

PUBLIC MEETING – JUNE 29, 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, County Land/Survey Supervisor Greg LaZerte, Chief Financial Officer Dale Bickell and Public Works Director Greg Robertson. Commissioner Bill Carey was having knee surgery.

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 \$452,138.79. Chair Curtiss seconded. The motion carried on a vote of 2-0.

Hearing: Road Alterations and Abandonments (Tom Maclay's Property) – McClain Creek Road Area

Chair Curtiss: Today we have a hearing on road alterations and abandonments. This is on the McClain Creek Road that goes through Tom Maclay's property. So I will open the hearing and we'll have the staff report. Greg were you going to give that?

Greg Robertson presented the staff report.

Before you is a petition to alter and abandon portions of that certain County road described as McClain Creek Road in Section 22, Township 11 North, Range 20 West. The exhibit is attached to the petition for the proposed change. In conformance with the State statute, one Commissioner and myself or my designee are to view the proposed changes in the field at a time to be chosen and then report back to the full Commission with our recommendation.

Chair Curtiss: Thank you Greg. So the attachment shows a proposed relocated and one to be abandoned, so we would either do one or the other I would guess.

Greg LaZerte: We can do a combination of the two. There is actually a petition involved abandoning a GLO Road that crosses Sections 21 and 22, also a Road Plat Book One road in Section 22, and then altering an existing petition road that crosses the midsection of 22 to the realigned solid black line on the exhibit.

Chair Curtiss: Okay. And I see that Kathy is here, the Clerk and Recorder's Office has certified that this is, that the petition has been met. Kathy, could you state that for the record, please?

Kathy Wahl: Ten freeholders have signed and they are valid signatures and they are all property owners.

Chair Curtiss: Okay, thank you, Kathy Wahl. This is a hearing on this proposed realignment and abandonment, is there anyone here that wants to speak on this item today? Mr. Kaufman.

Nick Kaufman: Thank you Chairman Curtiss, members of the County Commission, audience. For the record my name is Nick Kaufman. I'm a Land Use Planner with the engineering firm of WGM Group and here today representing the Maclay Ranch. The purpose before you is to consider the abandonment and relocation of several County right-of-ways. The reason for the relocation is to make the road grades come within County standards, there are some steep pitches in the existing road, and most importantly, the existing road follows along the alignment of McClain Creek, very close to the floodplain of McClain Creek. It's a known wildlife corridor, the dust and traffic, having a County road that close to that riparian area is a concern and so we are proposing to relocate the alignment to the south and up on the ridge. If you have any questions, I would be happy to try to answer them for you.

Chair Curtiss: Thank you.

Nick Kaufman: Thank you.

Chair Curtiss: Anyone else who would like to speak on this item. As Greg stated, we don't make a decision today because the law requires that we actually do a site visit to make sure we don't abandon a road that might serve a purpose in the future. So, I can't remember, Greg did you already set a time to go? I think because of the holidays and schedule of the Commission, we are looking at doing this in a couple weeks.

Commissioner Evans: We've arranged for the 7th of July, and I will meet either one of these Greg's out at the site after we, after I come back from the meeting in Florence.

Patty Rector: That would put the decision on July 13th.

Chair Curtiss: July 13th.

Nick Kaufman: So what time?

Commissioner Evans: What time would we be out there? I think our meeting in Florence is from about 1:30 to about 3:00 or 3:30 p.m. and so I'm going to guess 3:30 to 4:00 p.m. when I arrive.

Chair Curtiss: The other thing that we talked about this morning is, because this also concerns the Forest Service that we will invite them to join in the viewing.

Mike Sehestedt: If possible, maybe you could give a cell phone number that we could use to contact you or the Commissioners secretary and then when the time gets finalized, I'm sure they will have to be calling for one of the Greg's and they can also call and alert anyone that wishes to meet them there at that time.

Chair Curtiss: I think our meeting is flexible enough that we could just set, we are meeting in Florence anyway.

Patty Rector: The meeting in Florence goes until about 3:30 p.m., so they thought they could probably be at the turn off to McClain Creek Road about 3:45 p.m.

Chair Curtiss: 3:45 p.m.

Commissioner Evans: Between 3:45 and 4:00 p.m. is when I will get there.

Chair Curtiss: And we do take turns in the inspection, so it's Commissioner Evan's turn. Could you come to the microphone please?

Steve Sinenger: I live on O'Brien Creek and I just really had a question, Commissioners, about the road. It is a County road and it's not a Forest Service road or is it a jointly – what is the legal status of the road where the alterations are being proposed?

Mike Sehestedt: We have County road right-of-ways there right now. The road is not particularly closely associated with those existing County road right-of-ways. There is, as we understand, also a granted easement to the U.S. Forest Service along the current alignment of McClain Creek Road as constructed. We will address, all we can address, are the County road issues as to what right-of-way we want in the area. The U.S. Forest Service and the property owner will have to conduct their own negotiations about the Forest Service Road.

Steve Sinenger: Just one other question. On the petition, it mentions primarily environmental reasons for the road alteration and a question would be, if this is related to something else beyond environmental considerations?

Chair Curtiss: Right and we will take all those things into account.

Steve Sinenger: Okay, thank you.

Chair Curtiss: The State law does now say that we can't abandon a road, and this, of course, isn't asking us to do that, but we can't abandon a road that accesses public property.

Commissioner Evans: Unless there is other adequate access. We have a gentleman in the back who has his hand up.

Chair Curtiss: Okay. Sure if you could come forward please.

Boyd Lambson: I live in Carlton Creek and the deal in the paper, they was going to realign and abandon a part of McClain Creek Road. Are they going to keep access up through there?

Chair Curtiss: The petition that we have received shows access. Would you like to see, we could show you the map? There are two little straggler roads out here in the middle of nowhere, the ones they are asking to abandon.

Boyd Lambson: Where do I get a copy of that?

Chair Curtiss: We can make sure you have one.

Boyd Lambson: Thank you.

Chair Curtiss: So, you can see that there are GLO Roads, Book 1 Roads, they're proposing to alter the location of the one road. But they are not asking us to abandon access to that Forest Service property. They are just asking us to realign the road.

Boyd Lambson: Okay, very good, thank you.

Chair Curtiss: Anyone else who would like to speak on this proposed realignment and abandonment? Seeing none, we will recess this hearing until the 13th, after the road inspection. The road inspection will be July 7th at about 3:45 p.m. for those who want to join in.

Hearing: Relating to General Obligation Refunding Bonds, Series 2005 (Authorizing the Issuance and the Private Negotiated Sale Thereof)

Dale Bickell presented the staff report.

Before you is a resolution that would authorize the Chair and the Chief Financial Officer to approve principal amounts, purchase price, maturity dates, basic and original interest rates, original issue discount or premium and redemption provisions for refunding the Series 1998 Detention Center Bonds. The market conditions right now have improved where, if we refund the bonds in the near future, we will save approximately \$50,000 a year in annual debt service and approximately \$650,000 in total.

Chair Curtiss: Even though it's stated as refunding, it's basically refinancing?

Dale Bickell: Essentially refinancing, refunding is just a bond term.

Chair Curtiss: So we are funding it again?

Dale Bickell: Yes.

Chair Curtiss: Because it's kind of an odd thing, it sounds like you are getting a refund from K-Mart.

Commissioner Evans: Why don't you move over by me, Michael, and we'll share.

Mike Sehestedt: Or we'll wind up getting a microphone for me some day. Essentially the technical term is refunding bonds because we will borrow the money at a lower rate of interest, use the cash to pay off the earlier bond issue, essentially refunding, if you will, the money to those bond holders. It's one of the exceptions to the issuance of County debt that requires a vote.

Chair Curtiss: So this is a Public Hearing. I will open the hearing. Is there anyone from the public that would like to make comment on the County going forth with refunding the Jail Bonds to save the taxpayers money over time? Hopefully everybody thinks that's a good idea. Okay, seeing no one come to the microphone, I will close the hearing.

Commissioner Evans: So what is the motion that we need today Michael, that we adopt a resolution?

Mike Sehestedt: It would be to approve the attached resolution.

Commissioner Evans moved that the Board of County Commissioners approve the Resolution Refunding the Jail Bonds and authorize the Chair and Chief Financial Officer to sign the Bond Refunding, as it would be in the very best interest of Missoula County taxpayers. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing: Stillwaters on the Clark Fork #3 (71 lots on 62.18 acres) – Kona Ranch Road, one-half mile west of Mullan Road

Denise Dundon, Office of Planning and Grants, presented the staff report.

This is a request to create Stillwaters on the Clark Fork No. 3 Subdivision. Yellow Stone Fly, represented by WGM Group, Inc., is proposing to create a 71 lot subdivision on 62.18 acres, consisting of 32 townhouse lots, 4 cottage lots and 35 lots just under 1 acre in size. The property is located off of Kona Ranch Road, southwest of the Kona Ranch and Mullan Road intersection. All roads within the development are proposed to be private and meet urban standards. The property adjoins approved subdivisions, Stillwaters on the Clark Fork No. 1 and Stillwaters on the Clark Fork No. 2. These two subdivisions are north of the project area and consist of 25 lots total. The entire project site is zoned C-RR1, Residential, which allows a maximum density of one dwelling unit per acre, with no minimum lot size.

The applicant has proposed a Planned Variation to supplement the existing zoning and allow reduced building setbacks including, decreased front and rear yard setbacks for townhouses and cottage lots, an elimination of side yards setbacks for townhouse lots and decreased side yard setbacks for the cottage lots. Subdivision Regulations require no lot be less than 60 feet wide, however, townhouse lots are proposed to be 40 feet in width. The applicant is requesting a variance from this requirement. County Public Works supports the variance request, stating that the proposed design to include townhouse lots with narrower widths is not a gross violation of the regulations. Staff is recommending approval of the variance request.

The gross density of the proposed subdivision computes to approximately one dwelling unit per 0.87 acres. The combined gross density calculation for the three Stillwaters on the Clark Fork subdivisions computes to one dwelling unit per 1.32 acres. The Urban Area Comprehensive Plan Update designates the property as "Residential," with a recommended maximum density of one dwelling unit per 5 to 10 acres. Public Works commented that the developer should be required to pay into a fund to assist in signaling the Flynn Lane/Mullan Road intersection and toward the improvement of the Reserve Street/Mullan Road intersection. Staff is recommending this as a condition.

The proposal is outside of the Urban Growth Area and thus is required to provide internal pedestrian connections, pedestrian connections to school bus stops and to adjoining neighborhoods. In the Stillwaters on the Clark Fork No. 1 Subdivision, the developer installed an asphalt walkway separate from the street along one side of Royal Coachman Trail and in Stillwaters No. 2 Subdivision, the applicant will install a 5 foot wide walkway along one side of Royal Wulff Court and Royal Coachman Trail. The applicant is only proposing walkways along the cul-de-sac roads that access the proposed townhouses and has proposed to install a paved trail system within the central common area. County Parks and City Parks and Recreation both commented that they do not support the absence of walkways along the streets within the development. They both stress that since Stillwater No. 1 and No. 2 included a 5 foot wide asphalt walkway on one side of the street, this walkway should be continued on the same side of the street throughout the development. Staff recommends that a 5 foot wide asphalt walkway separated from the street be constructed on one side of Royal Coachman Trail.

A Contract Agreement was entered into between the City of Missoula and the Yellow Stone Fly in March of 2004, for the entire Stillwaters development area, to provide sewer services to the properties. The applicant proposes to connect all lots within the subdivision to City sewer. Staff is recommending that prior to Zoning Compliance Permit issuance for each lot, plans for installation of a residential fire sprinkler system be approved by the Missoula Rural Fire District. The applicant proposes to dedicate 35.98 acres (57.86% of the subdivision) as common area. Common area includes one large central open space, common space around clustered townhouse lots and a steep hillside in the southwest portion of the project area. This amount exceeds required

parkland dedication. The covenants for the entire development area provide the maintenance and repair of all common areas by the Homeowners Association. Staff has recommended a condition that the common area be maintained by the developer until the Homeowners Association is established.

City Parks and Recreation recommends that in order to protect the native grasses and prevent erosion, covenants should be amended to include rules that apply to just the hillsides, such as restricting motorized vehicles and prohibiting any structures or fencing, unless they are wildlife friendly. Staff has recommended this language be incorporated into the covenants. The Office of Planning and Grants received an agency comment letter from City Engineering after the submittal of the staff report. Comments from the letter include: a recommendation that all roads within the subdivision be public; that Skawala Lane to the south should be constructed to the east, connecting with Mullan Road; that a 5 foot wide sidewalk be constructed on one side of all streets; and that additional parking for townhouse lots may be necessary.

On Tuesday, June 21, 2005, the Planning Board voted unanimously to recommend approval of this subdivision subject to conditions recommended staff and as amended by the Planning Board. They voted to deny the request for a variance from the requirement that no lot be less than 60 feet in width. They felt that the provision for narrower lot widths for the townhouse lots could be accomplished through the requested plan variation to the zoning district. They recommended a new condition that amended the Planned Variation to allow the townhouse lot widths be less than 60 feet. However, since the lot width standard is a requirement of the Subdivision Regulation and the Planned Variation is a zoning action provided within the Zoning Resolution, denying the variance request and amending the Planned Variation would not meet Subdivision Regulation Standards. They also recommended a revision of Condition 6, which would require plans for installation of residential fire sprinkler systems for each lot be approved by Missoula City Fire prior to Zoning Compliance Permit, and originally stated, it requires that these be reviewed by Rural Fire. However, the proposed subdivision is within the Missoula Rural Fire District and staff has researched the review process and found that City Fire will not be included in the review of plans that are submitted for Contract Sewer Agreements.

The Planning Board also recommended the following additional conditions: ●That the covenants be amended to include the following language: *“Outdoor lighting shall be designed to minimize light pollution.”* ●A parking design for the townhouse lots be reviewed and approved by County Public Works prior to final plat approval. ●That all roads within the subdivision be dedicated as public right-of-way. ●The Planned Variation to the C-RR1 District be amended to delete reductions in setback standards for cottage lots. ●That construction of any buildings shall not be permitted within Phases 12-16 until a southerly vehicular connection is made from the subdivision through to Mullan Road.

Our office did receive two public comment letters which I believe you have a copy of within your packet. In conclusion, we are recommending approval of this subdivision, subject to the recommended conditions.

Chair Curtiss: Thank you Denise. Is the developer or their representatives here? Mr. Kaufman.

Nick Kaufman: Thank you Chairman Curtiss, Commissioner Evans, staff and members of the audience. For the record, my name is Nick Kaufman. I'm a Land Use Planner with the engineering firm of WGM Group and here today representing Yellow Stone Fly, and with your permission, I would like to come up to the front.

Chair Curtiss: Yes.

Nick Kaufman: Thank you. This is probably the best place I can put this so the audience can see it, as well as the Commissioners. This is a map that shows Mullan Road as you head west on Mullan Road, the El Mar Estates Complex is here, the new Phantom Hills property is here, City sewer runs all the way out to Grass Valley French Ditch and comes back and picks up El Mar Estates near the lagoon system here. The City of Missoula extended a 201 sewer service area to include the Stillwaters Subdivisions 1, 2 and 3. The subdivision has been reviewed by the City and it's also been reviewed by the Office of Planning and Grants and undergone a number of modifications to come into compliance with the Growth Policy. We are in an area that is zoned C-RR1, which is one dwelling unit per one acre. That means that the whole subdivision could be gridded in one acre tracts, but we think we have come up with a better design and plan for that and so I would like to talk to you a little bit about what is happening in Mullan Road. Of course, the Wye-Mullan process has been ongoing since Janet Stevens was the Planning Director, and Janet Stevens became the Planning Director shortly after she was a County Commissioner, so it's about eight years ago, actually that the Wye-Mullan Plan started, and I think it's been continuing in earnest for about the last three years and at some time, I think we will come to a conclusion. And so

there is an illustration of the Wye-Mullan Plan. Now this is taken from City of Missoula property, which is the Phantom Hills Golf Course, the subject subdivision is over in this area. This is the Grass Valley Farms area, this is 5 acre tracts on Snowdrift Lane. This is traditionally how we've done residential development and agricultural land in Missoula County. What I want to show you may be a different way that actually preserves more open space and land. This is the entrance to Stillwaters on the Clark Fork, this is the landscaped entrance feature which was recently completed, a major investment to improve both the entrance to the subdivision and also buffer for folks who are traveling on Kona Ranch Road from the development that will occur on this property. It includes a waterfall, water feature and ponds. This is a Master Plan of Stillwaters No. 1 and 2 and across Kona Ranch Road to the north are five acre tracts and so we tried to emulate those five acre tracts on the Kona Ranch Road side and on the east side of the property. So these are all approximately five acre tracts. We also included corridors, open space corridors, running through the property and along Grass Valley French Ditch and we included building envelopes in the lots, so outside the yellow areas that you see here, building construction is limited. We had an architect on the team during the site planning process and this is the conceptual site plan prepared by the architect in terms of how the homes would look and how the open space would be preserved. One of the major features of this is the preservation of view corridors for the public along Kona Ranch Road. The primary corridor is here, along Kona Ranch with the greatest separation, but there is also an interior corridor, and there are a few corridors that run through the project also. So one of the ways that we reduced the impact of land development is to allow views to continue through projects to enhance the nature of the open space. This is a property up in the Rattlesnake just above Smoke Elser's property. It's a subdivision that we did in the 1980's, it's a mature subdivision now, this is a central common area, where the homes back onto the common area. You can see the hillside back to the east and it goes on up over the top and the saddle at Mount Jumbo. You can see that in this picture, in this mature subdivision, you see evidence of a utility here, but the homes are barely visible, and it's a very well used common area and also view corridor in that project. We incorporate design guidelines in Stillwaters on the Clark Fork to achieve the level of building quality that we want in the development. We utilize a low visibility fence, with green treated fence posts with smooth wire and here is a picture of that fence, it's not one of the white vinyl fence that are cropping up more common in the Missoula Valley. This is a Master Plan that shows Stillwaters 1 and 2, Kona Ranch Road and Stillwaters No. 3. You can see there is a vast amount of open space. The townhomes, which are tucked up against the foothills, are placed there so we could preserve that open Palouse prairie on that hillside, which we thought was an important feature. 58% of Stillwaters 3 is an open space. The density is not one dwelling unit per one acre, it's much less than that. The overall density is one dwelling unit per 0.32 acres. Based on comments from agencies, including the City Engineer, we've pulled the townhomes apart, we had four-plex dwelling units in the townhomes. Now it is just two dwelling units per structure. In addition, we provided overflow parking off the end of the turnarounds and in strategic locations in the particular plan. We've conceded to the 5 foot wide walkway on one side of the street that creates the walking trails along the travel corridor in the subdivision. With that I would like to go back and review the conditions.

Chair Curtiss: Nick, I think you said the density wrong. What did you say the overall density was?

Nick Kaufman: It's one dwelling unit per 1.32 acres.

Chair Curtiss: Okay, I think you left off the one.

Nick Kaufman: I'm sorry, 1.32. Thank you. It makes a big difference.

Chair Curtiss: A little bit.

Nick Kaufman: I'm looking at a document called 'Request for Commissioner Action,' if you could follow along with that for me. And what we are requesting today is the staff has recommended approval for Stillwaters No. 3, the Planning Board unanimously recommended approval for Stillwaters No. 3 and I would like to go through the conditions and the approvals because there is just a few modifications we would ask that you consider. The Planning Board recommended that the Planned Variation be approved with certain conditions; Condition 1: The Planned Variation Standards permit the townhouse lot widths to be less than 60 feet; Condition 2: The Planned Variation to the C-RR1 District shall be amended to delete reductions in the setbacks standards for the cottage lots. While we can live with that, we would ask the Commissioners to reinstate our requested setbacks on the cottage lots. We can live with the C-RR1, but we think it would be a better project and we wouldn't have to make those cottage lots larger to accommodate the C-RR1 setbacks.

Chair Curtiss: So what were the requested setbacks?

Commissioner Evans: Five and twenty, wasn't it?

Nick Kaufman: The requested setbacks for the cottage lots were 20 foot front and rear yards and 5 foot side yards. Those are the Planning Board recommended conditions of approval. I have a plan for common area improvements which I sent over to the Office of Planning and Grants this morning. I will review it just briefly with the Commissioners so you know what our intent is relative to the common areas. Number 1, hillside areas will remain in native vegetation, weeds will be controlled according to the recommendation of the Missoula County Weed Department, so on that Palouse Prairie hillside, what we will do is weed control. I think Denise has recommended one of the conditions for covenant amendments that no motorized vehicles are allowed on that hillside and we will certainly make that amendment. Number 2, the common areas around the townhomes will be landscaped and irrigated according to a plan that will be developed with the townhomes, the landscaping irrigation will be installed with each phase of the townhomes construction. The landscaping maintenance will be the responsibility of Homeowners Association. So in and around the townhomes, there will be some extensive landscaping which each phase of townhomes construction. The landscaping for that phase will be installed and then be the responsibility of the Homeowners Association. The large common area will be maintained in the current vegetation with weed control according to the recommendations of the County Weed Department. So behind Commissioner Evans, see the large central common area there? As Stillwaters No. 3 is occupied, the Homeowners Association will decide on the need for trails, recreation equipment, irrigated grass areas and natural areas. The Homeowners Association will maintain the improvements as they are installed and nothing herein prevents the Homeowners Association from installing basketball courts or tennis courts or other recreation facilities as they deem appropriate. So, it's a very large common area. It can accommodate natural areas, grassed areas, as well as active recreation areas. Number 4, the developer shall bear the cost of maintaining the common areas until such time as there is sufficient members, that's members of the Homeowners Association, to transfer the responsibility to the Homeowners Association. So we hope that meets the intent of the condition. Number 2 is that we install the improvements with each phase and we have no problem with that. Number 3 is the developer shall contribute \$230 per lot to the Mullan Road Transportation System Fund and \$815 to the Fund to improving Reserve Street. Living out on Mullan Road, I understand the problems with the Reserve Street intersection and also those at Flynn and Mullan, however, that portion of Mullan Road and Reserve Street are both on the Federal highway system and we think that the reason we pay Federal and State gas tax, excuse me the State highway system, the reason we pay those State gas taxes is to pay for those improvements. So we do object to Condition 3. Condition 4 is that we petition into the Urban Transportation District, we're fine. Condition 5 is the asphalt walkways and that is included on the plan that is behind Commissioner Evans. We agree that Condition 6 should be changed so that the Rural Fire District approves the residential fire sprinkler systems before we get to zoning compliance. And all the other conditions are okay until we get down to Condition 16, all the roads within the Subdivision shall be dedicated as public right-of-ways. That's a condition that the Planning Board put on, it was a split vote, this condition passed by one vote. We would prefer to have the roads in the subdivision as private roads. The Missoula County Subdivision Regulations allow for private roads or public roads. I think when the Planning Board made this recommendation, they weren't aware that the regulations allow that. No variance is required for private roads in the subdivision. As I reviewed the County Public Works Director comments, I saw no objection to the private roads. The roads in Stillwaters 1 and 2, which are used to access Stillwaters No. 3, are private roads. At some future date, should the entire project want to, bring those roads up to a standard, currently they are being built to a County Roads Standard as required by the Subdivision Regulations, they could, just like Snowdrift Lane did, petition to become public roads. At this time we would like them to be private roads and that reduces the burden of maintenance on the citizens of Missoula County. Lastly, Condition 17, we would ask that you delete Condition 17 in total. This is a 71 lot subdivision, it's a loop road that allows for future connections and the current access is onto Kona Ranch Road. The Planning Board felt that a second access would be needed before the development of the future phases – fifteen years down the road. We think that there is adequate access and the potential exists for future additional accesses. This is not a forested area, this is not a wildfire susceptible area. If there is an emergency in there, this is flat agricultural fields and there is certainly the ability to exit the area should the main entrance road be blocked for any reason. So if you could accommodate removing Condition 17 and 16, consider removing the mitigation fees and allow for the variances for the townhomes, which is the preservation of open space, we would greatly appreciate it. Thank you very much.

Chair Curtiss: Nick, I have a question for you. Right now the roads are proposed as loop roads. Is there any conditional access reserved in case there would be a future connection to future developments?

Nick Kaufman: Yes. Currently existing on the property is half of a private road and public utility easement that is mentioned as Skawala Lane in Denise's staff report and we are retaining a 60 foot wide easement which is in

alignment, which would take us out to the west over the top of the hill. So we are allowing for two additional access points, the possibility.

Chair Curtiss: Okay. Thank you. Did you have any questions for Nick at this time?

Commissioner Evans: Not at this time.

Chair Curtiss: This is a Public Hearing. Is there anyone who would like to make comment? I will open the Public Hearing if I didn't officially do so.

Andy Patten: My name is Andy Patten, I am an attorney for Bonnie Snavelly.

Chair Curtiss: Okay.

Andy Patten: I've got my comments written down.

Commissioner Evans: Would you spell your last name for the record just so that Patty doesn't have a problem.

Andy Patten: P-A-T-T-E-N.

Commissioner Evans: Thank you.

Andy Patten: I want to limit my comments to a couple things that Mr. Kaufman just addressed. Conditions 16 and 17, which I understood were the Planning Board's Conditions 14 and 15 so that's the way I've addressed them in my letter, talk about the public right-of-ways and the roadway from Skawala Lane that goes to Mullan Trail. Much of that Skawala Lane right-of-way is upon Bonnie Snavelly's property and that is currently a private easement. And I wanted to advise the Commission that Ms. Snavelly will not consent that that easement be dedicated to a public use. So, if, in considering Mr. Kaufman's request, if the Commission is going to keep Conditions 16 and 17 in, there may be a problem in the future with respect to Skawala Lane as it crosses Ms. Snavelly's property. The other thing that I wanted to address for Mr. Kaufman, and I didn't include it in my letter because I didn't expect it to come up, is the second access point that he talked about over the top, which goes up on a ridge and down along the river, basically. We believe that the litigation that has accompanied this property over the last ten years provides that that is an easement that is accessible only to other property. In other words, that the easement that has been granted by the Courts doesn't provide access to either the property that lies up on top or to any of what would be included in Stillwaters on the Clark Fork No. 3. I think that before anybody plans on that being an access point, that the extent of that easement and the rights of that easement need to be clarified, because we would dispute that it would permit such travel.

Commissioner Evans: Thank you.

Chair Curtiss: So your speaking, your client then is in favor of deleting 16 and 17 also.

Andy Patten: I don't know about that. I would just advise you Chair Curtiss, that to the extent that Skawala Lane.

Chair Curtiss: I understand what she is saying with that one. I just meant that you also don't believe that Skawala Lane, the way it is drawn, it's not accessible unless part of it is on your client's property?

Andy Patten: Yes. There is an existing right-of-way on my client's property. It's a private right-of-way and my client wants to keep it a private right-of-way and not a public right-of-way.

Chair Curtiss: Okay, thank you. Anyone else who would like to comment?

Susan Reneau: Hi, my name is Susan Reneau – R-E-N-E-A-U. I actually drove out to Mullan Road in preparation for what was going to be discussed today regarding this particular development. I do not oppose a development such as this, it sounds very beautiful. But I have an ongoing concern about this development and all others on Mullan Road. I was horrified at the narrowness of Mullan Road and no substantial amount of money being contributed by developers, including this one, and I don't believe that \$250 per house or whatever it was, the figure that I just heard, is enough. I think also we, as citizens of this area, need to very sincerely consider the total impacts on this development and all others, not only on Mullan Road but throughout the County. Especially

when it comes to water and sewer and all other services. Our animal control officers are over taxed, our police and our fire and our rescue squad are over taxed. And there seems to be no consideration for that. I have not heard that addressed in the presentation by Mr. Kaufman, but I think you, as public officials, should consider that and I also urge you to support what the staff has recommended. As someone who founded a medical rescue unit, I also strongly support a second exit, strictly because of whatever could come up. Maybe this area isn't susceptible to fire, but it might be susceptible to something else or human conditions that would need another way to get out. So I urge you to be diligent and I hope that you will be respectful, as I know you are, of the staff that have spent a lot of time and they know a lot more about this than I do, to respect their recommendations and do not approve this development unless all of the recommendations by the staff are met.

Chair Curtiss: Thank you Ms. Reneau. And just to clarify, its \$230 plus \$815 for this subdivision, is \$74,195.

Susan Reneau: That's not enough.

Chair Curtiss: That's not enough to fix it, but it helps. Okay, any other public comment?

Bonnie Snavelly: Commissioners Curtiss and Evans, my name is Bonnie Snavelly. You both know me and I am the owner of Kona Ranch on both sides of this proposed development. I have submitted lengthy letters from the planners with whom I am working on my property on both sides of this property. Mr. Patten has been here today representing me on the legal issues that exist on the easements and he is certainly not addressing other issues. And I would ask you to please read thoroughly the letter that came from DTJ Design in Boulder. I selected them from numerous, highly respected national planning firms that are known to create exemplary communities in the west. My goal has been to bring to Missoula something that is exceptional. And indeed, such an exceptional thing is on paper. I retained them a year ago last February and we are just to the point of being ready to make the submission for a Master Plan over more than 500 acres. What you've seen, brought to you by Stillwaters on the Clark Fork, who are four physicians who reside in Oregon, not in Montana, is distinctly different from what I am bringing and what I have brought for pre-application meetings to the Office of Planning and Grants, which is has been seen at Planning Board and which I actually showed at PAZ the other day. It exemplifies a year and a half of work, it's a complete and total Comprehensive Conceptual Master Plan and my family has been in ownership on this property, myself being the last Miller to hold ownership of almost 50 years. I have personally invested about 20 years of my life, professionally from the real estate sector, which I have been involved in since 1980, to make sure that this resource, hopefully, is not destroyed and lost to the community. Stillwaters on the Clark Fork, unlike myself, has not and never did bring you one Comprehensive Plan. I'm going to be bringing you a full Conceptual Plan so you can see how this area fits together. You will note in the DTJ letter that we say that the soils, the typography are essentially identical. They are identical. This was taken through legal means out of my mother's trust. They have come to you in three different phases. The first was a five lot minor subdivision, very easy to accomplish under Montana Law, and I believe if you go back to public record, they would say the reason they did a minor was because they needed to generate capital. From there, they move forward to Stillwaters No. 2, they've constructed massive amounts of rock work and a waterfall, brought in some professional landscapers from Billings and when they purport to be doing weed control, I would ask that you come to the Ranch, view it from both sides of my property. I would suggest perhaps better control in that is essential in Missoula. So piece-meal development is exactly what you are seeing. And I believe, I am certain, that is not the intent of the existing Urban Comprehensive Plan or the one that many of us have been working on for years to put into place. My property is two distinctly separate subdivisions because of what has happened to the Ranch through absolutely no acquiescence of my own or my mother. When people talk about the lack of fire in this area which is absolutely more open, more grass like, I would like to remind everyone that I personally hosted the Black Mountain Fire Camp on a 20 acre parcel that I have that is contiguous to both Kona Ranch Road and Mullan Road. During the Black Mountain fire, which was totally across the river, I actually ran irrigated water sprinklers on my roof every single night. So I do not share the passive approach to fire. I think it's an issue that needs to be dealt with and addressed and I will not consent to participating in a public access across my property that simply in no way accommodates the years of ownership and years of planning and huge expenditures of capital to bring something special. I would like to just read a very small portion of this DTJ Design letter which says, *"Another significant planning effort has been underway in the area known for many decades as the Kona Ranch. The proposed project bisects the Kona Ranch and because these parcels were once part of the larger Ranch property, they share many of the same characteristics in land form, typography, soils, roadway access, wildlife and vegetation. The remaining 500 plus acres of the Kona Ranch lands that essentially book end the proposed project, have been carefully studied and designed with a Master Plan that Ms. Snavelly anticipates submitting to the Office of Planning and Grants as a formal application for development in the very near future. In the spirit of cooperation and with a goal towards comprehensively planning the Ranch land, Ms. Snavelly has said that she*

approached representatives of the development group for the proposed project on several occasions to request a comprehensive and compatible approach to planning the Kona Ranch with the proposed project, but to date has had no response.” And I might interject, “absolutely no response!” “We at DTJ believe that the benefits in cooperatively planning and designing the proposed project with the Kona Ranch are many and at a minimum they include: the ability to establish interconnected access in traffic corridors; the opportunity to design contiguous open space areas; the occasion to comprehensively plan for wildlife management; the opportunity to share in the significant outlay of infrastructure costs; the ability to create a cohesive and comprehensive vision for the built environment that sensitively responds to the existing environment and surrounding context. We also believe that without a cooperative approach to planning this area, a piece-meal development pattern will be created, one that will likely not meet the vision put forth under the County’s regulatory and plan documents including the Mullan-Wye Plan, and that one that would not benefit the greater Missoula community. Because of major planning efforts that this area of Missoula County is undertaking, we respectfully suggest that the proposed project be thoroughly reviewed for consistency, not only with the existing zoning and Comprehensive Plan, but that it adequately demonstrate how it be compatible with the Mullan-Wye Comprehensive Plan. Further, we request that the proposed project illustrate compatibility with the adjoining lands and if it cannot be demonstrated, that the project be redesigned prior to approval.” I would ask you to at least set this aside until you come to my property, consisting of more than 500 acres contiguous on both sides of this project, to determine and understand the gross impact it has on my property. The Conceptual Master Plan that has been seen, will have to be severely redesigned, I’m going to be requesting increasing density on the Ranch to four units per acre. It’s not where my heart is, it’s not where my passion is, but it’s the economic reality that if, as our County Commissioners, you do not invoke responsible planning, then the project on either side cannot carry the value, the weight, the vision, that’s been created, that has been ongoing for more than a year and a half. Thank you.

Chair Curtiss: Thank you Mrs. Snavely. Anyone else that would like to make comment? Seeing no one, we will close the Public Hearing.

Commissioner Evans: I do have some questions. Greg Robertson, would you please explain to me, and to the public, how the \$213 or whatever it was, and the \$815 was arrived at as a mitigation figure.

Greg Robertson: Yes this was, during the Transportation Plan Update, there were a couple projects that were identified in the Plan. One to improve to full two left turn bays on Reserve Street going north bound to improve the characteristic of that intersection and then also there is a Warrants Analysis done for signalization of Flynn and Mullan Road. Both projects are included in the Plan, but yet there is no funding set aside. In fact, our Federal funds are essentially allocated to one project for the next, well it depends on how you look at it, but 25 to 30 years and that’s improving Russell Street for about a mile and a half to two miles. It’s a \$40 million project and our annual allocation is about \$2 million annually. So there are no Federal funds available in the immediate future or even far ranging future, unless something changes as to the relative importance of improving Russell Street. So, during numerous public hearings over the last several years that I have been involved with, complaints about Mullan Road, it’s reaching capacity, lack of improvements, the congestion at Reserve and Mullan, which I drive every day, all commonly come up. Yet nothing is really being done about it. So, a couple years ago when the new golf course, Phantom Hills Subdivision, came up for review, I made a recommendation that they contribute to making two identified improvements to those particular intersections. It’s based on a proportionate share and we used a traffic analysis and traffic engineering techniques to determine the volume of traffic contributed by the development on those intersections and computed a proportionate share based on the total volumes of traffic experienced at each of them, came up with a percentage and then applied those to the lots, so that they are only paying their proportionate share, that’s a fair way of doing things. And we have been consistently applying that since then on County reviewed subdivision in the Mullan Road corridor area that contribute impacts to these particular intersections.

Commissioner Evans: Thank you Greg. I would also like to tell the public that when we did the Reserve Street/Mullan Road area from Third to the Interstate, we used up 20 years of the County money. We also got Federal money and the County put in money by taking it away from each of our departments in order to make Reserve Street what it is today, which is not perfect and we knew that when we did it. But it’s better than no road at all. So I strongly support asking for contributions to make that road better and I understand the argument that it is a Federal interstate highway, or it’s certainly an international highway, and that maybe the Feds ought to take care of it. Well I will certainly do my best to see if we can get additional congressional money to fix that intersection. But at the same time, the folks who live there, and all of us who use that road, ought to help pay for it. And certainly those who will be adding to the traffic by living out there ought to contribute to fixing it. So I’m going to deny the request of the developer in my motion and we’ll still ask for the contribution of about a little over

a thousand dollars per home, because I know that the road needs fixing and while Susan has left, I would make a comment in regards to saying \$74,000 isn't enough. The Hayes Creek intersection on Highway 93 is not a safe place either. Now I'm guessing there is probably 50 homes up Hayes Creek and that's just a guess. But if we asked them to come up with over \$74,000, or more than that, to fix the intersection of Hayes Creek and Highway 93, I think they would say it's probably too much money. So, it's a subjective thing. At any rate, I'm going to make a motion, if you are ready for it. Please help me with this, Denise and Colleen, that I get them correct please.

Commissioner Evans moved that the Board of County Commissioners approve the Stillwaters on the Clark Fork No. 3 Planned Variation, based on the findings of fact in the staff report. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-3(1)(E) of the Missoula County Subdivision Regulations requiring a minimum lot width of 60 feet, based on the findings of fact set forth in the staff report. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners delete Planning Board's recommendation listed as Condition 16 for public rights-of-way. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners delete Planning Board's recommendation listed as Condition 17 for extension of Skawala Lane. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve Condition 6 as recommended by staff to require plans for installation of residential fire sprinkler systems be approved by the Missoula Rural Fire District, not the Missoula City Fire Department. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans: Is there anything else that I missed?

Colleen Dowdall: I think if you just move now to approve with the conditions as amended.

Commissioner Evans moved that the Board of County Commissioners approve the Stillwaters on the Clark Fork No. 3 Subdivision and phasing plan, based on the findings of fact in the staff report and subject to the conditions as amended. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans: We've asked the Planning Department to provide something for us that we have not yet gotten and that is the rules, the legal rules, on which we base our subdivision approvals. We don't have a whole lot of latitude and if we have concerns, we have to give the developers the opportunity to mitigate our concerns and if we are sitting on the fence, we are suppose to fall off on the side of the developer. I'm hoping that we will get an elicitation of those rules for people who sit in the audience and think we just give everything to the developers that they want. And you need to see the rules and the laws under which we operate, which don't give us a whole lot of latitude. I do think that this is a good subdivision, I think that the requirements we've put on it and changes that the developer has made in order to meet the requests of those around, has mitigated any concerns I would have had.

Stillwaters on the Clark Fork No. 3 Subdivision Conditions of Approval:

1. A plan for common area improvements, including, but not limited to, grading, topsoil, seeding and trail system within the greenway common area corridors, shall be reviewed and approved by County Parks prior to final plat approval. *Subdivision Regulations Article 3-8(1)(F), 3-8(8)(C) and OPG recommendation.*
2. The subdivider shall install the improvements to the common areas, as detailed in the approved plan, concurrently with the approved subdivision phase where the improvements are located. A development agreement shall be filed that states the developer shall provide all maintenance of common areas until enough development to support the Homeowners Association has taken place. The development agreement

shall be filed prior to final approval of Phase I, subject to review and approval by OPG. *Subdivision Regulations Article 3-8(1)(F), 3-8(8)(C), 3-2(8)(C-E) and OPG recommendation.*

3. The developer shall contribute \$230 per lot to the Mullan Road transportation system fund for signaling the Flynn Lane/Mullan Road intersection and \$815 per lot to the fund for improving the Reserve Street/Mullan Road intersection. *Subdivision Regulations Article 4-1(12) and Public Works recommendation.*
4. The developer shall petition into the Missoula Urban Transportation District, prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E) and MUTD recommendation.*
5. The developer shall install a 5 foot wide asphalt walkway, separate from the street, on one side of Royal Coachman Trail, which shall connect with the approved walkways in Stillwaters on the Clark Fork No. 1 and Stillwater on the Clark Fork No. 2, subject to review and approval of OPG and County Public Works, prior to final plat approval. *Subdivision Regulations Article 3-2(8)(A)(iii), 3-2(8)(A)(iv), Public Works and OPG recommendation.*
6. Prior to Zoning Compliance Permit issuance for each lot, plans for installation of a residential fire sprinkler system shall be approved by the Missoula Rural Fire District. *Subdivision Regulations Article 3-7(1)(E) and OPG recommendation.*
7. Article IV, Section 2 of the Covenants shall be amended to include a provision which specifically addresses allowed uses and users within the hillside common area. The restrictions shall include, but not be limited to: restrict motorized vehicles and the construction of buildings and/or fencing (unless wildlife friendly) within the hillside area. The amendment shall be reviewed and approved by OPG prior to final plat approval. *Subdivision Regulations Article 3-1(F) and OPG recommendation.*
8. Article X, Section 4 of the Covenants shall be amended to require that sections pertaining to signage and radon may not be amended or deleted without Governing Body approval. *Subdivision Regulation Article 3-1 and OPG recommendation.*
9. Article VIII, Section 3 of the Covenants shall be amended to include the following language: "Interior residential fire sprinkler systems shall be installed within each dwelling, with plans to be reviewed and approved by the Missoula Rural Fire District, prior to construction." *Subdivision Regulations Article 3-7(1)(E) and OPG recommendation.*
10. Article VIII of the Covenants shall be amended to include the following statement: "The Missoula City-County Air Pollution Control Program regulations prohibit the installation of wood-burning stoves or fireplaces. Pellet stoves that meet emission requirements or natural gas or propane fireplaces may be installed. Pellet stoves require an installation permit from the Health Department." *Subdivision Regulations Article 3-1(1)(B) and Missoula City-County Health Department recommendation.*
11. Article VIII of the Covenants shall be amended to restrict the allowance of light commercial uses and specify that home businesses need to meet Section 4.03(D), Home Occupation Standards, of the County Zoning Resolution. The amendment shall be reviewed and approved by OPG prior to final plat approval. *Subdivision Regulations Article 3-1 (1)(B) and OPG recommendation.*
12. The final drainage design and improvements shall be subject to review and approval by Missoula County Public Works, prior to final plat approval. *Subdivision Regulations 3-1(2), 3-4(3) and OPG recommendation.*
13. A Revegetation Plan for disturbed sites shall be reviewed and approved by the Missoula County Weed Board prior to final plat approval and shall be referenced and attached to the covenants. *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed Board recommendation.*
14. The Covenants shall be amended to include the following language: "Outdoor lighting shall be designed to minimize light pollution." *Planning Board recommendation.*
15. A parking design plan for the townhouse lots shall be reviewed and approved by OPG and County Public Works prior to final plat approval. *Planning Board recommendation.*

Hearing: Target Range-West End Rural Zoning District

Chair Curtiss: So next we have the hearing on the Target Range-West End Rural Zoning District. So, I will open the hearing. We are going to present this a little different than normal, we are going to allow the public presentation before the staff presentation, and I believe Mr. Stewart is doing that. Then we will have the staff presentation and then we will take public comment.

Fred Stewart: My name is Fred Stewart, S-T-E-W-A-R-T, I live at 4675 South Avenue West here in Missoula. And you can't imagine how happy I am to be here today, because a year and four months ago we started off on this project, I thought it would take four months, it was a year and four months. So I am glad that we are at the end of the road, this is the last step in this particular process. However, we scheduled this particular hearing date in anticipation of having the three Commissioners here, because this has been an issue that is very important to our community and because of the fact that a tie vote means that it's denied.

Commissioner Evans: Before you go any further Fred, I would like you and everybody to know that Commissioner Carey had surgery on his knee today and that is why he isn't here.

Fred Stewart: I understand that and so it's totally unanticipated.

Chair Curtiss: On his part too.

Fred Stewart: No, that's what I meant. Thank you. Again, this is probably unusually but, we would like to respectfully request, that if it appears that the Commissioners, the two Commissioners, are unanimous either in favor or opposed, that is fine, let us know and we will go home. But, because of the time that we've put in on this, if it looks like there is a tie vote, and I know you haven't heard the presentation yet, I don't know how to say this other than to just spit it out, that we would respectfully request a delay until, if there is a tie, until Commissioner Carey could look at the record and there may be some other additional issues that come up today that would give us a chance to reply to that as well. And you are facing a situation where the staff report recommends denial and there is unanimous support from the Planning Board, so it's kind of a split decision coming up to you and we might have another split decision, so it's a tough issue for everybody I guess, in terms of the time we've put into it, hundreds of hours. So, that's why we make that request, respectfully and I just wanted to mention that at the very beginning.

Commissioner Evans: And we'd respectfully do that. It would be no problem.

Fred Stewart: To try to move things along fairly quickly, we've handed out an outline and I will do part of the presentation and then we have other individuals that are speaking on a specific part of our response. As I mentioned, we had the unanimous support from the Planning Board, so we are not going to say very much about that, obviously. But, the staff report, we feel that we want to take exception with some of the conclusions that they came up with and that probably is not a surprise to you. While I was waiting for this to warm up, I wanted to comment that throughout the entire year and four months, we've had a lot of support and a lot of assistance from the planning staff. We wouldn't have gotten this far, we wouldn't have the type of product that we've ended up with, without the support of the Jennie Dixon and others who have supplied data maps, who have really been very helpful at all steps along the way. So we want to publicly acknowledge the assistance and the help that we have had. We are proposing a new zoning district for Target Range-West End. This was the strategy that we started out with, we wanted to determine what was important to our neighborhood in terms of growth, we wanted to develop neighborhood zoning that would help to guide that growth, and we made a very conscience effort to inform all the property owners through multiple mailings and we had a public meeting on the zoning proposal, Jennie Dixon was available for that. So there has been a very large effort in terms of information exchanged to try to make sure that everyone knew exactly what was going on. After we made that final meeting with the public, we wanted to make personal contact, not just a phone call, not just a letter, our goal was 100% contact with the property owners in the zoning district when we were out collecting signatures. We mailed information about the full zoning wording ahead of time. And we've had, the County made one mailing to the property owners to announce these two hearings and we've had three post cards that have gone out to keep the property owners informed on what was going on as we went through the different steps. I want to just very quickly go through this. In March of 1999, we originally had a survey that we did in the Target Range, the broad Target Range area, and we had a meeting in November of 1999, dealing with citizen based planning. The reason I mention that is because one of the comments that came in the staff report has to do with the Comprehensive Plan and whether or not we are in line with the Comprehensive Plan. The Comprehensive Plan seems to talk about general

direction for the area and in Chapter 11, it talks about neighborhood planning, that the Comprehensive Plan is a broad document, it becomes more narrowed when it gets to the neighborhood in terms of how it get applied. So we feel that we've been, it's not the formalized neighborhood planning process that's in the Comprehensive Plan, but we've been working for quite a long time as a neighborhood to be aware of what our issues are and the kinds of things that we would like to have imbedded in the zoning for our area. In March of 2004, we began to gather the data on property information from the County data bases. In August of 2004, was the first meeting that we had with the County Commissioners. At that time, Jennie Dixon was assigned to work with us and work through the process. By November, we had the fourth draft of a proposal and we sent that to the County Attorney for her review. In December, we had a second meeting with the County Commissioners to let them know how things were going. In January, we had the review back from County Attorney Dowdall, and I would like to mention that our initial proposal was six pages long, we had eight pages of comments back. Now, the reason that I mention that is because it was a very thorough review, it was just a brief review, it was very detailed and thorough review and as a result of that review comment that we got back, our final proposal is three pages long, instead of six. So we incorporated every one of the County Attorney's recommendations with one exception, and I will tell you later what that exception was, it's pretty minor. February of 2005, now we are getting up closer, that was the third meeting with the Commissioners and at this point we were on our sixth revision of the proposed zoning. In March of 2005, we had a community meeting with the Office of Planning and Grants representative Jennie Dixon. At that point, we were on the eighth and final version of the proposed zoning. And I would like to comment that when we mailed out the seventh draft to announce this community meeting, my phone was ringing that weekend with some people who were pretty unhappy about the wording in that zoning. Some very specific comments and it showed me that people read this and people care. As a result of those comments, we did make some additional changes, some very substantive changes I think, between the seventh and eighth and the final draft we came out with. April of 2005, we submitted our proposal to the Office of Planning and Grants, we had 86% of the property owners approved, 96% of the property owners had been contacted directly like I said, we had a goal of 100%. There were people out of town, out of state, and so we were unable to contact everybody within that time frame, but literally, hundreds of hours of time to get to that point. June of 2005, we have had the Planning Board and then the County Commissioner hearings. So, just to give you a sense, you, the Commissioners, have been aware of this because we have had three meetings with you, but that's kind of what we went through, very quickly. Because in our zoning, we wanted to tie to the County Zoning Resolution as much as possible. That was one of the suggestions, recommendations, that Jennie Dixon had for us, so that we didn't have to write everything from scratch. We wanted to focus on those things that were different for our area and then tie to County Zoning for everything else. So in this particular case, this is a summary that went out to all of our property owners, that the district boundary is going to be much smaller and I will show you that in just a moment. The density bonuses and cluster development, as currently existing in the Zoning Resolution, would be prohibited and we would like to give you a lot of background about why we did that. Planned Unit Developments will be discouraged. Planned Unit Developments can't be prohibited, but we just went on record as saying we discourage them and I want to tell you why. Minimum lot size of one acre rather than the current density of one dwelling per acre, no mini-warehouses. Mobile homes on permanent foundations would have the same lot sizes as other dwellings and the current zoning calls for a 5 acre lot. Jennie Dixon pointed out at the Planning Board meeting that that particular part is not enforced. Well, if it's not enforced, why should it be in there. We wanted to go on record as saying that mobile homes on permanent foundations would be treated the same as all other types of residences. This is the last item that was recommended that we drop by the County Attorney, but we've left it in there, that the Target Range Homeowners Association would be notified of any variance request and we acknowledge that currently we are notified as a courtesy, although the Office of Planning and Grants is not required to do that. So it is a pretty minor issue, we think, in terms of the one item that we kept in that the Attorney suggested that we drop. In all other respects, the proposed Target Range-West End Rural Zoning District is exactly the same as our existing C-RR1 zoning. We tried to highlight the differences between where we are at and where we are going and the black line, it's hard to see the black line, but there are some red arrows around the outside edges of it, this is our current zoning district that runs from Target Range School, McCauley Butte area, out across the Bitterroot River, the Clark Fork River up to El Mar Estates, Kona Ranch Road, so it's a huge district and there are very many different neighborhoods within that district and one of the reasons we want a smaller district is so that the zoning applies to the situation in our neighborhood. The little red area now, you can see that it is a much smaller subset of that very large area, that is the proposed zoning district. A little bit more localized map that shows property boundaries that run from Maclay Bridge to North Avenue and then down Humble to South, South to the east all the way out to Target Range School and then it follows property lines around to the river and then follows around the river. So keep in mind though, that this is largely the boundary on the southern end, if you will, of C-RR1, the reason that the boundary line goes right down South Avenue is because on the other side of South Avenue is a different zoning district, C-RR2. So we are trying to focus on this and I will make a very quick comment that when we first came in, the first two meetings with the County Commissioners, Jean Curtiss specifically said, at that time

the boundary line ran right down Humble all the way to the river, the comment was, wouldn't it make more sense to include the area to the east of Humble over toward Target Range School. Our comment at the time was, it takes a lot of energy to get the volunteers to do additional work, but after we heard it the second time, we thought we better pay attention. And indeed, we did find a lot of people who were very enthusiastic about being involved in this within that additional area. And it does make a lot more sense to follow that particular zoning area. Very quickly, I want to make sure that everyone has a sense of the area that we are talking about, because it's not a gated community, it's not an exclusive area, it's a transition between the land along the Bitterroot River and the more densely populated areas up closer to Target Range School and on the other side of South Avenue. So this is not an exclusive neighborhood, it's a neighborhood that has a lot of characteristics and I'm going to try to give you a sense of that just very quickly. Many modest homes, you can't see, there are some very big houses here as well, we have lots that have been subdivided that are new houses are going to be here whenever they get developed. We have hay fields that are level that have not been divided, but this is where the future growth will likely come from. We have people with land that use the land for haying, for livestock, for outdoor activities, so people use their land here. This is one of the earliest homes in the area, around an area that use to be a truck garden. So all of these pictures that I have shown so far are all within two hundred yards of one spot. So within that two hundred yard range, we've got one of the very oldest homes, we've got hay fields that will some day probably be divided, divided lots and so on. On the other end of the area closest to the Target Range School, we have communities that are well established, they are in place, there isn't any other developable land here. These are approximately one acre lots that have already been developed. This happens to be on Gunsight Court, this is on the east end of Sundown, also one acre lots that have already been subdivided and developed. On the other end of Sundown, when we get down closer to the river, this particular lot happens to be in a conservation easement and obviously it's very different then the one that I just showed, and yet, within the space of a half a mile, is a transition from houses that are at one per acre to some open space with very nice wildlife habitat. Some older farm homes, some very nice gardens, again the way that people are using their land, this is Peggy Morrison's hay field behind her barn where she has her horses – people using their land. This shot is on the very end of Humble, again up against the river in the bottom land where there is a hay field and I will make another comment about this area in just a moment. Here is a small home with horses in the backyard, we see quite a lot of that here. This is one of the newest houses in the neighborhood, right next to the agricultural land. So an area with a wide variety of the people who live here, the types of dwellings that are here, the type of development that we've had. I couldn't pass this up, an Osprey that was flying over with a large fish yesterday when I was taking pictures. One thing, and that was to clue me about what the next slide is, one thing that we don't have in the area are cluster houses. We didn't realize how sensitive an issue clustered housing and the tool for clustering was until we got the report back from the staff. So, we want to take some pains today among us as we talk about this as to what's the big deal about cluster housing from our perspective. So we want to spend some time, this is the closest cluster that I'm aware of close to our property, to our zoning district, this is on Seventh and Clements. Just based on the pictures that I have shown you so far, this is a different type of development than what we currently have in our neighborhood in terms of the historic character of our neighborhood. I'm not making a statement about cluster housing being good, bad or anything else, we are just saying that it just doesn't fit within the character of our neighborhood. I also want to make a couple of points about the fact that, given the historical development of our area, there are very few spots within the proposed district where a cluster would even fit. So it is almost a moot point, there are very few opportunities there, but we feel quite strongly that in examples like this, the character and concerns of the neighborhood were not really factored in when these were developed and we also feel that Planned Unit Developments can accomplish the same thing, with a different level of community involvement, a Planned Unit Development is a tool to accomplish the same thing in our neighborhood, in our proposed zoning area, if that is desired by the property owner. I'm not going to go through all of this, but I just wanted to point out a couple of things, this is the three pages that our zoning proposal ended up at. And I highlighted the area about clusters because of the concern in the staff report. So what we have said is that Planned Unit Developments, Planned Variations, Cluster Developments, are neither encouraged nor deemed necessary to meet the intent of this district. The reason for that wording is because under our current zoning, C-RR1, it is stated that Planned Variations, Planned Unit Developments, Cluster Developments, are encouraged. And so we are trying to respond to our existing zoning and say, well in this particular area, we are not saying anything about other areas of Missoula or anything else, but in this particular area, they don't, it is a tool that doesn't fit well. And again, we didn't anticipate the reaction that we would get, but we want to do the best we can to explain why we said these things. This part was the map and I showed you the map, minimum lot size of one acre, rather than a one per acre density, again this fits with the concept of one acre lots and it really fits with the way people use their land in our area. That with a cluster housing, you have opening space, some configuration where the lots are smaller but again, most of the people in our area use their land with their gardens, with their out buildings, with their animals and putting the land in some other kind of common use, doesn't really allow people to use their land the way they have historically in this area. This is a comment about the mobile homes on

permanent foundations and I already made reference to that. Unintended consequences. As of the Planning Board meeting, there had been very little discussion about non-conforming lots. Before the meeting started Jennie told me, Jennie Dixon, said the ground is changing about non-conforming lots, so we need to be a little bit aware of that. But we've tried to understand what that issue is and we understand just based upon the newspaper articles, that within the City, we understand some of what that non-conforming lot situation is. So what we have tried to do, and I am not a planner, I'm not an attorney, we tried to make a single, one sentence statement that says here is our intention, we are not intending to hurt anybody as a result of the zoning that we are proposing. In my simplistic way of doing this was to say that, any single lot on record at the County Clerk and Recorder on the date of adoption of this Rural Zoning District, will be declared, deemed, to be a conforming lot. And then Jennie gave me a little bit of additional wording this morning and the provisions of Chapter 7 of the Zoning Resolution will not apply as to lot size. It's my understand, in terms of where it would become an issue in this entire zoning district proposal, I can think of one lot that is adjoining to a lot with a home on it, that is less than an acre, that would become a build able lot as a result of this statement. It's about three-quarters of an acre, so right now it's not, under existing zoning, it can't be built on, and it would be available to be built upon with this wording. That one lot is the only one that I am aware of, it's not a big concern to us as a community.

Chair Curtiss: Fred can I clarify that the words in red there then have been added since the Planning Board heard it.

Fred Stewart: That is correct. And we would have to ask you to add this to our proposal. So we are trying to anticipate concerns that folks have had about non-conforming lots and again, we don't want to cause a problem for anyone or any of us. So this was a stab at trying to raise the awareness of this so that you would have it very much in front of you and be aware of that. Thanks for the clarification. Variances, and this is the part where we ask that the homeowners be notified about variance questions. This is a map that David Grey on the planning staff put together for us, that has some information that color codes the sizes of the lots and we will leave this up for some of the other presenters to be able to use this. One of the things about the non-conforming lots was an issue on some of these parcels along here, some of the parcels here, some of the parcels here, some of them are 0.999 acres, literally, and that's the way they are recorded and so they would become a non-conforming lot, although in terms of septic, setbacks and distances and all that, it's really not a problem. But again we just want to make sure that we don't cause problems for anyone. This is the first map that we used in terms of the zoning area and I just want to very quickly show you a couple of things. This area that is in grey here is currently in a conservation easement and it's the only area that is currently in conservation easement in our area. Now on the next slide, this area belongs to Dana Headapohl and Larry Martin. They are currently in the process of trying to establish a conservation easement. This parcel is part of a piece of property that belongs to Joe Rice. Joe Rice and I have some discussions about an interest in having the pond in that area that's below the bench somehow included in the conservation easement. Carter Beck is the new owner of this property and he also owns these properties here. He has expressed an interest in forming a conservation easement, so he is working on that. These two parcels belong to Northern Lights Developments and I don't intend to speak for them other than to just make the statement that at a couple of public hearings and in the Five Valley Land Trust Newsletter of last week, mention was made of these properties, that there were discussions going on about conservation easements. So you can see that in terms of the very valuable habitat along the river corridor and on the butte itself, the citizens, the property owners, are moving forward in terms of protecting those areas. One of these examples that we see about the advantage of cluster housing is to protect this type of area. So, that's part of why I am saying that it's a tool that may have wonderful applications in other places, but there are very few places in our area where cluster housing would make a big difference. And that's the end of mine, because I thought I was going to go backwards but –

Chair Curtiss: We do have that map. If they want that map we have it on the wall.

Fred Stewart: Just so the people in the audience, one of the things I wanted to mention was that we have put together a list of presenters from our group rather than, we think it will be more efficient to be able to go through it. I've talked longer than anyone else will. And because we got a late start, some of the folks who had intended to be here, were not able to be here – child care, camps and those sorts of things. And some of the folks that are here now, may not be able to stay so, I would very quickly just like to have folks raise their hand, those who are in support of our proposal, in case they have to leave before they have a chance to say anything.

Commissioner Evans: Fred, I would like to ask you – thank you folks – I would like to be sure that I heard what you said. All of the grey pieces that you mentioned are considering doing conservation easements and they do not oppose being included in this.

Fred Stewart: I didn't say the second part.

Commissioner Evans: I need to understand that, that is very important to me.

Fred Stewart: Okay. In terms of this person has – everyone, all of these have, are in support. Northern Lights, that own these properties, has not supported our proposal, they have not signed onto the proposal. And as I said, I didn't mean to speak for them.

Commissioner Evans: I didn't say you said that, I just wanted to make sure that's what the intimation was.

Bret Kulina: My name is Bret Kulina, K-U-L-I-N-A. I am the owner of the property that Fred has identified and a brief history of how that came about. We have started neighborhood meetings on a proposed development and Fred is correct, that we have gone down the path to hopefully preserve the areas that you see in grey. But the flip side of that, we need a development that is a cluster development, to make that happen. The original proposal of the rezoning district included all of our property and in meeting with the neighborhood group that has been working very hard on this, they saw clear of taking the area that we wanted to develop out of this zoning area. That would be to the right of the grey area that says McCauley Butte, this and all of this. They did take that out because, obviously the inclusion of that in this zoning district would have put some serious damper on a plan that we've been working over a year on. We appreciate that they were willing to do that and I guess the area that is in grey, we hope to have under conservation easement but, I do say, it comes with a cluster development, and when we talk about not all properties are suited for cluster development, the 300 acres that I own are perfect for that and I think we are going – we can show a picture of tract housing and say this is cluster development and what you get, that's not necessarily true. You may wind up with 200 acres of riverfront and view property permanently protected by an independent party so. I am not opposed to having the part of our ranch in this, because I completely agree with Fred when he says that the Target Range area, as zoned, is very different neighborhoods and the part of my property that will be a part of this zoning, should it be approved, will be hay, sheep, farms, two houses, and it will very much fit with the neighborhood. Hopefully, Fred will support us when our plan comes forward, that the property that is outside this zoning district, is not part of it, it's not part of the Target Range neighborhood physically and when we do talk about growth coming to Missoula, if we don't want to impact historic neighborhoods like the Target Range-West, then we need to allow new neighborhoods to come about and that's exactly what we will be proposing to you later this summer.

Commissioner Evans: Will you take the marker, please, the area that forms the "L," these two pieces, you want left in this District? I need to understand what you are saying to me, Bret.

Bret Kulina: What I am saying, if I were to have a say in it, what I would like is all of our property taken out of the zoning district.

Commissioner Evans: Including this large area?

Bret Kulina: Yes, including that. We do have a plan that we have been working on for a year and it is moving forward, but we are trying to please a lot of people and make sure that when it does get to your desk, it is the best possible thing. So to say that, it would be great if all of our property was taken out of it. I will say, if our project moves forward, all the property in grey will be under conservation easement for no development, no subdivision and so the underlying zoning will not matter. But, I will say that these folks did see it, to pull out part of our property, so as not to hamper any of our plans to much. Because our project has not come forward, I would ask that you pull all of our property out of it, and allow our project to be heard on its own merit, because it is very much a separate part physically. They are talking about one acre parcels and we have 300 acres, we are very different beasts. Does that answer your question?

Commissioner Evans: Thank you Bret.

Chair Curtiss: And I have a question too or a follow up on that, and Colleen may want to add something also. A question for you, Bret. Is your proposal for cluster development dependent upon moving density from the butte and the other area onto the other property?

Bret Kulina: Yes it is.

Chair Curtiss: So, and I will have Colleen clarify this, but we had this discussion this morning, knowing that I believe that most of you have probably seen and gone to the meetings about their proposal and we haven't at least heard any opposition to it. It is our understanding, in talking with counsel, and we will have Colleen clarify that, is that if the density upon McCauley Butte and the other little piece over here along the river, actually large piece, end up saying that their density is one per acre minimum lot size, that doesn't transfer too well when we want to transfer development. The other is, that this zoning that now doesn't allow you to cluster, reduce your benefit, your tax benefit, of a conservation easement.

Bret Kulina: Quite possibly yes. And I guess I appreciate you bringing this to my attention. My assumption was that if a portion of our property was included in this new zoning district, it would not affect the transfer of development rights to the developed areas that we want. If it does, then I certainly say, please take all of our properties out of it, because I feel like our project, when presented at the end of this summer, is going to add to the potential conservation easement and we are going to have what I would consider, the shining light of what this neighborhood wants. But, gosh I appreciate you bringing that up. I was under a different assumption and I am certainly not fighting these or opposing what these folks want to do with their neighborhood. As they described, it is mostly developed into one acre tracts as is. But I would ask that you remove all of our property from the zoning district so that the full project can be heard on its own merits later on in the summer.

Chair Curtiss: Because I think that one of the goals of the citizens in the Target Range area, as well as the County, has always been to try to protect McCauley Butte from development and we don't want to limit that. So Colleen could you address just a little, just clarify what you believe minimum lot size on that property could mean in regards to transferred development rights.

Colleen Dowdall: I think you summarized my concerns pretty well. If this property does go into this zoning district, it is changing from apples to oranges and I am not certain that that would translate into an easy transfer of development rights. I think that the development right for a one acre parcel is very different than a density right of one per acre. So I have concerns with – especially if – I think it is an unnecessary complication for that development.

Chair Curtiss: Okay.

Bret Kulina: Well I greatly appreciate this and this is the first that I've heard of that. I guess when we met with the neighborhood, they were acquiescing to us and we were kind of acquiescing to them saying, hey we're all going to have a good project here, let's keep the part that is physically, that you guys see, let's keep it in. If I, at any point, had ever thought that the inclusion of a portion of my property in this zoning redistricting was going to complicate the plan, I would be against it and I would have been doing more than just – like I said for what they are doing, I think it's a good thing. But, if it is, we've already talked to Colleen about transfer of development rights and if this is going to mess up a project that I think is going to have tremendous benefit to this neighborhood, yes, please take all of our property out of it and I think you will be very impressed and I think this neighborhood will be very excited about our project. I appreciate you guys bringing that to my attention. I'm glad I drove down from Kalispell this morning.

Chair Curtiss: We are too.

Bret Kulina: Thank you very much.

Chair Curtiss: If we hadn't heard from you today we were going to probably delay and we may still delay. Okay. Is there anyone here that wants to speak that needs to leave soon, so that we make sure we get you on the record before we go on back to Fred's original agenda. Go ahead and come up to the microphone please.

Dana Headapohl: I'm Dana Headapohl, I live at the very end of South. Sorry, I need to get back, I'm in between patients, but I felt that this meeting was really important to attend. I believe very strongly that a community should be able to have a say in how their area is developed. And because we are in such a large zoning district now, there are just too many needs to be listened to and met simultaneously. I think what Fred has done, and the community has done, is really fantastic, they took a great deal of time talking to people, educating people, making sure that all concerns and interests were met, and trying to reach some kind of consensus. They've been working also with the developers to try to make this be a win/win situation for all. I would be profoundly disappointed in our process if the County Commissioners do not hear this smaller district's request to form its own zoning district, because this is what government is all about, this is what citizen participation is all about. This is why we left busy

practices and all the other stuff we were doing, because we feel that this is very important that this community be able to make some decisions, obviously with your grace and benefit. This is how we see, this is why we moved to this type of neighborhood. This is the type of neighborhood we would like to preserve. We don't want to cause a problem for the City or the County in any way. And I don't think it does with this proposal. Thank you very much.

Chair Curtiss: Thank you.

Commissioner Evans: Thank you.

Chair Curtiss: Okay, is there anyone else that needs to speak because they need to leave before we go back to Fred's agenda, which has Paul Ferguson next.

Commissioner Evans: We have Clayton Floyd.

Chair Curtiss: Clayton would like to first, if you don't mind Paul.

Jennie Dixon: I was just going to say.

Chair Curtiss: Oh and we would like to do a staff report at some point.

Jennie Dixon: Just so that the citizens, before they comment, have the benefit of some new information. I thought it might be good to give a little bit of presentation maybe after Clayton is finished.

Chair Curtiss: We'll let you go Clayton.

Clayton Floyd: For the record Clayton Floyd, F-L-O-Y-D. I applaud this effort on the part of Target Range residents to go out and through self-determination, advance to you what it is that they desire for their area. They have gone about a process where they have educated themselves about what the law is, they've made the effort to convey not only intent, but their desire. I think it's unfortunate at times when we have guides like the Comprehensive Plan, that we look upon it as law. The Comprehensive Plan is not law, as you well know. It is a guide, it's a guide we all agreed to, to try to decide how we were going to manage growth. These folks have seen what they choose not to be a part of and have, in the strongest terms, indicated that to you. I think today there are a couple of things, just while I was sitting here, that caused me concern. For instance, the conservation easement in the Northern Lights area, it's carrot on a stick. That development will happen as proposed if a number of things occur. If the City gets JTL's property, if we trade some land with them, if the subdivision gets approved, then this winds up in conservation easement. If all of those things together do not occur, I'm not sure that that will wind up in conservation easement. And I think that's something that needs to be, the comfort level needs to come up a lot higher than where it is right now. I think that is part of why that area is in there, the folks understand what the potential is there and I think it helps to protect them as part of this plan to retain it in this area, in the plan. They've spoke to cluster development, as I'm sure you are all painfully aware, it's been a subject near and dear to my heart for almost eight years now. And we've seen a significant amount of cluster development, not the rural cluster development that we are talking about here. A couple weeks ago in committee we had the statement made that we haven't had any of these. Well actually we have had one of these. One of them was done up in the Rattlesnake, but you could park a suburban on top of the amount of open space that was done in that open space cluster. Would that be the sort of thing that we would see out here? Hardly, but there are trade offs and that's what it intends. To use the idea of clustering as a means of saving vehicle miles traveled or infrastructure costs, I think is maybe a stretch, because if you have the same number of folks, whether they are clustered in a tight group or whether they are one per acre, you still have the same number of folks driving virtually the same number of cars, the same number of miles. Now there may be some merit to the argument that you are going to save some infrastructure costs because maybe your grid isn't going to be as extensive. But, I really kind of question whether that is a benefit to the public or not because, as we've gone through the development of River Road, I think all the cul-de-sac development down there has actually limited what we are doing for the public in that it doesn't have connectivity, it has increased response time for emergency response vehicles and I think we need to take that into account when we start touting the benefits of limiting infrastructure in grid, in particular. If anything, I think we should have learned the lesson by now, where possible, funding available, we need to do what we can to increase grid, not reduce grid. And last, I think there has been the philosophical difference for some time now that, because this area happens to be adjacent to the City, it some how needs to be a part of the City and pay its dues. I take big difference with that and when I went to a meeting a number of months ago out here, I was almost shot as the person coming from the City. I says, don't shoot the

messenger, I'm just here to try to sort out fact from fiction. And I think that these folks have done a very good job of being able to sort out fact from fiction. I think they have an area that is special to them, just because they are immediate adjacent to the City, doesn't mean that they have to accept what the City is looking at. Not only for the kinds of development and density that we realize here but, the NIMBY thing that we deal with all the time – Not In My Back Yard – I don't think applies, because we have the opportunity to designate, as leaders within local government, where growth will happen and ideally, we would be able to keep that within the already defined urban boundary of the City of Missoula. But the reality doesn't match the intent and so therefore, at times we are going to have to make exception with what we would like in a best world situation and deal with what the reality on the ground is. Whether we like it or not, some sprawl is going to occur in the Missoula Valley. Is it a good thing to encourage? Hardly. But ultimately, that is a reality and if you have folks who, through self-determination, tell you that they don't want to participate, I think we almost need to listen to those folks. Thank you.

Chair Curtiss: So before we go to you, Paul, if we could have – staff brought us a couple of new things this morning, so if we could have Jennie do that.

Jennie Dixon: Thank you Jean. I'm going to keep my comments extremely brief this afternoon since, Fred's presentation was very thorough. But I would just remind you that what your action requested today is to create a rural zoning district which would be incorporated into the County Zoning Resolution and to be applied to the Western Target Range area. The information I provided the Commissioners this morning, and I have a few copies here but they are hand-colored, so I didn't have a lot of time to make a bunch of copies, but at your request, provided you with a motion to approve this, should you decide to do that, with the one change requested by the applicant regarding the statement to deem lots, if it is adopted, that are smaller than an acre, to be conforming. As you are aware, staff's recommendation was for denial of this rezoning request and those reasons are contained in the staff report, I won't elaborate on those in much detail and ask that the staff report be incorporated into the public record. The primary reasons have to do with issues related to Comprehensive Plan compliance, natural resource protection, prohibiting the ability to do cluster development which results in less protection for areas that are either in floodplain or have natural resources, and can result in a less efficient transportation system. So a variety of reasons related to those issues. Planning Board, however, did recommend unanimously, eight to zero, to approve the district. After discussion with the Commissioners earlier this week regarding those two opposing recommendations, I was asked to prepare possible scenarios regarding areas to be excluded. One scenario shows an area on the southern portion, I will just hold this up I don't know if people can see this, on the southern portion of this property, outlined in green, I've prepared a map that shows lots that could be excluded and actually Fred, can you back that slide up and maybe I will use your laser pen. I've provided two scenarios for the Commissioners to consider to exclude, and it would be those parcels that are in grey, which indicate parcels over five acres on the southern property that did not indicate support of this zoning district through signature on the petitions. So that's this area up, excludes that, down and around, and then the Rangitsch property and the Northern Lights property as well. Another scenario – those are the larger acreages clearly in this zoning district, there are some larger ones up here that are in the middle and these over here, this one, Headapohl, Carter Beck, Alice Austin, these three were supported by the signatures of the owners, but are the larger acreages that have floodplain and potentially riparian resource, that is another scenario that you could exclude these. That would give these the ability, if remaining in the C-RR1, could retain the ability to do cluster development as the C-RR1 has the density rather than the minimum lot size. And let me just finish up over here. So I provided those couple of options for Commissioners to consider, certainly along with the applicant's proposal or staff recommendation and Planning Boards recommendation. Fred mentioned the conservation easements that are potentially planned in this area, which we are always encouraged to see, especially in areas that need protection, however, given that those are not part or have any government involvement, nor are they enforceable by the government, we don't look at those as certain or perpetual. And I think that would conclude my comments. Thank you.

Chair Curtiss: And there was one other thing that's on this little map, which is a piece of property that is kind of off right here –

Jennie Dixon: Yes, zoned C-A1.

Chair Curtiss: But it actually belongs to somebody who lives across the river so that was being recommended that we might exclude that.

Jennie Dixon: Thank you Jean, yes.

Chair Curtiss: Thanks for your report Jennie, and I don't know who it was that wrote a letter to the editor blasting staff, but staff interprets regulations adopted by governing bodies. So if you are going to blast anybody, it really ought to be us, we get paid the big bucks to be blasted, don't we Barbara? She doesn't want to be today.

Commissioner Evans: I'd just as soon not be blasted, if you don't mind.

Chair Curtiss: So next we will go to Paul Ferguson with a statement from the volunteers. And I just commend the work that all of you have done on this. It's been good.

Paul Ferguson: Well Commissioners that you for the opportunity to speak to you. Paul Ferguson, F-E-R-G-U-S-O-N, 2713 Glenn Drive. I've lived in the area now for almost twenty years and we believe that zoning is the most powerful tool available to property owners to protect and guide future development. While working on the rezoning request, we made a concerted effort to contact everybody in the district and inform them about the pros and cons of both existing and proposed zoning for our neighborhood. We were able to make personal contact with 96% of the property owners. As we talked with property owners, getting signatures for our Target Range-West End Rural Zoning District, we found a high level of support for our proposal. A full 86% of the property owners signed the proposal before you this afternoon. And a number of the people that didn't sign, were in agreement, but just didn't like signing things. We found a wide cross section of people in our neighborhood supporting our proposal, blue collar works; local, State and Federal government workers; doctors; lawyers; dentists; nurses; real estate agents; builders; small business owners; teachers; retirees; people with lots that were smaller than an acre; and those with lots of more than ten acres; people with large homes, people more affordable homes; and people that have lived here for more than forty years; and newcomers whose homes are under construction. A common factor among all these people was a desire to maintain the low density and the semi-rural character of the area. I believe their concern for private property rights should extend to the majority of us who live in the zoning district with low density housing, foregoing zoning that would allow many of us to further subdivide our lots. And representing the neighborhood volunteers who spent many hours on this proposal, we respectfully request that you approve our Target Range-West End Rural Zoning District. Thank you.

Commissioner Evans: Thank you, Paul.

Chair Curtiss: Thank you. So, Jerry, I guess you are next on the list. Oh, well, you're out of order, but that's fine with us.

Torian Donahoe: Commissioner Curtiss, Commissioner Evans, staff and members of the public. My name is Torian Donahoe. My address is 2531 Mountainwood Drive here in Missoula. I am an attorney with the law firm of Wells & McKittrick. I do not know any of the parties involved, but when I read of these land owners hard work and farsightedness, I wanted to lend my support for the zoning district. I was raised at a ranch at Limestone, Montana that was homesteaded by my grandfather. This area is approximately thirty miles north of Yellowstone Park. It is an area of productive agriculture land with an abundance of fish and wildlife. In the mid-1970's, Johns Manville Corporation announced that it would build the first domestic platinum smelter in the United States at the end of the Valley, located less than one mile from my family home. We subsequently learned that the land that my grandfather had homesteaded was designated as a site for a very large tailings pond, our neighbor's ranch was designated as the alternate site. Needless to say, we and our neighbors were in absolute despair, we were facing a construction force of 500 workers in an area that has a one-lane gravel road and is located 30 miles from the town of Absarokee. At that time, Absarokee had a population of less than 500 people. Following the initial shock, my mother, Mary Torian Donahoe, and I might add, she was the first woman elected as County Commissioner in Montana, began investigating the legal and administrative alternatives to protecting this beautiful and productive valley. She subsequently began working with her neighbors and the West Fork Zoning District was proposed. Ranchers and owners of recreational property came together to create the district. The proposed zoning district included the mining company's property in its entirety and limited property use within that zoning district to agricultural and recreational, with recreational being defined as hunting, fishing and photography, not subdivision. Needless to say, some individuals in the community opposed creation of the district, based on potential loss of jobs and tax revenues. After very careful deliberation and what seemed like an eternity, the Stillwater County Commissioners approved the district. Johns Manville subsequently sued the County and the applicants. After some initial depositions, Johns Manville decided not to move forward with the litigation. I am pleased to tell you today that the West Fork Zoning District remains in place and as a result, the upper Stillwater Valley remains as it always has – bountiful wildlife, in fact the elk cows come down and calve, both in our hay meadows and the adjacent property that previously was owned by the mining company. It is also an area of very productive ranches. At the same time, Johns Manville, subsequently Stillwater Mining, realized its dream of opening the first

domestic platinum smelter. The platinum smelter was subsequently located 50 miles down the road in Columbus, Montana, and this was done at the request of the Mayor and the City Council of Columbus, they wanted the platinum smelter to be located there. By locating the platinum smelter in Columbus, it allowed immediate rail access. The zoning district provided the landowners an invaluable opportunity to protect their property while having a voice in how the upper valley should grow. I think we hear today a lot about participation in government and involvement in government and having a voice in government, whether it's local government, State government or the Congress. The proposal before you today is democracy at its very best. Local people deciding the direction of their immediate area, then taking some charge and some responsibility and stepping up to the plate and having enough trust in local government to say, this is what we, as property owners, believe is necessary, not only for our good, but ultimately for the good of the community. The petitioners are to be commended for their farsightedness and their willingness to protect both their way of life and open space. I truly hope that the courage they have shown here today will serve as a springboard for both a more comprehensive and innovated approach to growth in Missoula County. And I thank you for this opportunity to speak.

Commissioner Evans: Thank you for speaking.

Chair Curtiss: Thank you. Okay, now Jerry.

Jerry Berens: Members of the County Commissioners, my name is Gerard Berens, I am president of the Target Range Homeowners Association which supports this endeavor. I am also a property owner and resident of the proposed Target Range-West End Rural Zoning District and I reside at 2085 Edward Court. I will address the section whether the zoning is compatible with the Comprehensive Plan Conclusions of Law on Part 6 of the OPG Staff report to the Planning Board. First, the proposed rezoning is, in our view, made in accordance with the Growth Policy or Master Plan as provided in MCA 76-2-201. And I quote it; *"For the purpose of promoting the health, safety, morals and general welfare"* the proposed zoning district will not exceed the Comprehensive Plan's visual representation of two units per acre. The proposed lower density of one unit per acre will promote the public health, safety, morals and general welfare. The lower density will promote public health and safety through more moderate traffic and thus more moderate air pollution, congestion and traffic accidents. It will also lessen traffic on Missoula's already overburdened roadways and thus promote the general welfare. Conversely, the two per acre goal of the Comprehensive Plan will double traffic volumes, congestions and accidents. Maintaining the existing density will promote general welfare by maintaining the area's low crime record. If the proposed zoning district density was three units per acre, it would not be in accordance with the Comprehensive Plan goal of two units per acre. The proposed one unit per acre is within the goal of a maximum of two units per acre, thus will have less impact on the limited financial, structural and environmental resources of the Missoula Valley. 2) To achieve the Comprehensive Plan's goal of two units per acre means government will have to break the existing zoning contract between landowners and government. The government will have to do this against the expressed wishes of the area's landowners, of which 86% have petitioned to maintain the existing low density. Number three, the land areas of the proposed district are contiguous to the Bitterroot River or are in close proximity to the river. The area attracts significant numbers of diverse wildlife, deer abound, ducks, geese, bald eagles, hawks, pheasants and osprey make these their home. Foxes are present in the area, elk, moose have frequented the area. Existing patterns of low density development have accommodated these species by providing areas of open land which act as corridors and grazing, hunting and nesting places for the wildlife – that's hunting of the wildlife, not hunting by the individuals – all of which provide for the general welfare and the preservation of the natural resources of the area. Doubling the density will double the pressure on the wildlife. Number four, the citizens, through well-attended public meeting and discussion groups, have effectively modified the Comprehensive Plan. They have chosen to maintain the existing pattern of growth. The signatures of 86% of the property owners is the clearest demonstration of the public will and the public participation. These signatures are a far better indicator than the Comprehensive Plan. The Comprehensive Plan appears to be out of synch with the super majority of one sector of the population. We note that the Plan was designated to be modified at the neighborhood level and should reflect neighborhood characteristics. Chapter 11 of the Comprehensive Plan, 'Neighborhood Planning Process' states: *"Introduction: Both the City and County government have encouraged and supported neighborhood planning since the adoption of the 1975 Comprehensive Plan. The recommendation included in the 1990 update made it even more essential that the Urban Planning has a vital neighborhood planning process. The Comprehensive Plan Update provides the foundation and the community wide objectives for growth in the Missoula Urban Area. The Neighborhood Planning Process must now clarify these general objectives by developing smaller skill plans consistent with the community wide objectives, yet specific enough to address local issues peculiar to individual neighborhoods."* I am still quoting from the Comprehensive Plan, it continues: *"The neighborhood planning process should satisfy many purposes. It should provide opportunities for Missoula citizens to enhance their civic conciseness and develop local leadership. The neighborhood*

involvement in the planning process should provide local government with better information on which to base its planning efforts and to prioritize the Public Works projects. It should foster communication, understanding between neighborhoods, government agencies and elected officials. The environment for growth and development should be more predictable and less contentious. A vital neighborhood planning process helps to ensure fairness and impartiality in all neighborhood's access to government. And the neighborhood planning accomplished in the context of the Urban Plan Update will provide a community wide prospective to the solution of neighborhood issues. Both community wide issues and the livability of a particular neighborhood should be considered when answering questions such as the appropriateness for multi-family housing and neighborhood commercial developments." The citizens of the proposed zoning district have accomplished these very goals of the neighborhood planning process as delineated above. In the words of one Planning Board member, we have, "a defective Comprehensive Plan." We concur. As evidenced by the 86% of the property owners signatures, we effectively completed a neighborhood plan as a modification to the Comprehensive Plan. Chapter 3 of the Missoula County Growth Policy Guiding Principals states: *"The guiding principals expressed broad values or assumptions and provides a context in which planning policy is developed and implemented. The following statements reflect guiding principals adopted by the City and County in the planning documents."* These are the guidelines stated in the Growth Plan: *"Tools used by the City and County and other government bodies should reflect the values of the citizens they serve and effectively accomplish the goal to A) protect critical lands and natural resources and b) enhance human resources and the valued characteristics of our communities. 2 - The right to a clean and healthful environment is fundamentally important. 3 - Economic and social well being is tied to the quality of the natural environment. Long term economic stability and high quality living environment should not be sacrificed for short term economic gain. 4 - There may be social as well as physical limitations on the ability of an area to accommodate growth. 5 - The social structure and the physical character are distinctive at the neighborhood level, the small community level, the large urban area and the rural reaches of Missoula County. Diverse, integrated and unique values of neighborhoods, communities in rural areas, are important and should be protected."* The above guiding principals clearly support the proposed rezoning request. The rezoning reflects the values of the citizens and the valued characteristics of our community. Our desire to have a clean and healthful environment, less traffic, noise and pollution is fundamentally important. We desire a high quality living environment, over crowding of our community will do the reverse. The signatures of 86% of the property owners are clear evidence of the social limitations of the ability of the area to accommodate growth. The social structure and physical character are distinctive at our neighborhood level. The area developed as a low density area and the citizens have voted to maintain and continue that pattern of growth. One further section, the little test, the Montana Supreme Court developed the three prong test in the little case, which is applied in rezoning requests. They included whether: 1) the request is used in a significantly different form from the prevailing use of the area; 2) the area in which the request is used is applied to a small, although not slowly physical, including how many separate landowners will benefit from the zoning classification; and 3) the requested change is more in the nature of a special legislation designed to benefit one or a few landowners at the expense of the surrounding landowners or general public. We submit that the zoning district passes each of these tests. It is not significantly different from the prevailing use in the area, it is a large area with 283 landowners, it will promote the general public welfare by causing less traffic than the maximum density limits of the Comprehensive Plan. It will serve to preserve the habitat of many wildlife species. It is not a special legislation designed to benefit a few landowners. Finally, what does the signatures of 86% of the property owners mean? Are they to be ignored? Existing stewards of the land have followed the rules and invested their resources to build in accordance with the zoning and existing patterns of development. They've been drawn to the area because of that pattern of growth. They were told by their realtors, myself included, that the area would remain about the same due to zoning. Now they are being told some document, which they did not consent to, compels them to live in an area which could become radically different, more congested and more unsafe. Who knows better what the development patterns of the area should be – the Comprehensive Plan or 86% of the landowners who do support this project? Thank you.

Commissioner Evans: Thank you Jerry.

Chair Curtiss: Thank you Mr. Berens. Next, I'm not going to call off names, you guys know who wants to be next.

Michael Chandler: Commissioners, public – I'm Michael Chandler, I've lived in the area for a little over 31 years now. I've seen radical changes in that time and the general direction, I think, without some little bit more protective zoning, will continue in a way that I don't really appreciate, and evidently, 86% of the people that agreed with us, feel that same way. I was going to speak specifically to two items in the Executive Summary, Numbers 2 and 3. Number 2, whether the zoning will lessen congestion in the streets. Jerry has already spoken to that a little bit. The cluster development thing sometimes is used as a reasoning that would cause fewer miles

to be traveled but I think if you look at the map, pretty well all the access to the area is from the north and east, and also, if you were to drive around the area, you will find that most of the homes on the parcels bigger than an acre or two, or even at an acre, are near the front of their lots, pretty well all of them are on the east or north end of those parcels. Should there be cluster development – and there are quite a few five acre parcels there, and tens that are made up of two five acre parcels – should there be cluster development there, no doubt the owners would cluster the development on the south end of the property which would put all of them further away from the normal access route and actually increase mileage. The Executive Summary did state that our proposed zoning would have no affect on the amount of trips per day, and I have to take a little exception to that too. The Comprehensive Plan actually suggests a half acre per dwelling. And should that take place, and it probably would if we do not get our majority wish here, naturally the traffic would increase heavily, which would require quite a bit of infrastructure, which always seems to come late in our area. One of the things and an item, I think, taken from the Comprehensive Plan, Number 22 on Page 6 of the Executive Summary, one of the statements, probably the most disturbing to all of us, is Number 22, which says the Growth Policy encourages the design of low density development within or adjacent to their Urban Growth Area in such a way as to accommodate potential re-subdivision and infill. And cluster development fits that perfectly and I guess that's why we wanted to eliminate that. The proposal would require one acre minimum lot sizes precluding designs such as cluster development. I think that's the whole big thing and we hope to retain a little bit more of our existing open space. I know my neighbor, Peggy Morrison, and I have both agreed that until the death, neither one of us will ever do any subdivision on our property. I hope she remains true to that – and she lives a long time! The other item I wanted to speak to is Number 3, whether zoning will secure safety from fire and other dangers. We have great emergency services out there and unfortunately, I front right on South Avenue, so I witness to them quite regularly because they go to Maclay Bridge a lot. They get there fast and I think everybody in our area is really happy with the Sheriff's Department, our Rural Fire District. It's all in place and if we can keep the densities down and I think it's a lot easier for those emergency services to find, rapidly find, addresses on individual mail boxes like down Glenn Drive, than if they were in a cluster development and have to go into a cul-de-sac and then try to find which address it is within that area. I think emergency response is a lot better with the proposal we have, one acre per house. Also, health-wise, better air dispersion around wider spread homes, it has to be a little bit healthier. There is less fire danger when buildings are further apart. There are a lot of reasons besides our own individual hopes that we don't have a neighbor that will listen in to every conversation that we have over the fence. There are safety reasons and health reasons that will benefit from our proposal. I don't believe I will go any further with that and I appreciate the chance to comment. Thank you.

Chair Curtiss: Thank you for your comment. Okay, next one on the list is Lynn, but I don't know if Lynn is the one that wants to talk next.

Lynn Gogas: Commissioners, I am Lynn Gogas, G-O-G-A-S, and I live at 4613 South Avenue West. And what I have to say has been mentioned by just about everybody that has gotten up. But, what I wanted to do was maybe make, in a unit, make comments about the health and general welfare of the area that we live in. And maybe this will help you sort of handle it in your mind, aside from other things that have been talked about. So, bear with me. I've lived in this area for about 48 years so I've seen a lot of growth. When I first lived there, the units of land were 20 to 30 to 40 to 50 to 100 acres, and now they are down to much smaller than that, in some places, but actually we have a lot of acre lots, houses with acre lots and we still have some larger areas as well. So it is a mixed community and I think that this has a lot to do with our health and general welfare because somebody else has mentioned that we need our privacy, we also need to be free of pollution and in this area of Western Montana we have had a great deal of pollution. Luckily we've solved a lot of the problems. I've seen a lot of improvement in that area, but I think that we need to consider the fact that people who live close together create more pollution for each other than people who have a little space. There is house pollution, you know, the exhaust from the furnaces, air conditioners, noise, all sorts of things that go on, so we kind of need to take care of this by keeping one area of the Valley a little bit more open. As other people have mentioned, our fire and police protection can get to us very easily, we don't have any need for the construction of main roads, because those existing ones are adequate and paved and this diminishes the expense of pollution from more construction when additional people move into our area. Those of us that live in the rural Target Range area do a lot of walking and biking, we spend a lot of time in our homes gardening, taking care of our animals, raising hay, whatever we do, which is of a really rural complexion. We only have one store in the area and that's Dale's Dairy, and of course, the school, and both of them are quite close together and centrally located, so most of us can walk there, so we don't have to take a car if you don't want to. The traffic will be more increased when more homes are built and I'm sure more homes will be built, but we need to keep our area open as much as we possibly can, so this is a healthy thing for us. I'm kind of skipping through my notes here a little bit, please bear with me. Contrary to the conclusion of the planning office staff report, I feel the proposed zoning will increase the health and welfare of our

neighborhood for all the reasons that I have mentioned and other people have mentioned. We have less traffic, less congestion, it's easier for biking and walking, there is less stress on the land and the people who live here. We don't really need a big sewer project going, we can protect our wetlands better by having more open space, so as development continues, we want to preserve, not degrade, our healthy environment. We need some places in the Missoula Valley where people can live a relaxed and healthy life and this is a basically rural area and those of us who have lived there for a long time, and many people who moved in recently, really would like to keep it that way as long as possible. So we thank you for listening and hopefully you will agree with us.

Chair Curtiss: Thank you for your comments. Next.

Carter Beck: My name is Carter Beck. I am probably one of the newer property owners in the area. I own property at 4860 Sundown Road and I hope the members of the Commission will permit me just a few impromptu and informal comments and any members of our community who wish to speak with me about my peacock, please find me before I leave today.

Commissioner Evans: I gather your peacock makes a little bit of noise.

Carter Beck: Yeah, it has all the qualities of the peacock except the beauty, yeah.

Chair Curtiss: It doesn't have tail feathers?

Carter Beck: He does, he's quite magnificent, but he is noisy and every seven and a half minutes, 24 hours a day, they make a very interesting sound. Have any members of the Commission actually been to the area we are discussing today? I had never been there. I have lived in Missoula for five years and I had never been there until I went there because someone I knew lived there. It's a unique area in Missoula, there are really very few ways to get in and out and there is very little reason to go unless you know someone who lives there. It's a very quiet place, it's sort of Montana as it was and that's what attracted me to the area and why I bought property there. It's uniquely beautiful, being situated between the Butte and the river, and I am presenting today in firm support of the proposal to limit the density, to prevent cluster developments, and to encourage conservation easement in this area. I think that there are very few places left in Missoula that have the opportunity to keep Montana in Missoula the way this area does. There are very few places where it will affect fewer people than this area, it really matters to no one except those who live here or those who are seeking to extract a quick profit from the land, so I see very little reason for the Commission to encourage high density, cluster developments in this area and every reason to prevent it. I think it is part of Missoula's heritage and it should be protected. Thank you.

Chair Curtiss: Thank you. Next.

George Hirschenberger: Good afternoon, my name is George Hirschenberger, H-I-R-S-C-H-E-N-B-E-R-G-E-R. I live at 4475 Sundown Road and I am part of the group that organized and helped bring the petition to you. First, I wanted to address three of the criteria that were used to evaluate the rezoning proposal and that is: Does the proposal provide adequate air and light; does it prevent over crowding of the land; and does it avoid any undo concentration of populations? I reviewed the Finding of Fact and the Conclusions of Law from the previous reports and meetings, as you've reviewed, and I would like to stress that nearly all the expected effects of this rezoning proposal are either in concert with the current zoning or they are expected to bring about beneficial effects. The County's review of the proposal points to no direct adverse effects that are related to these criteria. Compare that to almost doubling the housing density and the population of the area and I'm sure a quick review of those criteria would lead you to believe that things would become worse instead of better if were to go with half acre lots. Secondly, I would like to endorse process that we used to inform and organize the property owners in the area that you are taking under consideration. This is a neighborhood that's made up of people who take their civic responsibility seriously. Years ago, just previous to my moving into the neighborhood, when increased traffic on Humble and Sundown Roads resulted in a serious air and dust pollution problem for the neighborhood, the residence of the area got together and they initiated a Special Improvement District to have the roads paved. They are not a neighborhood that wants to grouch about changes that are coming their way, or point a finger of blame at others. Instead, we are a neighborhood that wants to take responsibility and take an active role in the management of growth and change, while respecting the rights of each individual landowner. We are a neighborhood that knows its collective mind and wants to retain as much of our rural character as is possible and at the same time accommodate the inevitable increase of population and housing density that's coming our way. As a great majority of the taxpayers in the neighborhood have told you, 86%, they have petitioned you to approve the rezoning. I can think of no better process that we could use to direct the future growth, than to rely on people

who have the most at stake, to build consensus and make recommendations to the County. For these reasons, I strongly encourage the Commissioners to approve the proposal and I thank you for the opportunity to speak.

Chair Curtiss: Thank you sir. Next.

Gary Botchek: Good afternoon County Commissioners and members of the public. Just a couple of short comments --

Chair Curtiss: Could you say your name for the record?

Gary Botchek: Yes, Gary Botchek, B-O-T-C-H-E-K, 2500 Gunsight Court, Missoula. I think a lot of times, the issues of one acre tracts kind of gets lost in the purpose of why they were developed. And I think that for the most part, at least throughout the state of Montana, and those states that developed through the State and local health departments, used what was called the Ten States Standards, I still think it is a guiding document in those perspectives, and the purpose of the one acre tract, quite frankly, was designed and developed to separate and to allow for adequate development for separation of water and sewer. Consequently, it isn't so much a – it's a design standard in rural areas that basically don't have, or at one point in time didn't have, access to public sewer and so clearly, the one acre tract has been defined and is easily supported in the fact that it does just exactly what it was designed to do. It separates people's wells, my guess would be that if a person was to look in the County records, County Health Department, you would find virtually no wells that have failed in this area, very few septic systems that have failed in this area, especially the ones that have been designed under current standards with drainfield septic systems, and clearly, with the acre, has the ability to maneuver where smaller tracts don't have the land area to do that. That being said, the other thing that I thought I would bring up was that I had been away from this process for some time, and during that time, cluster development has been an active process. When I was in the development arena, PUD's were a popular way to use ground in a different way than what it was zoned and to provide a different and better look at densities. My guess is, and maybe your counsel can help me, the only difference, possibly, between the two, is that cluster eliminates the possibility of protest, while the PUD, of course, has that power built into it.

Chair Curtiss: Would you like to answer that Colleen?

Colleen Dowdall: PUD's allow an increase in density that is significant, up to 200% increase in density if you follow the requirements of the PUD. Cluster development does not include that kind of increase in density, there is some increase, but not what a PUD offers.

Gary Botchek: Is my comment on the protest issue correct?

Colleen Dowdall: PUD's are subject to protest, because they are a rezoning.

Gary Botchek: Thank you. It's interesting, because over a period of time, with the type of area that existed in the Target Range and the one acre tracts, and the history behind this, we have developed this area almost to 88% with lotted areas, currently. The other thing that will increase that, the other process that will increase that, is the fact that a lot of, I should say a lot, a number of landowners which have larger lots, larger acreages, have started to utilize both deed restrictions and, of course, covenants. I think Mr. Berens property and his subdivision, while in the two acre size area, are all covered by either covenants or deed restrictions. Most recently, the ten acre tract that was owned by the McDonald family was broken into 3 lots, one to encompass the acre of the existing building site that was owned by the original owners and secondly then, at the request of Mrs. McDonald prior to her death, to move the remainder of that ten acre parcel into two, deeds restricted areas, where only one residence could be placed on each lot. I believe you are starting to see that, for the simple reason that that is one way to encourage and to demonstrate, possibly, why people have moved into that area and wish to utilize their methodology and the powers within there that are provided them to control some of the land issues. So, when you are looking at that 88%, there is a part, and I can't give you a definitive answer but it could be found, that that 88% could be further increased by those deed restrictions on acreage that are above two acres. Thank you for your time.

Chair Curtiss: Thank you Gary.

Peggy Morrison: I've heard my name mentioned up here several times today so maybe I better come and speak too. I'm Peggy Morrison, M-O-R-R-I-S-O-N. I am a retired teacher and a long time Missoulian, I've owned my

property on the corner of South Avenue West and Humble for 35 years. I have three cats, a golden retriever, three horses, two white-tail does who use my field as a nursery, and a very noisy rooster pheasant – I'll put it up against your peacock – call my place a home. My main crop is irrigated hay. I live in a rural environment that I would like to see preserved. Target Range has historically been viewed as a rural area. Living out there means a house with land around it, not houses close enough to reach from one to another. Rural is having houses far enough apart that neighbors can carry on a conversation, without the entire neighborhood being privy to it. Live long and prosper, Mike. The Target Range-West End Rural Zoning District strives to maintain the rural quality of the property involved, in part by designating one house per acre. 243 out of 283 landowners within the proposed district, and here is that number again, 86%, signed a petition supporting this zoning proposal, agreeing with the concept of a minimum lot size of one acre per house, for future development in our rural area. I strongly disagree with the staff report conclusion that the rezoning request does not give reasonable consideration to the character of the district. We entered into this zoning project and drafted the zoning language specifically to protect the character of our neighborhood. That's the whole point of all the work we've been doing. The statement in the staff report that our zoning request will change how the configuration of the homes, lots, occurs, since it requires a minimum lot size of one acre rather than allowing for possible clustering, ignores how our neighborhood has developed over the last forty years. One acre and larger lots allows us to use our land to support pets, livestock, gardens, all those things that make up our definition of a desirable rural area. We don't have a single cluster development in our neighborhood and we feel that tool makes no sense here. That is why we specifically excluded it in our proposed zoning. We, as a neighborhood, are seeking a voice in what will happen in our neighborhood. By establishing the Target Range-West End Zoning District, we hope to encourage open communication between potential developers in our area and the residents already there. We hope that you will approve our zoning request. Thank you for your time and patience.

Commissioner Evans: Thank you.

Chair Curtiss: Thank you. Next.

Bob Schrenk: My name is Bob Schrenk, S-C-H-R-E-N-K, I live at 2670 Remington Court. I only want to make one point and I will make it kind of quick because you guys have been sitting a long time. When I read the planning documents, including the Urban Comprehensive Plan, it seems there is an underlying principal in there where it encourages neighbors in communities to work together. And I think what you folks have sitting in front of you right now is just –

Chair Curtiss: Can you get a little closer to the microphone, thanks Bob.

Bob Schrenk: What you folks have sitting in front of you now is just exactly that, a neighborhood plan that 86% of the people that own land out there agree too. I've got to tell you, I spent the majority of my Forest Service career trying to get agreements just like this. Now the reason that you do that is pretty simple, those folks that live out there on the land, they know the land, they know the issues and they know the solutions. And if you can get them to agree to something and stick to it, you usually have a decision that lasts longer, because they are less controversial. So, the other thing I would also say is, again, coming back to the planning documents, if this is the kind of behavior that we want to model, approving this proposal will encourage that kind of behavior and I would think, reading the newspaper, you folks would like that, having someone come in agreeing to things. So I think as both citizens and government, this is the kind of thing we like to see, so I would encourage you to approve this proposal. Thank you.

Commissioner Evans: Thank you.

Chair Curtiss: Thank you. That's all the names on the list, but is there anyone else who would like to make comment, you are sure welcome.

Lori Williamson: I to will be brief because I know you've been sitting for a long time. I am Lori Williamson, we live at 2709 Humble Road, right across from Peggy Morrison's hay field, and we buy hay from Peggy for our two horses. Living in Target Range had always been a dream of mine, we've been there 30 years now. Having come from the City, just gradually moving out – kids with horses and the only way to have them is in your back yard. I have loved that community and I have watched it be subdivided some and we were a little worried about having paved our road with some due cause, because we have teenagers around the corner now that think that Humble Road is a speedway, in spite of the 25 mile an hour limit. But I wanted to just tell you a couple of stories and to encourage you to please consider our zoning request. When we moved out there, of course there was a gravel

road in front of our house and our neighbor's just two houses away raised ducks, I think Becky still tries to have a few ducks, although some of them have fallen error to automobile tires. The irrigation ditch runs right by all of our homes and so it's nice to have ducks and most of us slow up when her ducks get out and herd them back over, they go easily with a horn honk. Peggy Morrison and I are also horseback buddies and we were riding down Humble Road the other day, this side of North Avenue, and there is a little cul-de-sac in there that has sprung up and a young lady came out with her car and she stopped and rolled down the window and said, wow that's just like the old times. Well, it is just like the old times and that's the way we would like to keep it. You know, we do ride our horses out on the road, down to the riding arena, it isn't as safe as it use to be and we have to be sure our horses are well seasoned these days before we venture out with a lot of horn honking. It's amazing how people don't know how to handle a horse on the road, beep-beep, you know, it doesn't help. I just want to say that Target Range is a dream place to live, it's why we live there on 1.82 acres, so it can't be subdivided – under the current regulations. And I have one more story, Mr. Hirschenberger's neighbor on Humble Road, who bought an acre lot like you are suppose to, was told that he couldn't have his house in the middle of his acre because he had to leave room to infill, therefore their driveway butts right up on the Hirschenberger's back yard, and I was appalled that you can own a piece of property and then you can't build your house where you want to. That's why I think we should have one acre parcels out there, with no restrictions as to where we put our house or our barn, we have a barn in the back of ours. So again thanks for your time. Please do consider our request, the committee has worked very hard on this and I think it's a very reasonable request. People love to live in Target Range, the houses that are for sale turn over very rapidly. Thank you.

Chair Curtiss: Thank you. Anyone else that wants to make comment?

Kate Stewart: Hello, I'm Kate Stewart, S-T-E-W-A-R-T. I was raised out in Target Range and I don't live there anymore. I am a single person and I can't buy my own home yet, but I would love to be there some day, I hope that at some point I can end up out there. My parents still live out there and I hope to one day have some grandchildren for them, to run around on all their land. I frequently take my dog out there, because they have so much room for him to run, and I live quite close on the north side, which is also very dear to my heart, I love the community, but my landlord recently sold my backyard, which is really his backyard, but sold our backyard last summer and they dropped a house about ten feet out the back door and it's just not the same. I think what they are saying about, they are requesting the power to keep it like it is, you know 'status quo' doesn't work everywhere, but they have come together and they've done a lot of work, and in my mind it is very valuable to have a few places in the Missoula area that are still, that still have the open, rural feel to them. And like I said, I remember growing up and riding a horse down the road. I remember when it wasn't a paved road and I remember how sad it was – I was sad when they paved our road. And I was one of those teenage drivers that was probably driving it too fast. I think it's a beautiful area and I think it would be great if you could approve this and make a statement about people getting involved in their government and trying to do the things that they would like to do and do it in concert with their local officials. So I would just encourage you to please approve the proposed zoning change. Thanks.

Chair Curtiss: Thank you. Anyone else?

Vi Tracer: I'm Vi Tracer, I live at 2630 Remington Court. We have lived in the Target Range area since 1958, we built our first home on Woodlawn Avenue and we were the third house in that entire area. We lived there for five years and in that time, all of Woodlawn, Pleasant Avenue and Pauline Drive just boom, sprang up, just like downtown, on town-size lots. And when our son thought he was going to die if he didn't have a horse, we were still able to find a two and a half acre parcel where he could have his horse and we stayed there for 23 years. We moved away for a very short period and found out that we really needed to be back in Target Range and we were still fortunate enough to find an acre to build on. So having seen first hand how very rapidly that place can develop, if the space is available, we really do hope that you will see fit to approve our plans. Thank you.

Chair Curtiss: Thank you. Anyone else?

Anne Rupkalvis: I will be brief. My name is Anne Rupkalvis, R-U-P-K-A-L-V-I-S. I'm a Target Range resident, I do not live in this particular area that is up for discussion. A couple of things though, first, I was in my backyard looking at the full moon the other night and my backyard adjoins Mike Milodragovich's pasture and I frequently see things scurrying through the pasture, but this night I saw a thing go – up and down, serpentine – like this, and it was all black, and I think it was an otter and then a second one came up same gate and I thought, my God! My point is, it didn't go through my backyard, I live on a half acre, and it didn't go down Rose Brier Street, it went through the pasture. I had never seen an otter before or since, I was just stunned.

Commissioner Evans: Was there water there Anne?

Anne Rupkalvis: Well, I think it was going from the river – to the river.

Commissioner Evans: Okay. I've just never heard of an otter doing that in a field instead of the water, that's why I am asking.

Anne Rupkalvis: I thought it was a crippled cat at first, and then when the second one came up, and they were this long, and they were solid black, and it wasn't a skunk, because a skunk does this. This was like this, it was the oddest thing. Secondly, with this 86% that keeps being referred to, think about what we have elected a president of the United States with in the last two elections. That's all!

Commissioner Evans: Thank you.

Chair Curtiss: Thank you. Not even 50% required. Anybody else that would like to make comment? So, are you wanting to make a decision today or do you want to delay.

Commissioner Evans: Yes and I am prepared to do that and make a little statement.

Chair Curtiss: Okay, then I will give you one more shot, otherwise, I will close this hearing. Okay, I've closed the Public Hearing.

Commissioner Evans: I would like to give my compliments to all of you, what you have done is absolutely spectacular. It's an unparalleled effort, I think in all the years that I've been here, I don't think I've seen anything to match this. And I think the environment in Montana is what makes Montana – Montana. The kind of things that you cherish and you enjoy are the reasons that people want to live here. We need lots of different kinds of housing, some more appropriate in this area or that area or whatever area, and I wish we had more affordable housing because we really don't have a lot of affordable housing for the young folks and I wish we did because growth is going to occur and I do not feel that I have the right to tell someone where to live. So, saying we will control growth, I don't think I have the right to do that. The recent U.S. Supreme Court decision that said that local government could take, by eminent domain, someone's land in order to gain more taxes, is the most horrifying and terrifying thing I can tell you I have ever heard come from the U.S. Court. You ought to be just as terrified by it as I am, because supposing we decided that it would be better and more taxes if we let sixteen to the acre in your area. And I'm not saying we would do that, but I'm telling you that that is what the decision says to me, if what I've heard in the media adequately and accurately portrays what the Supreme Court has done. I think the efforts you have done can help government to make good decisions. I can't tell you how much I am impressed by what you have done. And it isn't very often that we can make a decision that we think can please 86% of anything. So I am going to make a motion.

Commissioner Evans moved that the Board of County Commissioners approve this recommended rezoning with the deletion of the Northern Lights land, as the opportunity will be presented to look at their proposal when it comes in and the public will have the opportunity to comment on it at that time; and the little lot, described in the memo from the Office of Planning and Grants Office, should be deleted as well.

Chair Curtiss: I will second the motion, but I have one thing that I want to clarify, that we need to add this new section five that was shown in red.

Jennie Dixon: Which is actually, having double checked the map, it is zoned CA-1, but it is flipped down. So just for Patty's record and I will provide you with a map, but it is the same amount of land, but the map is a little confusing.

Commissioner Evans: And the statement that says that all lots are non-conforming or will not be non-conforming. Colleen?

Colleen Dowdall: I just wanted to address that, because the County Zoning Resolution has a good chapter on non-conforming lots of records and non-conforming uses of record, and I just want us to all understand the implications of adding the paragraph that says that will not, Chapter 7 will not apply, as far as lot sizes go. Our current, if you did not add that language, the lots would be still non-conforming lots of record that would conform

to zoning, but if someone wanted to, if someone owned two adjoining lots of a half acre each, for instance, they would have to use both of those lots in order to build their house. With this provision, both of those lots, for instance, would be buildable. So I wanted us to understand that sort of what we are doing here is creating the issue that the University neighborhood has, that once your lot is approved, if it was approved prior to zoning, you have a buildable lot.

Commissioner Evans: And that's what I would want to do. I don't care to take away the rights of anyone that they previously had. So my motion is to add the amended statement on that none of the lots will be considered non-conforming lots – however you had that worded Jennie.

Jennie Dixon: Yes and if I could give you a motion for the record, that would be helpful. "That the request to create Section 6.12 of the Missoula County Zoning Resolution, otherwise known as the Target Range-West End Rural Zoning District, as shown in staff report Attachment A, with the requested amendment regarding conforming lots, and apply it to the area currently zoned C-RR1 as shown on the map and staff report Attachment A, accepting and excluding the portion zoned CA-1 and the Northern Lights property, be approved based on the Finding of Fact contained on the record."

Commissioner Evans: Thank you, that was exactly what I intended.

Chair Curtiss: The language that is on the memo you gave us, though, didn't add that provision of, Chapter 7 would not apply, which was shown and we need that.

Jennie Dixon: Yes, as shown in the presentation, and I have that language here, written down.

Colleen Dowdall: But it was just as to lot size, because Chapter 7, with regard to lots, also says you still have to meet the setbacks and those kinds of things.

Chair Curtiss: So here is the other concern that I want to throw out, that I don't think would be fair if we don't address, is I know there might be subdivisions that the Commission has already approved in the area whose plats might not be filed yet, today, because it often takes a year to do that. My other concern would be that there may be, and I had Patty go and get the list of subdivisions that we know that are coming to us that are already in the pipeline, I don't think it would be fair for somebody who has been working with the Planning Office and has subdivisions in the works on possibly some of these five acre lots, other than Northern Lights which we've talked about today, to all of a sudden be thrown out with the bath water. So, have you got any ideas of language that we can – I don't know whether we would want to say, that if given a complete application, but a lot of people just go through pre-app and would have –

Commissioner Evans: Do we have any in the list?

Chair Curtiss: There's none listed as of, through tomorrow, but I don't know.

Colleen Dowdall: And with zoning it's really, it's difficult to preserve that for people who are in the pipeline, so to speak, because –

Chair Curtiss: Because it's already zoned and they would have to ask for exceptions anyway. So I do want to address then, the ones that might not be filed.

Commissioner Evans: I'm not sure she finished her sentence. Did you finish your sentence?

Colleen Dowdall: Even the ones approved, but not filed, because what zoning applies to, or what is preserved, is whatever was of record when the zoning is adopted. So, it would be not today, but within 30 days after the protest period has run. Are there any out there, do you know, that we've approved?

Chair Curtiss: There are ones like Grape Arbor and a few of those. I don't know if they have been filed. They are outside the district. So in all of your footwork, do you know of any subdivision that were approved that might not be filed yet.

Patty Rector: We need you on the record.

Chair Curtiss: Yeah, please come up Fred.

Fred Stewart: The only one that I've heard of and there may be someone here that knows about it on the Rangitsch property, there was, in the neighborhood, it's been expressed that Bob Rangitsch had subdivided the remaining parcel that's open there. It's this area right here that he had that all platted and laid out, but the status of it then after he died was uncertain. So within the neighborhood, people wonder, well, was it done or wasn't it done, and Jennie may know. Other than that, I'm not aware of anything else.

Chair Curtiss: Okay. So is there – I guess we could have a delayed effective date to give people a little time if they needed it, but I don't know other than that.

Colleen Dowdall: Once we are in this process, it's running and we have the –

Chair Curtiss: If we do this today, you said, 30 days.

Colleen Dowdall: So about 37 days until it would be effective. I don't know that there is a way around that except if we were aware of where they were so we could take them out of the district.

Jennie Dixon: I'm not aware of any.

Chair Curtiss: I just didn't think that would be fair to somebody.

Commissioner Evans: No, it wouldn't be fair.

Chair Curtiss: Okay any further discussion. All in favor of the motion, please say Aye.

Commissioner Evans: Aye.

Chair Curtiss: Aye.

The motion carried on a vote of 2-0.

Commissioner Evans: Congratulations all of you.

Chair Curtiss: I hope you all understand why we thought we should take Northern Lights out, we don't want to keep them from being able to protect the Butte. Is there any other business to come before the Commission?

There being no further business to come before the Board, the Commissioners were in recess at 4:45 p.m.