair Curtiss: And was that Brian Maiorano?

Martin Doty: No, Todd.

Chair Curtiss: Todd, okay.

Commissioner Evans: Todd Klietz, the current Floodplain Administrator.

Martin Doty: We bought it in February or March.

Chair Curtiss: This year?

Jeff Schalow: Todd will be back next week.

Chair Curtiss: Okay.

Commissioner Evans: My concern about doing that, Jean, is unless we are of mind to lift this Agricultural Covenant from the land, if Todd says they can put a house on it, if we are of the mind to do that, then fine. If we are not of a mind to do that, then I don't want them to go through that kind of work and we say no. That's just not my style.

Chair Curtiss: Mine either, I would – probably cows don't eat gravel too good so.

Commissioner Evans moved that the Board of County Commissioners approve the lifting of the Agricultural Covenant, contingent upon Martin and Cecelia Doty receiving an approval from the Floodplain Administrator for building a house there as long as sewer is available and attached.

Colleen Dowdall: That would work because you guys have to sign the resolution to lift the covenant, so if you are not satisfied, then you wouldn't sign the resolution.

Commissioner Evans: If we are going to make that decision, based on Todd, if he doesn't sign it, we won't sign it. It's that simple.

Jeff Schalow: I think though, the bigger issue, we can always issue a floodplain permit or development permit in a floodplain, provided that the structure is elevated and flood proofed and all that sort of thing. The bigger issue that Todd wanted to make clear was that there doesn't appear to be dry land access during a period of flooding. There won't be access into the property.

Colleen Dowdall: So if this was undergoing subdivision review, even for a one lot subdivision, that would be something that would be reviewed because physical access during all events wouldn't be available.

Chair Curtiss: So should we add something about Public Works onto that?

Commissioner Evans: I would let my motion stand. I think Todd will look at those issues, he's a very responsible young man and if he feels that it is not appropriate, he'll let us know.

Chair Curtiss: So you just want to add the language, "access"? So the permit for the house and access to the lot, can we do that?

Colleen Dowdall: And that access is established.

Martin Doty: You know, there are half dozen houses down there that wouldn't have access either.

Cecelia Doty: Besides ours – there is one that would be literally just adjacent to where we plan on building that would use the same road we did.

Colleen Dowdall: I don't know how those were built or what the rules were.

Martin Doty: Well the one was just built last year and it was –

Colleen Dowdall: Is it in the floodplain?

Martin Doty: Yes, and they had their agricultural covenant lifted on their property also.

Cecelia Doty: They were other people who lived down there also who just wanted a bigger home.

Martin Doty: The new home is built right about there. He had to build it up.

Cecelia Doty: And we have all the gravel to do what needs to be done to make the road lifted because we've started like a 4 acre pond on the premises where all that gravel – we can make it to code to make the road to what it needs to be.

Commissioner Evans: So suppose we add access approved by the Public Works Director of Missoula County.

Chair Curtiss seconded the motion with the addition of wording to read "access approved by the Public Works Director of Missoula County." The motion carried on a vote of 2-0.

Chair Curtiss: I think both our Floodplain Administrator and our Public Works Director are on vacation.

Commissioner Evans: It's that time of year you know.

Chair Curtiss: So if you can get them to approve of a homesite and an access road, then we will lift it.

Colleen Dowdall: I'll send both of them an e-mail that tells them what happened today, so they won't be surprised when you contact them.

Commissioner Evans: And please make sure you do have access to your house, because I really don't want you stuck in Missoula when you have a flood.

Chair Curtiss: Thank you. I think I closed that hearing – so it's opened and closed. Next we have a continuation of the Wye-Mullan Plan.

Commissioner Evans: Let's take a five minute break before we start.

Hearing (Continued from June 1, 2005): Wye-Mullan Plan

Chair Curtiss: We will come back to the hearing for the Wye-Mullan Plan. We have some issues that we have discussed in our work sessions that we should be able to make decisions on today and then there will be time for some other comment if necessary. We also have some times that we can finish up the last issues with a work session. Issue #12: This was the one that refers to verbal comments stating concern over impacts on existing roads and trying to address road problems before they occur and we are talking about Chapter 6A. The alternative approach was the plan includes strategies that address the concerns of discouraging cut-through traffic in residential neighborhoods and keeping local trips on local streets. It also includes a strategy to work with Public Works to determine the appropriate traffic management tools for existing neighborhoods. Additionally, it encourages the development of build-out, transportation infrastructure plan to provide more detailed planning and mitigation tools. So they were recommending no change. Then we had discussion at our work session on the 10th and talked about offset or "T" intersections. So the proposed language change would be on page 6A-7 to add language: "*When incorporating traffic calming measures, safety, weather and maintenance will be considered.*" Our Public Works Director said he was okay with the things in the plan as long as there were "T" intersections at connector streets and main streets.

Laval Means: No actually, the focus, that type of technique for local streets.

Chair Curtiss: He wanted the other kind. Full intersection I guess, not offset, he wanted on the main roads, but these are okay.

Laval Means: These are okay on local streets and then we determined that the traffic calming introduction to that section is about local streets.

Chair Curtiss: Right. So is there any comment on adding the underlined language that's on the sheet you were handed out today for Issue #12. Seeing none, I guess we can take action on that one.

Commissioner Evans moved that the Board of County Commissioners add the language in Issue #12. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Chair Curtiss: So that amendment will be made. Okay the next issue that we will look at today is Issue #16, the Neighborhood Commercial Centers, commercial area. Through our work sessions, we ended up changing a lot of the land use at the end of the airport area and ended up with no Neighborhood Centers identified, so, the alternative approach was to add an indicator to show the areas that would, in the future, need a Neighborhood Center. We talked about some of the places they already exist and areas that may need one in the future. So the language today is just to, we didn't do any of this language, yet, right?

Laval Means: You approved the language that I am referring to here about the overall neighborhood center worksheet. It was dated May 31st and that language was approved at the June 1st public hearing. Also, showing these potential and existing locations on the land use map. So the language I show under the alternative approach in the grey is some new language that I am asking you too look at. That helps to describe the concept that came out of the hearing and that is not just show potential but existing indicators as well.

Chair Curtiss: Okay. Maryfrances has asked that the piece that talks about the land use map revision, in other words, it will actually show the indicators, if we could wait on that piece – but the language is okay.

Commissioner Evans moved that the Board of Count Commissioners accept the language for Issue #16. Chair Curtiss seconded the motion.

Chair Curtiss: Is there any public discussion on adding that language that just clarifies what the indicators are? Seeing none, all in favor?

The motion carried on a vote of 2-0.

Chair Curtiss: We will wait to revise the map after you've had time to talk with your planner. Do we need to add, we gave you the okay to go ahead and start revising the land use chapter and the neighborhood chapter, so I will just say that on the record, that we did that on the 10th, I think. Were there any others we can wrap up today before we go into just more discussions on some of the outstanding ones.

Laval Means: One thing that I gave out at the end of one of our meetings was a revised Table 6A4, which is the Transportation Table that is about Wye-Mullan area improvements that come from the 2004 Transportation Plan Update. You pointed out that there was a problem that the idea with the revised table was that it would help communicate, show what are committed projects, recommended projects, and unfunded and illustrative projects. We already have it, the suggestion was that we reconfigure it to show it a little clearer and so Mike worked that up, but you pointed out that the totals weren't matching. Mike went back and looked at it and found his mistake that he had missed an item and he has the revised table here that you can look at and act on or choose to wait.

Chair Curtiss: So this is just a clarification, I believe, this was asked for by somebody on City Council to show the committed, the recommended, and unfunded projects. Is there anyone that wants to make any comments on this?

Commissioner Evans: I have no problem with it. Having just gotten it, I don't know whether this one is easier to read than this one. Is there any reason we can't put both of them in? It appears to me that there are different things on the one that is already included on Table 16 versus this one.

Laval Means: I thought it was the same information, but no.

Commissioner Evans: I don't see any reason you can't have both of them in there and then you can read the one you like.

Chair Curtiss: So are there things missing on the – I would hope that the second one that you handed out would have everything on the other plus maybe some stuff.

Laval Means: It should be the same information and complete. I think that the first sort was by systems, right. It was the roadway expansion, transportation system management, non-motorized and transit, and that's how Mike went about sorting it. And then the second sort is based on funding.

Commissioner Evans: It has more detail on the first one.

Laval Means: It does?

Commissioner Evans: When you look at the unfunded illustrative transit, it breaks down transit into what they planned on doing with each of the dollars in transit, the total, the figure. There is more detail on the one that's currently in the package. This is easier to read than the one that's more detailed but I see no reason not to use them both.

Chair Curtiss: So it seems like maybe, though – should we just take the second one that has the divided – which format do you like, do you like it divided by roadway, transportation and non-motorized transit or should we do these break downs within this format, is what I'm wondering, that way we could have all the detail.

Commissioner Evans: I like them both just as they are. They have dollar assigned to specific items. Somebody may want the specific items of how much money is going to be spent on bus replacement.

Chair Curtiss: So bus replacement is – I see what you are saying, so the bus replacement is there, but it shows which routes underneath.

Commissioner Evans: I just think there is more detail on the one that is in here, but the new one is easier to read. Can't we simply say, same information different formats.

Chair Curtiss: We would probably want to put this one, the new one in ahead of this one, and then this one can just say "detailed" or something. Does that work?

Laval Means: Yes.

Chair Curtiss: So 6A-4 and 6A-4.1 or whatever you are using. So basically what we want, and maybe we could give staff the leeway to figure out how to do that the best, but we want this but we don't want to lose the detail. If you figure out a fancier way of putting the detail in this one, that would be okay too, I guess.

Commissioner Evans: As long as it's all there and easy to read.

Chair Curtiss: So is that a motion?

Commissioner Evans moved to that the Board of County Commissioners accept the language of this issue. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Chair Curtiss: So we're not ready to do the language on the EADA yet, right?

Laval Means: I think it was pretty "draft-ie." We need some more time to keep working on it.

Chair Curtiss: We will do that at our next work session. So, I understand that Mr. Pratt is here and would like to talk to us a little bit about his property, his proposed uses and the one question that the Commission has – the plan for access is the one thing that the Commission would like to hear more about. So Mr. Pratt if you would like to come to the microphone.

Commissioner Evans: Or your representative.

Chair Curtiss: So this is the property, and it's south of El Mar? Whenever you're ready, Mr. Pratt.

Kent Pratt: What's the question, then, as far as the access to the property?

Chair Curtiss: Right. Access. What kind of use you want. Right now it's listed as clustered and the end result ends up being open space, etc., but it ends up about one for one.

Kent Pratt: Yes, one dwelling per acre in open cluster development. That, I guess in the first draft of the Wye-Mullan Project, was two dwelling units, and in March when it was revised, it went to one.

Commissioner Evans: And we discussed last week the potential of four per acre.

Kent Pratt: That is correct.

Commissioner Evans: So which are you wanting?

Kent Pratt: The four per acre.

Commissioner Evans: My concern about that was access off of this road which goes through less dense area verses coming in through one who is dense. I would be willing to go with the four per acre but only if you come through the area that already is dense, not the less dense area.

Kent Pratt: Can I show you on the map? There is potential, one you've got this road that comes into the parcel right here. Two, the land owner here can be summoned in regards to an easement that would take the road south out of this, out to Haven Heights Road and back to Cote Lane as well.

Commissioner Evans: Those are much bigger lots.

Kent Pratt: These are much bigger lots, these are all one dwelling per 5 acres. Right now you've got one dwelling on 25 acres on this parcel

Commissioner Evans: I would hesitate to do that Kent. I would prefer that you come though El Mar which is already very dense into an area that, if we allowed you to have a dense, doesn't change the land use, it would remain the same.

Kent Pratt: Right. There is a potential in regards to another easement off of Mrs. Riley's property right here, which you can see, this used to be the County Sewer Plant at the El Mar Estates Sewer Pond and there is a road easement that comes off of Warbler Lane and tie into that road to take this back to the property as well. There are potential for two other accesses in and out of the property.

Chair Curtiss: Does the part that's got the 5 acre lots, has that been developed yet?

Kent Pratt: It is. It is completely sold out and there is a 60 foot wide road easement that takes it into this parcel as well, as part of the plat approval when it went through.

Commissioner Evans: That's where Diane Beck lives, is on Haven Heights.

Kent Pratt: Diane Beck would live right about there.

Commissioner Evans: Part of Haven Heights, then?

Kent Pratt: Yep, it is.

Commissioner Evans: I would hesitate to go 4 to the acre, which is what you want, if you don't come through an already dense area that is 4 to the acre, or similar. One per five, two per one, they are much less dense and they are going to be cranky if we give you 4 to the acre and then run your traffic through them. That's my perspective.

Kent Pratt: When we bought the parcel, part of the attractiveness of the parcel is that it butted up to El Mar Estates, which I believe is 4 dwellings per acre, if I'm not mistaken.

Laval Means: I went back and looked at the final plat for Caitlyn Estates, that's the subdivision that is this 50 acres here that is in fives. I think that Kent described it the way that I see it on this final plat and that is that there's a 60 foot wide conditional public access and utility easement right in that vicinity. So, I think when establishing these fives, it was established with the idea of if more development happened further too the north – I understand where you are coming from Barbara and that's the density, not just the development – but if development happened here, it is established for connectivity or the opportunity for connectivity to the south and than back over to Cote. So we can get some makings of a connection back in this vicinity and back over here.

Nick Kaufman: Neighborhoods work well even if the densities vary and I think the area west of Reserve Street is a very good example. There's lots of two to four dwelling unit per acre stuff where the children go to Hawthorne School, but there's still 5 acre tracts. I think what a person has to look at here is, we are talking about a cluster concept of one dwelling unit per acre with 50% in open space, over the large ownership of the Kona Ranch as well as over some of the smaller 20 acre parcels. And while you can see on this map and air photo, the Kona Ranch has diversity of important resources and different types of developable land which lend itself to preservation of large open spaces and some sorts of clustering, that while it's not impossible to do a cluster concept on the small tracts, it's certainly more difficult. At the same token, this community still requires 732 households a year. That's how many households are formed each year in Missoula. If we've got a piece of property where the terrain is good, that's adjacent to sewer and water and adjacent to this kind of density, and if our growth policy says that Mullan Road is one of the areas where we are going to want growth and we just spent the money to extend sewer out there, wouldn't this be a place we'd would want to consider four dwelling units per acre. So what is the infrastructure that's in place; sewer, water, roads and terrain. So to me, as a land use planner, it makes perfect sense to consider a higher density adjacent to existing higher density. There is another reason, and if you look at the open space plan that you recently adopted, there's an open space indicator that falls on this property. Laval can show you with her pointer the open space in El Mar Estates that adjoins this property.

Chair Curtiss: I think it's a park isn't it?

Nick Kaufman: It's park, it's green. There is an adjacent park that runs north-south and then there's a large ball field in El Mar Estates right there and so if we were to develop this at a higher density, our parkland dedication could be provided in such a matter to augment the park space between those two neighborhoods, as well as this neighborhood. So now we get a neighborhood focal point that is open space, as well as connectivity between neighborhoods. And I would urge you to give that consideration.

Commissioner Evans: What the acreage of Kent's land?

Nick Kaufman: About 25 acres and the property to the south is similar, just over 20 acres. And as we look at this development, we would want to look at Riley's property and we would want to look at the property to the south, and try our best to incorporate the principals of good planning, which include connectivity and the central focal, open space, excuse me, parkland that's proposed, well it's in the adopted open space plan now. So there is a couple good things that happen with this, it meets the goals and objectives of providing housing, it has the infrastructure and it meets your adopted open space plan, or help facilitate the open space plan at the same time.

Chair Curtiss: So on 25 acres, what's the required parkland? Is it 11%?

Nick Kaufman: You know I was playing with the math this morning in City Hall and I think –

Colleen Dowdall: It depends on the size of the lots. It's 11% of lots smaller than one-half acre.

Nick Kaufman: But it could be to 3 acres, Jean, or larger. It's a function of how, I haven't worked with Kent to lay this out at all. But, you can see that combined with what El Mar Estates has in the open space system would be significant.

Commissioner Evans: So as the planner that would likely be laying this out, would you be inclined to put the access through El Mar or something --?

Nick Kaufman: It really wouldn't make any difference to me, Barbara. In the subdivisions that I have done in this community, the Public Works Director, representing the governing bodies, require connectivity between adjoining neighborhoods where right-of-ways abut. So if there are right-of-ways that abut in El Mar Estates, and right-of-ways that abut to the east, be it in Haven Heights or in the subdivision in the south, the Public Works Director and the Office of Planning and Grants will recommend for that connectivity.

Commissioner Evans: And I understand that, my concern is that the likely fuss of the neighbors I think would be less in a more dense area than it would –

Nick Kaufman: There is no doubt that there would likely be fuss. There are things that we can do in the design of the subdivision to route traffic to a more desirable collector street, in this case the north-south collector street in El Mar Estates is Quail and it turns into another bird and I'm not sure exactly which one as it moves to the south. And if we could acquire an easement on the Riley property then we could connect to that north-south connector in El Mar Estates. And that would be our goal.

Commissioner Evans: And mine as well. I didn't talk to Nick first or to Kent.

Chair Curtiss: I think Nick's right though in that the connectivity there, it looks to me like there's about four connections that need to be made in the end of the whole little area.

Nick Kaufman: And we appreciate you taking this under consideration today for us.

Chair Curtiss: Are the roads in Haven Heights private or public?

Nick Kaufman: Public.

Chair Curtiss: I believe there might be some discussion about what that access to the Riley property really is, whether it was only for – it seems like we've heard this discussion – only for accessing it in regards to the sewer. They have to work out some other issues I think.

Commissioner Evans: So do you want a motion today on this issue?

Chair Curtiss: I don't know. There might be some other things to consider.

Jeff Schalow: I don't have strong feelings one way or the other, but I do want to point out that we've started to talk about developing another type of cluster at 2 per acre. Cluster from south of the airport there and perhaps this is another area where that might be considered. Kent did indicate that in the original version, that we had originally written, the cluster pattern, it was with densities of up to 2 per acre depending on how much aggregate and open space there was. And Kent started out by saying they had been happy with that.

Chair Curtiss: We have the cluster overlay over those 5 acres, is that because we think that could change in the future? That those 5 acres have the potential to?

Laval Means: I think that there's the potential that I may have heard that they are established so that they – there is probably a covenant for how far down they can continue to split.

Commissioner Evans moved that the Board of County Commissioners allow for 4 per acre on this particular piece of land and encourage the designer and the owner to provide for connectivity in a way that will cause the least fuss with the neighbors.

Chair Curtiss: Nick, did you want to make a comment?

Nick Kaufman: No, thank you very much, Commissioner.

Chair Curtiss: I hate to put a 4 per acre just on that one little piece, I think that we should talk about whether or not the piece below it belongs – it seems like it makes more sense to consider a couple pieces there as – not just making an island.

Commissioner Evans: We'll get to that one I'm sure.

Chair Curtiss: Yeah, they'll be the next ones in line. I think I would rather wait and have more discussion about that whole other cluster idea which would end up being half acre.

Nick Kaufman: What you could do is follow somewhat suggestion of Mr. Schalow where you're at El Mar Estates and adjoining El Mar Estates, you're at four, and then you go to two on the light colored parcel, then it's divided into five and you've got your 1 per acre cluster below that, so you go from four to two to one. That would make a nice transition and you could dispose of it today.

Laval Means: So this four?

Nick Kaufman: Yes four, two cluster and one cluster.

Laval Means: Is this the parcel that you are referring to as the Riley zone? And this parcel? It looks like there's two here.

Nick Kaufman: They own that whole complex, Laval.

Commissioner Evans: That makes sense to me so I'll change my motion to that.

Chair Curtiss: So that one is four – two – and one. The one there, the one per five has already got that laying over it, so we don't have change it, right?

Nick Kaufman: I think Jeff mentioned that two was the cluster. Wasn't it, Jeff?

Laval Means: Two cluster, put a "C" in front of it.

Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans: What else do we have?

Laval Means: I wanted to let you know that we did meet with Charlie Deschamps earlier – was that this week? – earlier this week and have some ideas that were thrown out. I haven't really drawn anything up on a sketch or anything, we can wait to talk about that during a work session if you like or we can – I think that Bill was pretty interested in it too. But he's gone for awhile now?

Chair Curtiss: Two weeks, he's gone all of next week.

Commissioner Evans: Is there any reason we can't wait for him to come back?

Chair Curtiss: Well, we could throw it out there, everybody's sitting here, Joe's here today.

Laval Means: I guess with the PowerPoint, I could show you what we were thinking about and then you can go from there. Does that sound okay?

Chair Curtiss: The land between the airport and the Milwaukee?

Laval Means: What we did was pull up several layers of information and I can have this in more detail when we go into the work session but maybe I'll just sort of show you where we went, where we ended up with it. The kind of layers of information we looked at were the topography, the slope, an aerial underneath it, the proposed road system the way it is, the 4,300 foot line, zoning and the urban growth boundary, with the land uses the way we were showing it. The direction we were trying to head was to think about it in terms of rather than a shift in densities from 4's in this area to 2's, to a potential airport runway that's planned further out in time, to the shift of

transition of density of 4's in this area to a cluster 2 in this area. So, with the pen, did you already have a pen on this. So essentially, it was something like looking at this piece, with the idea, and I think it kind of went over in here with the terrain that I can't really show you right now, as a cluster 2. In this vicinity, coming up to the terrain here, there is some sort of pulling back, but part of this Open and Resource we actually even wanted to evaluate a little bit more, because it was sort of functioning as an edge, if you will, to that airport ownership. But we wondered about, so we start to feel like this is actually maybe more with regards to the lay of the land and we were thinking of this as 4, this staying as 4, and then again back over on this piece, coming into wherever the constraint is – gosh, I guess it keeps on going – like that would create all of this consistent up to the Old Milwaukee and this Open and Resource line has 4's. So that's sort of just a summary of what we were looking at. It gave credence to the drainage in this area and riparian vegetation and some slope, it pulled it all together too, because making that transition the way it was being contemplated from 4's here to 2's here, was along a road that isn't platted, it's not a dedicated road, we don't know exactly where that is going to end up. In fact, I think in our earlier sketch, it shows it even a little bit closer down in the vicinity. So how much was 4, how much was 2, and that kind of thing, and all of this is clearly within the Urban Growth Boundary, it has the same type of land constraints over here as it does over here. So we thought about just staying consistent, we were all ready for posing 4's over here on the Pruyne land and this piece of 4, so why not 4's there. And then deal with the transition as you go this way because we do have a land use designation of one per five here and it still acknowledges there can be more that goes on. One of the things, I think in error that I was talking about but when I was able to place these other layers on top, and please keep in mind that this is really approximate, but there is the Urban Growth Boundary that we talked about, I have it on this other map – I just didn't bring it here – but it's actually out here, so it's something like that. So a portion of this piece that I was saying is adjacent, actually is in the Urban Growth and the sewer service area, and a portion isn't. And I think that this gives us the balance, it gives us the same, pretty close to the same, methodology that we were using on the other side of Mullan Road. And then we even looked at the zoning for just a minute and recognized that there was some industrial zoning that cuts through here somewhere and then it jogs over and wondered about how to deal with this piece in here with the industrial zoning. This is also zoned industrial here and we are designating it as 4's. But we were wondering after all of the dialogue –

Chair Curtiss: Zoned or Comp Plan?

Laval Means: It's zoned industrial. This part over here is industrial, this over here is industrial and then when you get on the other side, this over here is one dwelling unit per acre zoning. So what we thought about also, if you start to think, you know there has been a lot of great talk about neighborhoods and neighborhood planning and urban density and we thought about maybe even establishing – with what color – an idea of a potential neighborhood center. That would help to give a little credence to this zone, not to be such a challenge, if you will, between it being industrial and some other uses happening there. And it's also, in this vicinity, we show an indicator for a neighborhood park, well now the two can go hand and hand, really. So that's kind of a summary of our meeting, and just throw it out there for you guys to think about and maybe have more dialogue with later.

Commissioner Evans: Is Charlie satisfied with this?

Charlie Deschamps: Yes.

Nick Kaufman: Thank you Commissioners. I know someone who lives very close to that boundary right there and I have had –

Chair Curtiss: A mule named what?

Nick Kaufman: Yeah that's right. I've had the privilege to lose a lot of arrows out in Charlie's field, that might be how I met him, but I met him a different way, I know. I've helped him move his cattle and goats across that a number of different times, I'm very, very familiar with it. And I think what Laval has proposed here is a very good idea. I think it is very consistent with the capability of the land as well as the cultural constraints and opportunities that are provided there. So as an adjoining property owner, I wouldn't have any trouble with what you're doing.

Commissioner Evans: So can you draw that all up with a motion and whatever? If I was just to say, I would move that we approve what you have just recommended, you can take care of the wording after that?

Joe Easton, Acting Director of the Airport: I understand the Commission's goal and the Comprehensive Plan's goal to prepare for contingencies and provide some directions to the community about the use of that land. I want to stress, from the airports perspective, that future disposition of that land has not been determined and while we are investigating possible uses, possible dispositions of certain parts of that land, nothing has been set, nothing

has been decided. So I would encourage whatever plan comes out is to have the most flexibility, because what's available to the airport on land that the airport will own is high dock warehouse, perhaps aviation hangers, perhaps low level industrial, perhaps some commercial uses. The process to dispose land that the airport wishes to no longer own will come with covenants that insure compatible uses around the airport. That process has not begun, we don't have the answers, I can't tell you what those limitations would be, but there would be covenants that would run with the land when the airport decides where to cut off the land to sell south of whatever point. So I understand the goals right now are to move forward with some specificity, but I'm encouraging the Commission and the Plan to add as much flexibility to potential use of that land, whether it's stays in airport ownership or eventually is not airport ownership. Just saying residential does not mean it's going to be residential, it's still airport ownership and could be anything from like I said, high dock warehouse to low level industrial, could remain airport or aviation uses, etc.

Nick Kaufman: Could you show us on the map?

Joe Easton: To many lines. I think it's this red dashed line that comes in here and then part of the Pruyn option is the railroad cut that comes out to here and then the Pruyn option is up into here and then this is what we bought two years ago, the 115 acre parcel, so that's my best swipe at this. This squared off is the option, including some railroad cut, and Deschamps parcel is this red dotted line. I understand that this red line is a 4,300 foot south which, for clarification, is a 2,800 foot separation and then the minimum separation for airport ownership would be 1,500 feet, so that's why I understand that everyone uses 4,300 feet, so, but I think that is pretty accurate, that red dashed line.

Colleen Dowdall: I just wanted to ask Joe a question, because the previous discussion we had about this was in a work session so it was off the record. That was that we were told that if the airport sold the land, it would likely come with a deed restriction for commercial or industrial.

Joe Easton: I don't think we can make that commitment now. There will be a deed restriction on that with compatible uses. And I'm hedging my language because there are some residential uses that are compatible in airport environs. We just can't say what that is right now because there has to be study with existing traffic, existing runways, so when we get to that point, we need to make a better analysis than just saying, throwing out a number and saying this is the appropriate level of residential.

Colleen Dowdall: I sympathize, but we – are you going to take action on this today?

Chair Curtiss: I don't know, I have another question for you.

Colleen Dowdall: Because during the work session we also discussed the fact that if the Commissioners recommend it for residential use and you sell it with a deed restriction for industrial use, the property will be very difficult to improve at all.

Joe Easton: That's why I would encourage the broadest designation possible. To just say this is residential, I think is inappropriate, to just say it is commercial is inappropriate. There has to be some other mechanism or some other definition for that parcel inside airport ownership that perhaps is south of 4,300 feet, and I don't want to commit to 4,300 feet either, it may be a different level or number of acres that is disposed of, that no longer meets the airport's needs.

Colleen Dowdall: And I just also wanted to note that if you develop the land, the airport, of course you are not subject to land use regulations, so it remains in your ownership.

Joe Easton: It remains in ownership and we have the ability to zone our own land. But we are talking about the Comprehensive Plan that involves the entire community and that's why we are here to participate. Yes, we are going to go forward and designate a land use, zone it, put covenants on it and develop it ourselves or sell it, that's the process.

Chair Curtiss: So Joe you don't have a – you said there are some residential uses that are compatible with the airport. But you don't know the number.

Joe Easton: No I don't because sitting here in 2005 I couldn't – that proximity to the as-built environment might be a totally different number than if in 2025.

Chair Curtiss: As to what FAA likes?

Joe Easton: Correct.

Chair Curtiss: So my question to you, Colleen, is, and in some ways it's not even a valid question anymore because of what you just said, but, is there a way to talk about the use if it stays in airport ownership different than other, it sounds like the airport can do what it wants, so that probably doesn't need to be on there.

Colleen Dowdall: Yeah, the airport can do, they don't have to comply with the zoning or the Comp Plan. I guess my concern is more if the airport chooses to sell it.

Commissioner Evans: It would seem to me that until the ownership is determined somewhere or the other, nothing will be done on the land other than whatever designation we give it. Is that correct? It seems to me that someone has to determine who owns it before they put anything on it.

Colleen Dowdall: And I guess that's true. But I think that we aren't – it shouldn't matter to us for our consideration, because again we just need to look at what is appropriate for land use. So now we have recommendations for residential from the planning staff and one owner of neighboring property and potential owner of that property and we have from the other reported owner, the airport, something very different.

Commissioner Evans: The point I'm getting at is if we zone it residential with whatever density we choose to give it and the ownership remains in question, nothing will be done on the land until the ownership is decided. And if the current airport owns it, they can zone it however they want. If they don't own it anymore, then the resident who would own it could do whatever we've decided. And so if they decide the airport owns it and they don't have to ask us than they don't have to come in for a change of zoning or anything.

Colleen Dowdall: The problem is that the airport wants, if the airport decides to sell it to a third party, if it is determined that it is their ownership and we have it at 4 per acre and they sell it with a restriction that it can only be used for industrial use or commercial, then whoever buys that would have to come to the Commissioners and ask for a zoning change that would not be in compliance with Comp Plan. So I don't know how, if you want broad language, if you want to have some language that says, this just depends, we just don't know into the future, I could write some of that to try and provide the flexibility for the airport when they are selling the property. You just have to know then that you may be having commercial and industrial next door to 2 per acre cluster.

Chair Curtiss: So the land right now is zoned, the ones that are zoned for residential, is zoned one per one. If the airport sold the land and put a deed restriction that said, had decided that land use of two per one was the max, and our plans said four per one, somebody could always ask for two per one. You can zone lower than recommended.

Commissioner Evans: It's easier to go down than it is to go up.

Colleen Dowdall: What would be difficult would be to go from residential to commercial or industrial.

Commissioner Evans: It's easier to go from commercial or industrial back down to residential. It's much more acceptable.

Colleen Dowdall: It seems that way.

Chair Curtiss: I guess I do have a question for either Joe or Lynn. Is the land purchase that you made with Deschamps, you do have a restriction on the existing or the land he has left, that says 2 per acre, is that right?

Joe Easton: Lynn (Fagan) nodded her head yes, that is correct.

Chair Curtiss: That's just an agreement, it's not a deed restriction because you didn't own the land to put a deed restriction on, right?

Lynn Fagan: It is actually a deed restriction, part of the negotiations for purchase included purchasing those development rights. So there is a deed restriction limiting it to two houses per acre.

Commissioner Evans: That's on the land that the airport has?

Lynn Fagan: That's on the land that Charlie retained.

Commissioner Evans: And you agreed to that Charlie?

Charlie Deschamps: At the time.

Commissioner Evans: So supposing I move what Laval said, and you do the wishee-washee language. That's my motion.

Chair Curtiss: That's why I think that we should just wait till we see the wishee-washee before we vote on anything.

Colleen Dowdall: Of course, the language is always subject to your approval. It's just a matter of whether you want to go forward that way or have the public see the wishee-washee language before you approve it.

Commissioner Evans: If that gives the capability for flexibility for the airport, that's what the staff has recommended which makes sense to me, then I don't know why we would wait.

Chair Curtiss: I guess we will just ask the public. Would you rather see wishee-washee before we vote?

Colleen Dowdall: Joe is nodding yes -- he of little faith.

Chair Curtiss: That's why I think that would be a good discussion at our next work session then, to kind of work that out, because I agree if it stays in airport ownership and the airport wants to divest themselves, we don't want to make it totally impossible for people to use the land.

Commissioner Evans: So I will just so hold that thought till the next meeting.

Chair Curtiss: I guess I'm still surprised that we are recommending 4 per acre right next to the runway. It seems like it's more dense.

Colleen Dowdall: Remember, we had this discussion about how the runway, our rational says the runway isn't there.

Chair Curtiss: But I just keep picturing Pleasant View, which 4 per acre doesn't have to look like Pleasant View, but I have to have something in my mind as to that it would look like next to the airport runway.

Commissioner Evans: But this is also at the side and not at the approach or departure area.

Chair Curtiss: Is there anybody in the audience that wanted to add anything to this discussion about the land use that we have drawn up here. Charlie? We might as well put you on the spot. Right, because the things that we do in the work session are not on the record, so it's good to have you say things even if you've said them to us before.

Charlie Deschamps: We have roughly 350 acres around the airport that they do not own and I don't feel that they should be able to tell us how we want the property zoned or planned. This is a twenty year plan and you are looking at it today. Growth is going to go west, you've already got the 4 dwellings per acre to my east side and we are separated by a fence. I met with Laval and together we brought this scenario up and I think it works very well. You've got a neighborhood center there. To mirror Joe's comments, we don't know what's going to happen right now with the airport ground, who is going to own it or who is not going to own it. And neither do we know if there is going to be a runway there. So, I think planning is probably best than a void.

Chair Curtiss: Thank you Charlie. Anyone else? Okay, so we will add that topic and see if Colleen can come up with some language that might add a little flexibility for the airport's point of view at a work session. Were there any other issues that we can take care of today? Is there anything new, Laval, that you would want to add that the City Council has done since the last time we met?

Laval Means: The City has been having dialogue over Issue 5, pertaining to the Kona Ranch area, for the last couple PAZ's. While they motioned for some consistency with the Commissioners on revisions or no revisions, they are suggesting establishing a tickler list that will put some issues on it to come back to the Commissioners and have dialogue about. So, because some of the direction that they might have headed towards was to motion for something different than your motion so that it would come back to a conference discussion about those

differences. Instead, I think they are motioning the way they feel is appropriate at the time but still would like to have an opportunity to dialogue those issues with you in more detail in the future. So you might hear more about the idea of a tickler list.

Commissioner Evans: I don't have a problem with that.

Chair Curtiss: Then the other things that you told us at one of the work sessions is that they are thinking about limiting residential density in the mixed use area directly east of the airport area, Parks and Open Space, to 4 dwelling units rather than sixteen, and that is under the proposed runway. Is that right?

Laval Means: It's between the two potential. Yeah, they motioned for limiting the density in one area of mixed use designation.

Chair Curtiss: That was close to one of those extended runways or extended whatever areas?

Laval Means: Yes. There is still some interest in understanding the mixed use designation further and we did meet with Ed Childers to talk with him about it. He is the person who raised the issue. And his concern is, if we say mixed use, then it ought to be. So, while I think we might not head towards percentages and ratios because I think that establishing the methodology for that can be quite complex, he is looking at considering a statement, an additional statement, to add to the mixed use intent, that encourages as development happens that it develops in a mixed use way. I haven't really written up what was talked about with him so that's a piece that he is still interested in. Lou Ann Crowley talked about some ideas on agricultural uses more definition or criteria for encouraging community gardens and a use that I am not really quite sure of what it is yet, but something she calls "incubator farms." I'm looking into and asking her to provide more description for it and the thought on that is to maybe add it as a recommended use under certain land use types. So that is kind of some of the pieces that they are still looking at.

Chair Curtiss: One other thing that I have on our list from the 10th, is clarify placement for indicator for limiting density of uses within the EADA on the commercial/industrial and commercial off the main runway. I think that was Dougherty's property and did we – I have staff written behind it – but do we need to do anymore on that?

Laval Means: No we still need to. It kind of goes hand and hand with the language that gets written for the airport section. But the idea with that is, I think if you recall in the early sketch map that we used, it said commercial/industrial to and beyond England Boulevard, that kind of thing, that we needed the caveat in there to say, when you are within and EADA, you've got to limit the intensity of the use, not have large gathering spaces, that kind of thing. So the tool for doing that, previously I had used a star to show where those are, it kind of depends on where we go with the EADA and EADA boundaries, and then make sure we – it's sort of part of the fine tuning of this. We spent a lot of time emphasizing the east side, I would like to see us go back to the west side and look at a little bit of land use off the end of the main runway there too. Because there is still a land use designation for low intensity commercial/industrial, we did away with that land use on east side, so we might want to go back and see how we consider the west side with some consistency. So those are some of the things that are part of the refinement of land uses within the main runway EADA.

Commissioner Evans: And we can look at that, but I don't think the land situation is the same on both ends of the runway. And if they are not, then they don't need to be consistent.

Laval Means: We can stay with the land use description the way we have it, as a low intensity commercial/industrial if we want to, on the west side. I noticed there is a small little piece of cluster land use that was within the 65 DNL and I wanted to come back and change that, because that would imply some residential we wouldn't want. So that is a correction, and then have that dialogue about do we want to continue with this land use designation for that area on the west end or do we want to change it and use the star to or what do we want to do?

Chair Curtiss: Okay. So are there any other items that we can take care of today? I've been writing down the things that we will need to do in our next work session. We did that one.

Laval Means: Jean, I think that we would like some time to show you, at a work session, the transportation map again, so that we can all be clear about the look of it, the lay of the roads on it and I think now that we have spent some time showing what is dedicated and what are proposed, we could add a layer onto that transportation map that shows what is dedicated. We don't have that in the transportation plan right now. It would be to this date. But it would at least be a little extra information. Other things we are thinking of adding to that transportation map

are more road names and perhaps even traffic volumes on certain routes. So we wanted to show that too you and make sure we are all on the same page for what we show.

Commissioner Evans: It would be helpful if we had all that done before the 30th of the month so we can show it to MDT between 10:00 a.m. and 12:00 p.m. on that day.

Chair Curtiss: So the dates that the Commission have open, it seems like every time we have a work session, we run out of time. The day that we have the most time open is next Thursday, the 23rd, from 1:30 p.m. to 5:00 p.m. We ought to be able to chug on through and get done with things that way, rather than doing these little two hour things that we need three hours on. From 1:30 p.m. to 5:00 p.m. on the 23rd. Mike?

Mike Flynn: What are we going to be discussing next week from 1:30 p.m. to 5:00 p.m.?

Chair Curtiss: Okay, Colleen and the rest of the staff should finish up the EADA language. We will talk some more about the land that we referred to today, Charlie Deschamps' and the airport's land there and whether or not we can add some flexibility to the language. We will talk about the east ends and the west ends of the existing runway and whether we want some consistency there and the transportation map. That's the ones I have written, do you have other things? Nick?

Nick Kaufman: Is there any chance that we can have a draft of that EADA language before the meeting on Thursday?

Colleen Dowdall: No way!! We will do our best. It's not tomorrow Thursday, right?

Mike Flynn: That was the east end and west end of the existing?

Chair Curtiss: Right, because we haven't talked a lot about the west end, but there are a few things like Laval said, there is somebody in the 65 DNL that we probably need to move the cluster.

Laval Means: And maybe the placement of existing neighborhood center indicator, the part that we held on today?

Chair Curtiss: Right and Maryfrances would you be able to meet with Allen before than? Okay, so that the map showing those neighborhood indicators and neighborhood center. Are there other issues we have left out there? The language for the limiting of intensity would be in that EADA thing, right?

Commissioner Evans: Laval is shaking her head no.

Laval Means: Is there anything left, no. Is the language about limiting intensity, it'll come from the airport language, yes.

Chair Curtiss: Lynn, if the airport has some suggestions on flex language that still kind of reflects that we see a need for housing along there, but if you have some ideas, you can work with Laval or Colleen to give them some time to think about it before we get to there. Or bring it up then.

Lynn Fagan: I can do that. I can just e-mail some language probably to both Laval and Colleen.

Chair Curtiss: Thanks Lynn. Okay is there any other public comment? Seeing none I guess we will be in recess.

Mike Flynn: There won't be anything in next Wednesday's County Commissioners Meeting?

Commissioner Evans: You can take the day off.

Laval Means: While we are here though and I have a few people. It isn't clear but we will probably still have some PAZ time next Wednesday with the City Council. So if it works, I will keep trying to send out a weekly meeting update and – e-mail – Monday – and it won't be until after 12:00.

Colleen Dowdall: We do need to set the –

Chair Curtiss: Set the next public hearing date.

Colleen Dowdall: And we need to do it here or else we have to do public notice.

Chair Curtiss: So should we do the 29th? Patty is looking to see, we don't want to do it if it's a day we have five subdivisions, but I think we only have one or two.

Patty Rector: What are we looking at?

Chair Curtiss: The 29th, how many does it have?

Patty Rector: June 29th, we have the Target Range-West End Rural Zoning District, Stillwaters on the Clark Fork #3, 71 lots.

Commissioner Evans: I don't think we want anything else that day.

Chair Curtiss: What does July 6th look like then?

Patty Rector: Amending County Subdivision Regulations for providing cash-in-lieu of parkland and a family transfer.

Chair Curtiss: So we will set it for July the 6th, because the 29th has a whole bunch of things on it. Any other business to come before the commission? Seeing none, we're in recess.

There being no further business to come before the Board, the Commissioners were in recess at 3:45 p.m.