

PUBLIC MEETING – JULY 6, 2005

The Public Meeting was called to order at 1:30 p.m. by Commissioner Jean Curtiss. Also present were Commissioner Barbara Evans, Commissioner Bill Carey and Deputy County Attorney Colleen Dowdall.

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 \$173,619.36. Commissioner Carey seconded. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): Mercer Family Transfer

Colleen Dowdall presented the staff report.

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

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

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

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

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

Colleen Dowdall: I want to add that when we had this on our agenda for last week it said that it would be continued to July 13, 2005. So while we can take testimony this week, we will want to continue the Public Hearing until the 13th and then take any additional public testimony pursuant to that notice. But this is the week that the applicant could be here. So we are trying to accommodate that.

Chair Curtiss: Mr. Mercer, if you could come to the microphone and state your name for the record please?

Thomas Mercer: My name is Thomas C. Mercer.

Chair Curtiss: We have a list of questions that we will have our Deputy County Attorney ask you on the record.

Thomas Mercer: Alright.

Colleen Dowdall: So how long have you owned the property?

Thomas Mercer: I bought it, I think in 1985, from my friend Roger Inderland, who is in the audience here, to help him out basically, and I held it for a long time with a gentleman's agreement that he was going to buy it back. He finally released me about five years ago saying he wasn't going to be buying it back. So basically, I transferred it five years ago back to me, because I dissolved that corporation.

Colleen Dowdall: So when you purchased it, you did not attend to divide it?

Thomas Mercer: I didn't intend to do anything except hold it for Roger.

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

Thomas Mercer: No, in fact my intent is not to even let my children know I'm deeding it to them, until I think they are more mature.

Colleen Dowdall: Are all of these adults?

Thomas Mercer: Yes, but a 2000's adult and not a 1960's adult, and no disparagement, but actually they don't have the same maturity at age 30 – 35, that I did.

Chair Curtiss: Okay.

Commissioner Evans: Sometimes the brains come in late.

Thomas Mercer: Yeah, one of them is really late.

Chair Curtiss: Is that the one that's floating – isn't there one that's going around the world in a boat.

Thomas Mercer: Yes, I haven't heard from him in three years now, so I assume he's okay.

Colleen Dowdall: Holy cow. So they are not minors?

Thomas Mercer: No, they are all adults, the youngest one is 27.

Colleen Dowdall: Okay. Are you intending on developing any of the property?

Thomas Mercer: Not at all. Actually, I've let my friend Roger use it to graze on it the last twenty years and I fully expect that will happen for the next ten to fifteen.

Colleen Dowdall: So none of these recipients will be residing on the property?

Thomas Mercer: Only when I feel it's appropriate to give them the deed and then they can make their own decision whether they want to. One son has expressed an opinion that he would love to live in Missoula, he worked here a year and a half. But he is presently back in Spokane.

Colleen Dowdall: Do you understand that you have to actually transfer the property to them when you file the Certificate of Survey?

Thomas Mercer: Yes I understand that I have to record the deeds. I didn't understand that I have to actually notify them.

Colleen Dowdall: We don't have any requirements in that regard.

Thomas Mercer: So my intention was to leave my address on it and pay the taxes.

Colleen Dowdall: Okay, because a valid transfer normally requires an offer and acceptance. So we do require that you record the deed.

Thomas Mercer: Well, even if you require I give it to them, I would do that. It's just my own reservation.

Commissioner Evans: Colleen can't you consider that estate planning, he gives it to his kids and keeps the deeds in his possession?

Colleen Dowdall: It will affect a transfer, hopefully. Have you talked to anyone at Missoula County about going through Subdivision Review to make this division?

Thomas Mercer: No, actually I had no intention to do anything except I got older, and thought I should do some distribution and my friend Roger told me he had made some on his property which is adjacent to mine. So it seemed like a good thing to do ahead of time.

Colleen Dowdall: Your friend Roger will make some divisions of land on his property?

Thomas Mercer: No but he has given his children some in the past.

Colleen Dowdall: Oh I see, okay. Are you in the business of building houses or developing property?

Thomas Mercer: Never.

Colleen Dowdall: Are you attempting to evade Subdivision Review?

Thomas Mercer: Absolutely not.

Colleen Dowdall: And you understand that evasion of the Subdivision and Platting Act could be a misdemeanor? We've added that question since –

Thomas Mercer: Actually the way the surveyor told me, he said if they thought you were evading and proved that you were, they would just revoke the exemption, that's what he said.

Colleen Dowdall: That's one option, but the other is –

Thomas Mercer: I didn't know it was a misdemeanor, but believe me, I'm not trying to evade and I'm not worried about being convicted of a misdemeanor.

Colleen Dowdall: Okay.

Thomas Mercer: It might affect my bar license in California.

Colleen Dowdall: Okay and you understand that this request is not being reviewed to determine whether there is adequate access to the divisions of land, like we do in Subdivision Review?

Thomas Mercer: I understand the County has taking no responsibility, and I am residing that faith in my surveyor.

Colleen Dowdall: Okay and you may require other approvals such as, this property is not zoned, but you may have to go through zoning compliance, floodplain, you need a septic permit and those things.

Thomas Mercer: Yes. The only thing I was confused about was, I don't know, if someone ever decides they want to build on these land plots that I've give away, could they be faced with the fact that they are too small?

Colleen Dowdall: They could.

Chair Curtiss: If it was zoned.

Thomas Mercer: Because the surveyor is perc testing them all and said they were building sites, but he has not really been able to tell me if they would meet zoning, if and when anybody ever decided they wanted to build on them.

Colleen Dowdall: Zoning is not an issue at this point because the property isn't currently zoned. The issue is that we are not approving them as building sites. We are approving the division of land and that you are granting it to your children, but you are not exempt from review for those other regulations. And I think you said, in your written response, that you understood that you were exempt from zoning compliance or any land use compliance through this process.

Thomas Mercer: When I said I understood, that's my hope. Nobody has ever told me the answer to that question. Whoever I deed it to later could be subject to saying that the plat is too small. And I purposely tried to keep them small, because I would like to keep the remainder as large as possible, because it's mainly just usable for grazing and my good friend would like to use it for grazing, and he's currently undergoing examination of conservation easements and I would like to kind of follow suit if that's what he does.

Colleen Dowdall: Okay. And what I'm saying is if in ten years from now, if it is zoned, whoever is building on the property would have to get a zoning compliance permit.

Thomas Mercer: Yeah.

Colleen Dowdall: And comply with whatever zoning was in place at that time.

Thomas Mercer: Again my question is, how can you comply if you have seven acres and it requires thirty?

Colleen Dowdall: Well, we don't have a one per thirty zoning district so that isn't my concern. But we could have a one per ten.

Chair Curtiss: Would they not be grandfathered because they exist before?

Colleen Dowdall: They would not be grandfathered if two people owned one parcel and were able to comply. That's what our zoning – our zoning is not like the City's is currently. So you need to comply, you can be grandfathered as a pre-existing lot of record. But, if for instance, you retained ownership of all the lots at some point your children deeded them back to you and we zoned it say, one per forty, you would need to use forty acres to comply because you own forty acres and thus can comply.

Thomas Mercer: That would make sense to me.

Colleen Dowdall: That's what our zoning does.

Thomas Mercer: Okay, good.

Commissioner Evans: I hope your friend knows what a wonderful friend he has in you?

Thomas Mercer: So do I – I'm sure he does.

Chair Curtiss: Is there anything else that you would like to add or ask of us?

Thomas Mercer: No not at all.

Chair Curtiss: Any questions?

Commissioner Evans: No.

Commissioner Carey: No.

Chair Curtiss: So this is a Public Hearing. Is there anyone else who would like to make any comments about this proposed family transfer? And because we stated it on the record that we would make our decision next week, and we definitely wanted to have you be here, we will just recess the hearing until next week and make the decision then. Thank you for coming.

Hearing (Certificate of Survey): Riggs Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract 4-1 of COS 4525, located in Section 18, Township 15 North, Range 21 West.

Carolyn M. Riggs has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 24.28 acres in size located near Frenchtown, Montana. Carolyn proposes to create one approximately 18.62 acre parcel for transfer to her

husband, Steven T. Riggs, for residential purposes and keep the remaining approximately 5.84 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 4423 was filed in December, 1994. The purpose of the survey was completed by order of the Court. A Deed of Distribution was filed in February, 1995, authorizing and directing distribution of property of Margaret Ann Rose's estate. Tract 4 was deeded to Daniel Joseph Lucier. Daniel Lucier filed a Warranty Deed in April, 2005, deeding the property to Carolyn M. Riggs.

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

Chair Curtiss: Okay is Mrs. Riggs here? Could you come up and state your name for the record please.

Carolyn Riggs: Carolyn Riggs.

Chair Curtiss: Carolyn, we will ask our Deputy County Attorney to ask you the famous list of questions.

Carolyn Riggs: Okay, go for it.

Colleen Dowdall: Your address is shown as Riverside, California.

Carolyn Riggs: Yes.

Colleen Dowdall: Is that where you reside?

Carolyn Riggs: Well we just recently moved up here from California, yes.

Colleen Dowdall: Okay. You have owned the property since April?

Carolyn Riggs: Yes.

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

Carolyn Riggs: No.

Colleen Dowdall: So at what point did you decide to divide?

Carolyn Riggs: When we moved up here, because, Houle Creek actually goes through it, and so what we decided to do is take the 18 acres which is down below the Houle Creek and transfer that to my husband and we would build our residence on there, and then the upper portion, the 5 acres, we have an 18 year old daughter who is in a wheelchair and we will eventually, at some point, build a house up there for her. She has medical needs and also some mental needs, and so we want her to become as independent as possible so we would have her close enough to us where we could check on her, but then have her have her own place to live.

Colleen Dowdall: So once you moved here, you decided to do that?

Carolyn Riggs: Yes, because I had never seen the property, and so when we saw the road go through it, we figured that was the most legitimate thing to do, so we could have our daughter close to us, but then we could have her on her own as much as possible.

Colleen Dowdall: Do you intend to transfer the property within the next year, either parcel, you or your husband?

Carolyn Riggs: No, he will keep the 18 acres in his name and I will keep the 5 acres in mine.

Colleen Dowdall: And you are going to build your house on the 18 acres?

Carolyn Riggs: Yes.

Colleen Dowdall: I'm assuming your husband is not a minor, so we will skip that.

Carolyn Riggs: No, I didn't rob the cradle.

Colleen Dowdall: Have you talked to anyone at Missoula County in the planning office or other offices about Subdivision Review?

Carolyn Riggs: No.

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

Carolyn Riggs: No.

Colleen Dowdall: And he didn't talk to anyone at the County either about Subdivision Review?

Carolyn Riggs: No.

Colleen Dowdall: Are you attempting to evade Subdivision Review?

Carolyn Riggs: No.

Colleen Dowdall: But you understand that evasion is a misdemeanor under the Subdivision and Platting Act?

Carolyn Riggs: I do now. I didn't know that before.

Colleen Dowdall: Okay and you understand that this request is not being reviewed to ensure that there is adequate access in all weather to all of the lots?

Carolyn Riggs: Yes.

Colleen Dowdall: Which is something we do in Subdivision Review.

Carolyn Riggs: Right.

Colleen Dowdall: And that you still have other permits that you need to get, you are not exempt from, if there is zoning – zoning compliance, floodplain permits, septic permits –

Carolyn Riggs: Right, yes.

Colleen Dowdall: Yes for the division of the land.

Carolyn Riggs: Right.

Chair Curtiss: Thank you. Are there any other questions for Mrs. Riggs? Thank you.

Carolyn Riggs: Thank you.

Chair Curtiss: This is a Public Hearing, is there anyone else who might like to make comment? Seeing none, I will close the Public Hearing.

Commissioner Evans moved that the Board of County Commissioners approve the request by Carolyn M. Riggs to create one parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Mrs. Riggs, you will receive a letter confirming today's approval.

Hearing (Certificate of Survey): Wittmier Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create family transfer parcels for that parcel described as Tract 47A of COS 4387, located in the northeast one-quarter of the northeast one-quarter of Section 17, Township 14 North, Range 20 West.

Tamara Wittmier has submitted a request to create four additional parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 16 acres in size located near the Wye in Missoula, Montana. Tamara proposes to create four approximately 3 acre parcels for transfer to family members for residential purposes and keep the remaining approximately 4 acre parcel for residential purposes as well. The family members are: Tabitha Larsen, a daughter, Dusty Wittmier, a son; Dylan Wittmier, a son; and Tim A. Wittmier, her husband.

The history of the parcel is as follows: COS 1925 was filed in April, 1979, creating tracts of land in excess of 20 acres. This tract of land was deeded four times between 1979 and 1992. In 1994, Harry J. Schweigert filed COS 4387 for the purpose of relocating common boundary lines which created Tract 47-A. Mr. Schweigert deeded the property to Jake D. and A. F. Susan Erdmann in October, 1999. A Statement of Surviving Spouse was filed in April, 2003, terminating Mrs. Erdmann's interest in the property. Jake Erdman filed a warranty Deed in December, 2004, deeding the property to Timothy and Tamara Wittmier. A Quit Claim Deed was filed in April, 2005, deeding the property to Tamara Wittmier.

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

Chair Curtiss: Okay thank you. Is Tamara here? Could you come up to the microphone and state your name for the record?

Tamara Wittmier: Tamara Wittmier.

Chair Curtiss: Tamara, we will have Colleen ask you the same questions on the record.

Colleen Dowdall: So is my report of when you acquired the property correct, December of 2004?

Tamara Wittmier: Well actually we bought in like April of 2004.

Colleen Dowdall: Okay.

Tamara Wittmier: Did it take that long to get recorded or something?

Colleen Dowdall: It typically doesn't take that long but, and then in April of 2005, your husband and you deeded it to just you?

Tamara Wittmier: Right.

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

Tamara Wittmier: To the family, yes.

Colleen Dowdall: Okay do you or the children or your husband intend to transfer any of the parcels within the next year?

Chair Curtiss: If you could – our tape recorder doesn't pick up shaking heads.

Tamara Wittmier: Okay.

Colleen Dowdall: So you said no?

Tamara Wittmier: No.

Colleen Dowdall: Okay.

Tamara Wittmier: Yes, I said no.

Colleen Dowdall: Are any of your children minors?

Tamara Wittmier: No.

Colleen Dowdall: Will the property be developed?

Tamara Wittmier: I assume they are going to build a house on it, they've never really stated what they wanted to do yet.

Colleen Dowdall: So you are going to tell them though –

Tamara Wittmier: Yes.

Colleen Dowdall: So none of them will be residing on the property immediately?

Tamara Wittmier: Not immediately, no.

Colleen Dowdall: Do you reside on the property?

Tamara Wittmier: Yes we have a four acre tract on it too.

Colleen Dowdall: Where do the recipients live now?

Tamara Wittmier: Two of them still live at home and one lives by Hellgate Elementary.

Colleen Dowdall: So they are all in Missoula?

Tamara Wittmier: Yes.

Colleen Dowdall: And I assume that your husband, one of the recipients, also lives at home?

Tamara Wittmier: Yes.

Colleen Dowdall: I know that these are silly questions, but these kinds are tricky. So the age of the children that live at home?

Tamara Wittmier: 18 and 23.

Colleen Dowdall: Have you talked to anyone, or has your husband talked to anyone, at Missoula County about going through Subdivision Review?

Tamara Wittmier: No.

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

Tamara Wittmier: No.

Colleen Dowdall: Not building property but building houses.

Tamara Wittmier: Building no.

Colleen Dowdall: Are you attempting to evade Subdivision Review?

Tamara Wittmier: No.

Colleen Dowdall: Do you understand that evasion is, if we discovered after the fact, is a misdemeanor?

Tamara Wittmier: Like she said before, I do now.

Colleen Dowdall: Okay.

Chair Curtiss: Such an educational process.

Colleen Dowdall: Do you understand that we are not reviewing this request to determine whether there is adequate access in all weather. In Subdivision Review, we have to make sure that there is legal and physical access to every division of land. We don't review that for this exemption, you are on your own for access.

Tamara Wittmier: Yes.

Colleen Dowdall: And you understand that you are not exempt from other approvals such as septic permit, zoning compliance, floodplain permits, any other permits you may require.

Tamara Wittmier: Yes.

Colleen Dowdall: Okay.

Chair Curtiss: Okay, any questions for Tamara? I have one. It seems like we get more and more of these where spouses are giving a part to their partner and then – so I am just curious, are you building a big dog house for him out there or, what are you doing with the extra part?

Tamara Wittmier: Actually, the home we are in now, when the two kids move out, we want to downsize, so that the four acre parcel that we are keeping in his name is for us to downsize and have another house built.

Chair Curtiss: Where the house goes will be in your husbands name and one of the other lots will be the remainder you keep.

Tamara Wittmier: No our house is already on –

Chair Curtiss: That's the one that's going to be in his name?

Tamara Wittmier: That is in my name now and then when we build again it will be on the plot that has his name on it.

Chair Curtiss: Okay.

Colleen Dowdall: So you don't intend to do that within the next year?

Tamara Wittmier: No, it'll probably be two or three years down the road. I have to kick a couple kids out.

Chair Curtiss: Kick the kids out, yeah. Is there any other questions? Okay, thank you. This is a Public Hearing. Anyone else that would like to make comments? Seeing none, we will close the Public Hearing.

Commissioner Carey moved that the Board of County Commissioners approve the request by Tamara Wittmier to create four additional parcels by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade Subdivision Review. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: And you will also receive a letter.

Hearing (Certificate of Survey): Johnson Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Tract B-1-A of COS 4837, located in the northeast one-quarter of Section 10, Township 16 North, Range 15 West.

Emery J. and M. Lorraine Johnson have submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 20 acres in size located near Seeley Lake, Montana. Emery and Lorraine propose to create one approximately 12 acre parcel for transfer to the Johnson Family Trust, for benefit of children, Debora Earl, daughter; Teresa Victor, daughter; Patricia Smith, daughter; Annette Johnson, daughter and Jay Johnson, son, for residential purposes and keep the remaining approximately 8 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 2253 was filed in December, 1979, for the purpose of creating eight parcels of 20 acres or greater. John P. and Edith R. Lanham filed a Warranty Deed in March, 1980, deeding all the parcels to The Montana Conference Association of Seventh-Day Adventists. The Montana Conference Association of Seventh-Day Adventists filed a Quit Claim Deed in May, 1986, deeding Parcel B, back to John Lanham. An Instrument of Distribution was filed in October, 1988, distributing the property of Mr. Lanham's estate: one-third interest unto Sandra L. Ridgeway, one-third interest unto Amelia A. McLaughlin, one-sixth unto The Montana Conference Association of Seventh-Day Adventists, one-twelfth interest each unto Walla Walla College and Mountain View School. In May, 1992, Warranty Deeds were filed by all the above interested parties, deeding 100 percent interest of Parcel B to Montana Vacations, Inc. Montana Vacations, Inc. filed a Warranty Deed in July, 1997, deeding the property to Emery J. and M. Lorraine Johnson.

According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act, except as listed below:

COS 4805	05/26/1999	Boundary Relocation	NE 10-16-15
COS 4821	07/30/1999	Retracement	NE SE 10-16-15
COS 4837	09/18/1999	Boundary Relocation	NE SE 10-16-15

Chair Curtiss: Okay, is Mr. or Mrs. Johnson here?

Emery Johnson: I'm Emery Johnson.

Chair Curtiss: Mr. Johnson, you get the same list of questions.

Emery Johnson: Okay.

Colleen Dowdall: I try to mix them up to keep you interested but, so from this I was having a difficulty, were you Montana Vacations? Was that your corporation?

Emery Johnson: Yes, still am.

Colleen Dowdall: So you have owned the property or an interest since 1992?

Emery Johnson: Correct.

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

Emery Johnson: No.

Colleen Dowdall: Thus, showing your patience in waiting all this time. Do you intend to transfer your portion of the property or does the trust intend to transfer the property within the next year?

Emery Johnson: No.

Colleen Dowdall: And your children are adults, is that correct?

Emery Johnson: Correct.

Colleen Dowdall: Will the property be developed, the parcel that you are transferring?

Emery Johnson: Eventually it should be a downsizing type of thing. I'm going to be 70 next year and I'm looking for where I can afford to live. So we will probably sell our house on the one and maybe move down there or maybe one of the kids would build down there.

Colleen Dowdall: Okay. So the recipient, the trust, none of the children will be living on the property?

Emery Johnson: Not immediately, no.

Colleen Dowdall: Where do the recipients live, do any of the recipients live in the area now?

Emery Johnson: One lives in Condon, one lives in Seeley Lake, one lives in Great Falls, one lives in Blaine, Washington and another one lives in Deer Lodge.

Colleen Dowdall: Okay. Have you talked to anyone at Missoula County about going through Subdivision Review to make this division of land?

Emery Johnson: No.

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

Emery Johnson: I'm in the business of subdivision, yes.

Colleen Dowdall: Okay. Are you attempting to evade Subdivision Review?

Emery Johnson: No, not at all.

Colleen Dowdall: And you understand the evasion of the Subdivision and Platting Act can be a misdemeanor?

Emery Johnson: Yes.

Colleen Dowdall: We are not reviewing this division to determine if there is adequate access and you still may need other approvals, for instance zoning compliance, floodplain or septic systems.

Emery Johnson: Yes.

Colleen Dowdall: That's all.

Chair Curtiss: Okay. Are there any questions for Mr. Johnson?

Commissioner Carey: No.

Chair Curtiss: My question to you would be that you are putting this in trust for all the kids to share, do they get along?

Emery Johnson: Right now they do.

Chair Curtiss: Okay.

Emery Johnson: I'm just trying to do some estate planning. Because I think that we couldn't afford to – we've built a big house on those 20 acres and spent a lot of years developing. As we get older we probably may want to sell the big house and they could share that. But then I would like to have something left that they can remember me by.

Chair Curtiss: Okay. Thank you. This is a Public Hearing. Is there anyone else who would like to make any comments? Seeing none, I will close the Public Hearing.

Commissioner Carey moved that the Board of County Commissioners approve the request by Emery J. and M. Lorraine Johnson to create one parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

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

Chair Curtiss: Okay, next we have the decision on the request to abandon a portion of a GLO Wagon Road, GLO Trail and Book 1 Road along Highway 12. This is in the Sleeman Gulch area and Longhorn Flat subdivision. So, this is continued from June 22nd and Charles Wright from the Surveyors Office and I visited the site and met with the owners and lots of neighbors and someone from the Community Council. The road is still being used on the portion to the east of Sleeman Gulch by the Hendrickses. So that portion, the recommendation is not to abandon that part. On the other side of the road, if you look at the map there are lots of – the three roads being considered, one called the trail, kind of go all over that property. So the recommendation from Charles Wright

and I is to take those three right-of-ways and put them all together and then put them right along the, adjacent to the Highway 12 right-of-way in a width of 50 feet. So, Colleen I guess we need to know, from your perspective, if that's good or bad.

Colleen Dowdall: I was just going to suggest that I think the Public Hearing is still open and I think Toby from PCI and Greg LaZerte from the Surveyor's Office might have –

Chair Curtiss: New things to add?

Colleen Dowdall: Or some maps to look at to help understand it.

Chair Curtiss: I know Toby was going to create some exhibits. So what we were talking about doing is putting them in – the Longhorn Subdivision was required to have the Primary Travel Corridor that couldn't be built upon anyway – would be to put them there. But Toby, if you would like to show us some maps and pictures. State your name for the record, and then you can take that microphone with you, if you want to put the map up on the wall or anything.

Toby Dumont: Toby Dumont with PCI, Professional Consultants, Inc. The last time, Barbara wanted to see some resulting pictures and that's what I've done.

Chair Curtiss: While Toby is putting those maps up – one of the reasons that we thought rather than abandon, it might be better to just move them over, is in case there is highway expansion that would allow us to do some trails along there, it would be good to have the right-of-way.

Toby Dumont: On the right is the working plat of the Longhorn Flat, it certainly hasn't been to the surveyor's office to be checked yet so its not completely final. The two exhibits with the topo map on it showed different routes. They showed the actual gravel surface, the Highway 12 right-of-way, and two different options that we had talked about on-site. These show a 60, instead of 50.

Chair Curtiss: Okay. So one thing that happened with the meeting in the nice hot sun that day, was it allowed all the neighbors to get to visit and talk about the use. So you have two different proposals there.

Toby Dumont: Both of them show a 60 foot easement centered on that two-track that Hendrickson's are claiming to use, and then the top one just goes 60 feet wide, following the center of the existing gravel usage, and the other alternative is the 60 feet just along the southerly boundary, until you get to where the Hendrickon's were.

Commissioner Evans: Show me the Hendrickson's.

Toby Dumont: This is it.

Commissioner Evans: So we are not going to consider abandoning that, correct.

Toby Dumont: Correct. I'm merely trying to define where it is.

Commissioner Evans: Okay.

Chair Curtiss: The other thing that we learned on-site is that there is kind of an existing place to the west of Sleeman Gulch where people drive down to take their kids to the bus, they also get their mail there and it's also the way they go in the winter when it's slick so that they don't slide across the highway. And Mr. Hendrickson uses that also when he moves his machinery. So, does your client have, Toby, a preferred, are they okay with the alterations because I believe the petition was to abandon. So I think we have to have their concurrence or else they would have to do a new petition. Is that right Colleen?

Colleen Dowdall: I think we would have to have their concurrence or do a new one, as we talked about before.

Chair Curtiss: Right.

Drake Lemm: Hi, I'm Drake Lemm. And as long as the adjacent property owners and subdivisions that are going in up there have that 50 foot standard, I can't see how I could oppose that, so I would support that. I think it's probably a little more than is necessary, but I also understand that if the trail system does go through there, you would want the trail as far off of the highway as possible for safety concerns. But I also believe that the right-of-

way is wide enough to probably allow four lines going up Lolo Creek right now, if we choose to put four lanes there and so I would think that there would probably be enough right-of-way for a trail right now, unless Highway 12 was widened to four lanes which – well it could happen some day, but probably not for 50 years or so. But, anyway the bottom line is if we have that 50 foot easement or corridor or whatever you call it and Longhorn and Beyer Meadows and Lolo Creek Trails has the same 50 foot easement, then we are agreeable with that.

Chair Curtiss: And I know Commissioner Evans said last time that she wanted to make sure that this didn't mean it was an additional 50 feet, so this is drawn to show that that 50 feet would lay right over the same area as the Primary Travel Corridor, with the plan, the things that are required. Okay. Thank you. Is there anyone else who would like to comment?

Michele Landquist: Hi, my name is Michele Landquist; you know how to spell it by now. I have a question, the area, I guess I'm confused how the area of land where the dumpsters are and where their main access used to be before DOT gave them another access, a secondary access, I'm confused how a chunk of land got sold to a private party that another subdivision has been historically using for many years now to get in and out of their subdivision. Am I correct in assuming, I hate to assume, that that chunk of the land where the dumpsters are is part of this property?

Chair Curtiss: I don't believe it is part of the Longhorn Estates, it's part of the – I forget what the other gentleman's name was.

Michele Landquist: Drake Lemm?

Chair Curtiss: Is that yours, Drake?

Chair Curtiss: The Dexter's and Lemm's own that other piece. So there are lots of pieces of property in the County that have actually County easements across them, this was one. When they bought it had these three. At least now we are stacking them all up so they are in only one place but if two – this is what was explained to me when we were on-site – if two people who use that road to access their property or for their use protests, it can't be abandoned, but it can be altered.

Michele Landquist: Okay, so the Sleeman Gulch people, they will still have both accesses to use just like they are now and their dumpster area can remain the same?

Chair Curtiss: They explained to us that they were actually going to move their dumpsters to a different location but, yes they will have access. It will be public.

Michele Landquist: Okay, thanks.

Chair Curtiss: Okay is there anyone else that would like to make comment? So it looks like Toby has given us two options. One is showing it all along the highway there and the other one would be to abandon it so it's only in the existing area that is used now. Mr. Lemm?

Drake Lemm: Yeah, my only comment was, those dumpsters, when Russ and I bought the property a few years ago, those dumpsters were not there. And we just out of the goodness of our heart let them stay there because it wasn't a concern to us at the time. Obviously we knew that in the future we were going to want to have them moved. But when we bought it the dumpsters weren't there and then all of a sudden they just showed up. So it's not like we granted anyone a right-of-way to put them there.

Chair Curtiss: Okay. The other thing that came up is that because they are sitting right close to the highway, folks think that they are for everyone to use, not the people that are paying for the service. Okay, any other comment? Sure.

Chris Barnes: Hi my name is Chris Barnes. I have a question about what is being not abandoned, but relocated.

Chair Curtiss: Right, so have you seen the map that shows all the different roads?

Chris Barnes: I have not seen any map other than this one.

Chair Curtiss: If you can see on that map they are actually, right now there is a GLO Road, GLO Trail and a Book 1 Road. So what we are doing is moving all three of those so that they reside in the same right-of-way adjacent to the highway.

Chris Barnes: Okay and I guess my question for you is then, why?

Chair Curtiss: Because their property is currently encumbered by those roads which means anybody could drive on them because they are considered a public right-of-way. As you know, I believe you were out there on the day I went out there.

Chris Barnes: I wasn't, I couldn't make it that day.

Chair Curtiss: As you know that whole corner there of their property, it must be almost an acre, is taken up by people using that now. So we are trying to say okay, that's being used by people. The other doesn't even show on the land so you don't realize that it's there. So they are asking us to not say that the public can drive across their land.

Chris Barnes: Right.

Chair Curtiss: So the law allows them to petition us to either abandon or alter a road. And as long as it's not providing access like the Hendrickson's property is accessed through the one piece on the east side. But the other property is really their private property, it doesn't access the Forest Service or anything like that, we can move it or abandon it.

Chris Barnes: Well I understand that you can. But of course, they bought the property with these rights-of-way on them and it seems to me that, if at some point you are thinking that maybe it would be nice to have a trail going up Route 12 to the west, the logical place to put that would be on what is the GLO Trail, being farthest away from the road, certainly be the nicest place to have a trail if at some point in the future that was to be deemed to be an appropriate use of the land by the County.

Chair Curtiss: I guess that's the kinds of things – that's why we have to do site visits. We are required by law. And so the decision was rather than encumber that piece of property any more, that we would move it all closer to the highway so that they had a little bit more privacy.

Commissioner Evans: I don't think that the trail connects to a whole lot of everything on each side of it. I think it's, at least the piece that I saw when I was up there, was kind of sitting there by itself. And if you are going to have a trail, it should have a beginning and an end, instead of just middle.

Chair Curtiss: And through subdivision we can do some other kinds of trails if property divides in the future. Did you want to add something Colleen?

Colleen Dowdall: I just wanted to add that the trail is questionable as to whether we have any jurisdiction over it. This is sort of like doing a Quit Claim Deed, cleaning up the record. Because the GLO map shows a trail, there is an assumption that that is a County road, not a County trail. We don't have trails. So if we kept it and it was under our jurisdiction, it could be used for cars, but not simply for trails.

Chris Barnes: But you could change that, could you not?

Colleen Dowdall: The Legislature could, but we cannot.

Chris Barnes: You cannot, it would take an act of the Legislature to close that to motor vehicles.

Colleen Dowdall: Correct. Any County road is described as open to vehicles and we can close them temporarily, to certain classes of traffic, in order to repair them.

Chris Barnes: Okay.

Chair Curtiss: Anyone else who would like to make comment on the abandonment, which we have now, with concurrence of the owners, changed to relocation.

Drake Lemm: I'm just curious about fencing around that right-of-way. Is it okay to have a fence block it off, because the trails that we have going through our property now, our property is pretty much totally fenced and so that property has never been accessible, because there has always been a fence around it. I was wondering –

Colleen Dowdall: Fencing the right-of-way is something you can do with a permit from the Public Works Department called an Encroachment Permit. Those last for a period of years, so at the time that the right-of-way was going to be made available to the public, your Encroachment Permit would go away.

Drake Lemm: We don't really intend to fence it. I was just curious because the trails were there and they were fenced in and so they weren't usable for as long as I can remember and I've been up there 20 some years, so I was just curious about.

Colleen Dowdall: It doesn't have any effect on whatever right we claim, the fact that it was fenced. If it was a County right-of-way, someone having fenced it does not make that right-of-way go away.

Drake Lemm: Okay and then one other question. I'm sorry, it doesn't really pertain to this, but it's just general information. If a trail accesses through a property, who has right to use that trail? Like for example, Stan Hendrickson's property up there, the trail continues through his property, would the public have access to that?

Chair Curtiss: I will let Colleen answer that.

Colleen Dowdall: It's sort of a complicated question, but if it's County right-of-way, then the public has the right to it. And the fact that it's depicted as a GLO Trail means that we are claiming it as a County road and so that would mean that someone who wanted to open that up to vehicles could request that we do that.

Chair Curtiss: They would need to come and ask the County to open it back up.

Colleen Dowdall: I think he said if it extended across Stan Hendrickson's property – so we are not abandoning or relocating that piece.

Russ Dexter: My name is Russ Dexter, co-owner of the property we are talking about. A question I have, and I don't know how this all works out or mingles, but we are talking about a trail, hopefully a bicycle trail or whatever, across the front of our property that would be an easement where that meshes with the old GLO Road, the part that we can't vacate that Stan uses, how does that all – we are going to have bicyclist on part of it and then we have people that will be able to drive on part of that as well. Do you see what I am saying? Somehow it changes from one to a drivable road. How is that all going to iron out or can it be ironed out? I don't know.

Chair Curtiss: Well we are not calling it a trail right now, we are saying we are moving it for the –

Russ Dexter: So somebody still could drive on that part on the front – the part where the 50 foot easement – somebody could legally still drive on that, is what I'm saying. I don't know, I'm just not –

Chair Curtiss: It would be hard to run through those big trees.

Russ Dexter: That's true, yeah. That's probably true. That's just a question I have.

Chair Curtiss: I guess they could request that the County do something with it. I don't think it will – the historic use isn't that anybody drives on that piece. Just on the corner there.

Russ Dexter: Okay.

Chair Curtiss: And on Stan's. Anything you want to add Colleen?

Colleen Dowdall: No.

Russ Dexter: Okay.

Chair Curtiss: Okay. What we are trying to do is look into the future and see if there might be a need in the future that would be silly to abandon and then have the Highway Department have to purchase the easement back to put a trail in the future. Okay, Michele?

Michele Landquist: I do have one other question, quasi-statement. When it came to the Lolo Creek Trails and it was identified that the old County road that went through there was also part of the old Nez Perce Trail and stuff. Since that Book 1 Road technically is the old County road, are you or have you considered, making any reservations to having that identified when and if they do submit for preliminary whatever they plan on doing with the property. I know you made Dennis Doran and the Lolo Creek Trails, he is going to leave a trail well marked for the Nez Perce thing and since that all and like Barbara just said, it's silly to have a trail that has a middle and no beginning and no end. In looking down into the future, it might be nice to consider reserving the right to extend that historical trail so that someday it does have more of a trail, more of an ending.

Chair Curtiss: We did ask that question. None of these three that we are doing today were identified as being part of the Nez Perce, so it must have been further up the hill at that point.

Michele Landquist: Okay, because I thought the Book 1 Road was one in the same.

Chair Curtiss: I'm sure that they intersected at some places which down there at Lolo Trail.

Michele Landquist: And you did ask that question?

Chair Curtiss: I did.

Michele Landquist: Who did you ask it of? Did you have the Historic Preservation Board involved in that?

Chair Curtiss: I think I asked the Surveyors Office if they had checked it out. I did ask. I don't remember if the historic people commented on it.

Michele Landquist: I am just concerned that sufficient information be supplied so you can make the choice and decisions based on all the information available.

Chair Curtiss: Right. Thank you. This is a Public Hearing. Anybody else who would like to make comment? Seeing none, I will close the Public Hearing.

Commissioner Carey: I have a question in line with Michele's question. Does that Book 1 Road go further west? Can we identify that that road is there? I am concerned that we are going to sort of truncate the trail and not have any –

Chair Curtiss: It's not visible on the ground after the area the people talked about, where the mailboxes and the dumpsters were. And maybe Greg LaZerte could tell us whether or not we abandoned some in Beyer Meadows?

Greg LaZerte: My name is Greg LaZerte and I'm with the Surveyors Office. I believe that Book 1 Road and the GLO Road perhaps could be one in the same and it does continue to the west, to answer your question Bill. As far as the abandonment that you spoke of, I'm not real clear on that as far as –

Chair Curtiss: So the Beyer Meadows subdivision is the next one past this Longhorn Estates so to the west.

Greg LaZerte: That would be part.

Chair Curtiss: And did we abandon that in their subdivision, I can't remember?

Greg LaZerte: I don't know if that was altered.

Chair Curtiss: It might have been altered.

Greg LaZerte: I think it was altered, but I would have to check to be sure. But it's all contiguous, we are just looking at a piece of it here, so.

Commissioner Carey: Thank you.

Chair Curtiss: And it goes on here as well.

Michele Landquist: I know that a section of it behind Thistle Dew Antiques and at least one other property owner to the west of Thistle Dew Antiques, still has it on the books on their place.

Chair Curtiss: Is that – Thistle Dew is further?

Michele Landquist: Further west.

Chair Curtiss: Okay. Thank you.

Commissioner Carey: Would you say again the options, as one 50 foot easement, is it one option to do that in addition to the existing easement or?

Chair Curtiss: It's to take the Book 1 easements – the three that were requested – put them in 50 foot instead of 60 foot, because the primary corridor is 50 feet. And then butt it up to the highway's already, they have a 100 feet total but 50 from the center of the road.

Commissioner Carey: But not over lay the existing one. It would be in addition too.

Chair Curtiss: Right, in addition too.

Commissioner Evans: But that doesn't mean 100 feet, it means total 50 feet.

Chair Curtiss: On their property.

Commissioner Carey: Right.

Commissioner Evans: Right. And I gave away my packet so I don't have anything from which to make a motion. I would just like to make sure that what we do, the motion we make, ends up doing what we want. The one map with all the different colored little roads on it is terribly confusing, so what would a proper motion be, Colleen?

Chair Curtiss: Could we put an exhibit on his map behind you?

Commissioner Evans: We want to alter a portion of the road, not abandon.

Colleen Dowdall: Right, you want to alter the right-of-way and you could state, as depicted on the exhibit.

Commissioner Evans: So that all three of the roads shown are within the same right-of-way.

Colleen Dowdall: Adjacent to –

Commissioner Evans: Adjacent to the highway and have Public Works do the legal description that puts all three of them in the same spot.

Colleen Dowdall: Correct.

Commissioner Evans: That's correct.

Patty Rector: Are we abandoning them on the Drake/Lemm property or not?

Chair Curtiss: No, we are not abandoning any.

Commissioner Evans: Not abandoning any of it, we are altering it.

Chair Curtiss: We are altering it west of Sleeman Gulch, but east of Sleeman Gulch, it's staying where it is, they've just depicted where it actually is.

Commissioner Evans: And we are not affecting the access for the Hendrickson's.

Chair Curtiss: Right.

Commissioner Evans: So that's my motion.

Commissioner Carey: I will second the motion because I think that consolidating these easements gives us the best chance in the future to have a viable trial to bike and walk and so on.

Chair Curtiss: I think what we should do is put your map with the decision and you can print yourself a new map, is that right? Or does Greg have one?

Patty Rector: That's what we need to make a decision. Which option are you choosing?

Chair Curtiss: So just to clarify that this is what you believe your motion was, so Hendrickson's property is over here, this stays the same – it stays the same right here and then it moves right adjacent to the highway.

Commissioner Evans: And all of the three are on top of one another.

Commissioner Carey: Should we call that exhibit A.

Chair Curtiss: We are going to write A on it and then we will put it with the record.

Commissioner Evans: Okay.

Chair Curtiss: And we will put it on that one up there. Okay any further discussion? All in favor?

Commissioner Evans: Aye.

Commissioner Carey: Aye.

Chair Curtiss: Aye.

The motion carried with a vote of 3-0.

Chair Curtiss: So Patty do you want this one for the record? And I will give you back this packet. Okay, Mr. Barnes, if you would like to ask a question.

Chris Barnes: Thank you. At what point, is this now final, I mean is it effective immediately or is it effective after a period of time? What happens with an easement?

Colleen Dowdall: I believe that the results of the decision are either mailed to affected property owners or there is a notice in the paper. You don't do a notice? Okay, then it's mailed to affected property owners.

Patty Rector: What I do is send the information to the Surveyors Office, who then drafts a resolution, basically stating what they've decided on today and then, I'm not sure what happens after the resolution is signed. I mean there is no protest period or anything like that. So I'm assuming that Greg probably, Greg LaZerte in the Surveyors Office, mails out to affected property owners.

Colleen Dowdall: He is shaking his head no. I think the short answer is that yes it does go into effect immediately. Right.

Chair Curtiss: The resolution will have the date that we made the decision, I think.

Greg LaZerte: Once I get it from you Patty, I send it on to be recorded and that's when I wipe my hands of it, so.

Chair Curtiss: Thanks Greg. Okay. So it's a day of hearings? Michele?

Michele Landquist: I'm sorry. I guess to expand on what he was referring to is, like in subdivision rules and regulation, after you sign a preliminary or final plat, if you are aggrieved party by a decision by the Commissioners, you have 30 days in which to file a grievance. Does something like that exist in a case like this, if people felt aggrieved by such a decision?

Colleen Dowdall: Your action would be to file in the District Court and you would have to file an action claiming the Commissioners abused their discretion and that abandonment or relocation of the roadway was not feasible, desirable or there is one other term but, there is no time limit, aside from a statute of limitations, but there is nothing like a 30 day limit and in this case, it isn't as if were going to be taking out a road or closing a road that is

in use right now, so there would be no immediate impact. It would be a matter of making your case that what they did was an abuse of discretion.

Chair Curtiss: And that's why, when we were on-site, the portions that are currently being used by other folks and they said, please don't close these because we use them for our machinery and access to our property, those sections were not changed. They are now more defined on the map, but they are not changed. Okay, good questions. Our civics lesson for the day.

Hearing: Amend County Subdivision Regulations Regarding Cash-in-Lieu of Parklands

Chair Curtiss: Okay, we have another hearing to amend the County Subdivision Regulations regarding cash-in-lieu of parklands.

Lisa Moisey: I'm Lisa Moisey, County Park's Coordinator and I am here today with Jackie Corday of City Parks. We are here to ask you to adopt an amendment to the County Subdivision Regulations to establish procedures for determining fair market value for the cash-in-lieu of parkland. This procedure would require that fair market value be determined by a Montana State Certified General Real Estate Appraiser who would be hired and paid for by a subdivider who is asking to do cash-in-lieu of parkland dedication. The procedure would replace our current practice of asking the Department of Revenue to determine the cash-in-lieu values. Just to note that in a conversation that staff had with Jim Fairbanks of the Department of Revenue, he did suggest that it probably was a good idea to do this because the Department of Revenue just cannot keep up with the values. They are on a six year cycle and presently they are using 2002 values and those won't be updated until 2008, so that's a pretty significant lag time in terms of the value of land and real estate in Missoula County. This has been a joint City-County project with a pretty involved public involvement process. We've had letters of support from the County Park Board, the City Park Board, the City Open Space Advisory Committee. We've had agency review. We sent this out to over 80 agencies and interested parties. We had a public workshop, we made a presentation to the Missoula Board of Realtors at one of their government affairs meetings. We brought this to the Planning Board and the Planning Board held a Public Hearing on this and they voted unanimously to support it. They were concerned about potential for developer influence over the appraiser, since the developer would be paying for the appraisal. So in their recommendation to you, they asked that the resolution be expanded to include a process whereby a pool of appraisers is established and randomly selected to accomplish each appraisal and that the program is subject to periodic fiscal audit. We took that recommendation to the City Council, we had a meeting the Conservation Committee, and at that meeting, there was some concern about the process becoming very complicated at that point. We had a couple of folks there representing the development community and the appraisers, who made a suggestion to come up with maybe an alternative way to get at that issue, but not make it quite so complicated. So the suggestion was made to add the word general into the language so that we would require a Montana State Certified General Real Estate Appraiser and those are the folks who have additional training and education to allow them to appraise bare land property valued over a million dollars. So the Conservation Committee voted on that to move forward with that language, just to add the word general, and it went on to the full City Council, who voted to approve the resolution as recommended by their Conservation Committee to require the general appraiser and they also added some language clarifying effective date. And so in the motion that we are asking you to look at today, we have language in there also adding an effective date, which is similar to the City, but not quite the same. It gets us to the same place, but it's just a little different way of wording it. But it would still be the same, effective as of today, for those subdivisions that have not yet been certified as complete by the OPG. And with that, I will just answer any questions.

Chair Curtiss: Thank you Lisa. Any questions for Lisa before we –

Commissioner Carey: I'm just curious – I don't see a motion that incorporates changes the Planning Board put in. Is there one whole motion that we could use?

Lisa Moisey: Well the motion that we are asking you to approve is just on Page 1 under recommended motion and it does not include the Planning Board changes, because when it went through the Conservation Committee and the City Council, there was some concern about it becoming very complicated. Another piece of this is we are allowing an appraisal of up to one year old for this. And if we do require developers to use an appraiser that is determined by the City or the County, then they wouldn't be able to use an existing appraisal that they've had to perhaps purchase the land. So it would get more complicated, so what we are asking you to look at is just the motion that is there and that is what the Council approved.

Commissioner Evans: So tell me. Let's assume that we do this. It's lodged with the City or the County to pick an appraiser. Is that correct?

Lisa Moisey: It is not correct.

Commissioner Evans: Who is going to pick the appraiser?

Lisa Moisey: The developer, they can choose any appraiser who is a Montana State Certified General Appraiser.

Commissioner Evans: Okay, that's what I want.

Lisa Moisey: They can use their favorite one and we will be happy.

Commissioner Evans: Okay.

Chair Curtiss: Okay, so I will open the Hearing. Jackie did you have anything you wanted to add?

Jackie Corday: Other than, it's just been a real pleasure with working with Lisa on this project and it's been a great thing to be able to do it jointly. So I hope that you support this.

Chair Curtiss: Thanks Jackie. This is a Public Hearing. Is there anyone who would like to make comment on amending our Subdivision Regulations to try to get a more fair market value for the cash-in-lieu of parkland? Okay, seeing none we will close the Hearing.

Commissioner Evans: I have a question or comment to make about it. I'm concerned that we add additional costs onto housing for everything that we do like this. That disturbs me. I would really like to see some affordable housing sometime, someplace. The other thing that I am concerned about is if we do this and the developer has the choice of giving us land or giving us cash, the higher we make the cash requirement the more likely we are to get less than satisfactory land for parks. And that disturbs me.

Chair Curtiss: Okay. Any comments from staff? Alright. I guess we are ready for a motion.

Commissioner Carey: I would like to thank Lisa and Jackie for your persistent and creative work in this. I think it's very important, good work.

Commissioner Carey moved that the Board of County Commissioners adopt the amendment, consistent with the City of Missoula's Subdivision Regulation Amendment, to the Missoula County Subdivision Regulations Article 3-8 entitled "Parks and Open Space Requirements" to establish procedures for determining fair market value for cash-in-lieu of parkland dedication. The effective date language in the resolution shall read that this amendment is effective upon adoption by the Board of County Commissioners and applies to subdivisions certified as complete by the Office of Planning and Grants after this date. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0 (Commissioner Evans abstained).

Commissioner Carey: Thank you.

Lisa Moisey: Thanks.

Hearing: Wye-Mullan Plan (Continued from June 15, 2005)

Chair Curtiss: So we will come back to order and continue with our Wye-Mullan Hearing, so I will reopen the Public Hearing and start to work through some more issues. The first one on our list today is to clarify the placement of existing neighborhood center indicators. So we've talked about these before and I believe yesterday in our work session, just as we were finishing up, Bonnie said she might have something she wanted to add. So first we will look at these. So the white are existing --

Laval Means: Existing or zoned accordingly.

Chair Curtiss: So Hellgate Store is down here and there are three over there along the Flynn Lane area. Red are potential future ones. So one that we talked about, that probably doesn't show on here yet, is the one we talked about on the Deschamps property, yesterday.

Laval Means: Right and the clarification was before, while you motioned to show these in their proximal locations, we wanted to check back with the landowners out in this particular area and some sense of how it's doing with

zoning, and they were fine with that location and it does reflect neighborhood center zoning in that particular area – close enough. So that was fine and that’s just one of the motions I guess.

Chair Curtiss: Right, so the other one would be on Deschamps property.

Laval Means: Do you want to go to the map to the other side, or do you want to take on that piece, all neighborhood centers together? Okay.

Chair Curtiss: So do we want to adopt this piece and then go to the other pieces?

Laval Means: Okay, yeah.

Chair Curtiss: Okay, so I guess if we do a motion, then we can take any comment.

Nick Kaufman: If you go back to the previous map?

Unknown speaker: (inaudible)

Chair Curtiss: Okay if you have questions you have to come up to the microphone. The question is the one in the corner, the grey is the grade school, so that star in the middle of the road there is in Pleasant View and then there is the one in Hellgate Meadows and the potential one that’s already got zoning that’s down along Mullan Road off of Hellgate Meadows and then the other existing one is of course the Hellgate Store that’s already there on Mullan and one potential one on some Flynn property and then the others Flynn partnership. What is that one?

Laval Means: Flynn Family Limited in that vicinity and then Catherine Flynn Limited Partnership.

Chair Curtiss: So if we have a motion to show these indicators on – which map would then this show on, Laval?

Laval Means: Directly on a land use map.

Chair Curtiss: On a land use map.

Laval Means: Yes.

Chair Curtiss: Okay.

Commissioner Carey moved that the Board of County Commissioners approve the indicators on the land use map. Commissioner Evans seconded the motion.

Chair Curtiss: And these are in the general vicinity they don’t have to say they have to be exactly where the star is.

Laval Means: Right.

Chair Curtiss: Any discussion? Any public comment? Seeing none, all in favor.

The motion carried on a vote of 3-0.

Chair Curtiss: Okay our next issue is redefining – oh – then we need to go further out, we talked about one on the Deschamps property yesterday and I believe Bonnie wanted to talk about something.

Laval Means: So we don’t show one up in this vicinity, this is where we talked about a neighborhood center indicator to match existing zoning. There is a commercial zone at that intersection. So that would fall in the category of the white indicator, because it’s zoned accordingly.

Chair Curtiss: And that’s at the corner of Kona and Mullan on the Kona Ranch?

Laval Means: Could you use your PowerPoint for that Dave? I think we have it on another map, right? That we’ve penned it in before? And then the other location – there was something back up in this piece here that we can show you when we look at this whole area again.

Chair Curtiss: Okay.

Commissioner Evans: The one you just pointed to and said it's already commercial, that's light commercial correct?

Laval Means: It is.

Commissioner Evans: As I understand it, there is a sign there that says heavy commercial which is apparently inaccurate.

Laval Means: Let me look at the zoning map on that and then kind of confer with Colleen on that zoning district for a second.

Chair Curtiss: Is that a special zoning district then, or that was when we zoned the area that they just recognized back in 1976 or whatever?

Laval Means: It doesn't show it on this.

Chair Curtiss: And this is Kona Ranch, so Bonnie would you like to make any other comments about – you said yesterday that you might be interested in additional indicator on your property?

Bonnie Snavelly: Yes the neighborhood – the existing one is what is presently zoned neighborhood commercial on the corner of Kona and Mullan and actually, Commissioner Evans, someone related that that sign has that information on it which is not factually correct. So if you would care to come out and see it you are welcome too.

Commissioner Evans: What does it say?

Bonnie Snavelly: It says heavily, or heavy traffic area or heavy traffic or something in growing area something to that affect.

Commissioner Evans: But it doesn't say heavy commercial?

Bonnie Snavelly: Absolutely not. It has been reviewed by my attorney's. I think that yesterday, frankly, was most unsettling I think for all of us. I think we would be well to leave that behind and simply deal with my land as it exists. And that's what I'm asking you to do.

Chair Curtiss: So this is one that you agree with then, right?

Bonnie Snavelly: That's one. And then I'm asking for another one, which would meet where we've been going with the conceptual plan, which is at the Kona Ranch Road, Clark Fork River area and I'm going to let Elaine McLaughlin go through that. I brought my planner in from Boulder for the last two days to try to help us work through this thing.

Chair Curtiss: Okay, Elaine.

Elaine McLaughlin: Thanks a lot.

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

Elaine McLaughlin: Yes, Elaine McLaughlin with DTJ Design.

Chair Curtiss: Could you spell it for her?

Elaine McLaughlin: Sure. M-C-L-A-U-G-H-L-I-N. And the area that we are talking about, as Bonnie mentioned, is near the Clark Fork River and Kona Ranch Road and the idea that we had put into the concept plan was to have a country inn in that location and there are a number of amenities that would go with that, like a spa and maybe a restaurant. Under your description of recommended uses in neighborhood commercial and the cluster designated portions, it has a number of uses that we thought would be perfectly suited to this type of country inn, with the exception of an actual country inn designation or recommended use and restaurant. So we were hoping you could also add that to the descriptions and then designate a portion of that as well for commercial.

Chair Curtiss: So you're really wanting a neighborhood center, but also commercial, right at the corner of Kona and the river?

Commissioner Evans: Right by the Kona Bridge.

Elaine McLaughlin: Neighborhood commercial. Part of the idea there is that a country inn would be really suited to the public park that's across the way there. I know that according to Bonnie there has been some problem with vandalism and such. One of the things that adds to safety is an eyes on the street kind of concept. And if it's a little more active of a spot in that location, it might actually help create a compatibility with that type of use across the river.

Chair Curtiss: Okay, thank you. Is there any comment from the public on the idea of neighborhood commercial next to the Kona Bridge? Mr. Kaufman.

Nick Kaufman: For the record Nick Kaufman. Could you ask Laval to review the definition for us of a neighborhood center?

Chair Curtiss: Of a neighborhood center?

Nick Kaufman: Yes.

Chair Curtiss: Yes, could you do that please Laval?

Laval Means: Neighborhood center as its own land use designation, describes this as an identifiable core of a larger cohesive neighborhood and therefore should offer a variety of uses from shopping for basic needs to recreating at a park. Uses should be oriented towards serving the needs of that residential area, rather than targeting a community wide market. They are a place to hold neighborhood meetings and social gatherings. They serve as the community connection between Missoula's Urban Core and the Mullan Road area by incorporating civic uses. This designation places the convenience of closely located services with a desire to preserve the residential character of neighborhoods. By locating neighborhood center uses within residential neighborhoods, the community gains the health and air quality benefits derived from a reduction in vehicle miles traveled. There is a list of recommended uses on that. Do you want me to read that as well? Now this is the neighborhood center land use designation where the indicators are being added to that description. And I don't have the rest of that actually the revisions to this for that neighborhood center piece here. Recommended uses include retail goods and services that primarily serve the neighborhood such as: video store, book store, specialty retail, small grocery, deli, bakery, small restaurant and personal services such as beauty saloons and barber shops, civic spaces like libraries, schools, churches, community centers, parks and small scale active recreation and then home occupation or small professional offices; residential at a maximum density of 8 dwelling units per acre in that vicinity as a mixed use with commercial above, residential building types include single dwelling, two dwelling townhouses, multiple dwelling and dwellings above non residential spaces. In the cluster land use designation within it, as I've said, there is some flexibility for the idea of having some neighborhood commercial, well, that's associated with the cluster itself.

Chair Curtiss: Okay so there is some ability to have some commercial in the cluster that wouldn't need to have that indicator because that's a totally different thing.

Laval Means: Right, but it does say in here, if I may just read that description to you. Neighborhood commercial uses primarily serve the need of local residents and function as the identifiable focal point of the area. That's pretty similar. Neighborhood commercial uses may be included as part of a residential proposal depending on the following specific criteria as well as the cluster land use criteria: Locate uses at a main intersection of roads functionally classified as a collector or higher, such as the intersection of Kona Ranch Road and Mullan Road. You see that actually to reflect where it is shown. Locate uses one use deep. Zone as part of a Planned Unit Development, essentially saying it should kind of all be thought out together. Discourage development that dominates, by scale or character, the surrounding residential uses. Sites should contain and mitigate all impacts ranging from natural resource impacts to transportation. Recommended uses are deli or neighborhood cafes, small grocery, personal service, specialty retail stores, coffee kiosks, bed and breakfasts and small professional offices. Uses that are not recommended, not neighborhood commercial, are gas stations, automobile repair, casinos and other drive through facilities. And then I think what you've heard today is the request to add to some list restaurant and country inn.

Chair Curtiss: Mr. Kaufman?

Nick Kaufman: Nick Kaufman. So I want to make sure I'm not confused on this at all. Are we going to put a white star there, that is a neighborhood center star, or are we going to put something different there?

Chair Curtiss: It sounded like they were asking for a neighborhood star, but commercial too, so that's why I'm taking input.

Nick Kaufman: Well my concern would be is that it seems that neighborhood center is suppose to serve an area. I'm concerned that that's a fairly short distance between Mullan Road and Kona Ranch Road and back to the river. And while what Elaine has described doesn't raise a lot of concerns, what Laval described raises significant concerns, having two of those that close. It seems to me that what Elaine described is something that is internal to the Master Plan of Kona Ranch and serves primarily that type of development and its target population. What Laval has described is something much more intense and I would think that having two of those that close with that broad of description should be a concern to you also. Thank you.

Chair Curtiss: Thank you.

Commissioner Evans: I can't support that and one of the reasons why is I don't think that is on a beaten path. It's off the beaten path if you ask me. It would not be decreasing traffic on that road, it would be increasing it. I don't think it's an appropriate place to put an inn. I just can't support doing it, I'm sorry.

Chair Curtiss: And the other one was the neighborhood center. Nick's point was that they were too close together.

Commissioner Evans: I don't have a problem with the one at Kona and Mullan Road as long as it is accurately signed and according to what we've designated it. It makes sense that that would be a logical place to put one. But not down by the Kona Bridge, I can't support that.

Commissioner Carey: Under what category could you get a bed and breakfast? Was that the commercial center?

Laval Means: Its part of the cluster land use in that neighborhood commercial concept. A very controlled concept of it, to be in a place where it's at a crossroad of collectors like Kona and Mullan or if a new collector were planned through that area at that kind of a crossroad. We weren't trying to be specific about its locations.

Chair Curtiss: So you are saying though that a bed and breakfast, if the land use designation was a cluster land use, that a bed and breakfast could be part of their plan within that? So it wouldn't need an indicator?

Laval Means: We wouldn't need an indicator, no.

Commissioner Carey: Okay.

Chair Curtiss: Could you say your name again please.

Elaine McLaughlin: Elaine McLaughlin.

Chair Curtiss: Okay.

Elaine McLaughlin: I'm referring to Page 7-9, and it does say for bed and breakfast in locations other than neighborhood commercial and then it has some criteria attached to it. And so it does look like, if we wanted to create something like this, it would need to be in a neighborhood commercial designation. And I wanted to also address what Barbara had said and I realize some of it is based on a concern about a character of a type of development that could go there but, realistically, a country inn you would probably want slightly off the beaten path as apposed to on an arterial or collector because it would end up as a hotel/motel. The idea really would be really to be sort of a country inn that would be a little low key. It wouldn't be some large hotel operation.

Chair Curtiss: Thank you Elaine.

Michele Landquist: Having sat through many land use plans regarding Lolo and having followed the Wye-Mullan plan via MCAT – God bless MCAT – not only am I a little slayed that we are still entertaining and writing specific

land use plans for various reasons, thanks to the interpretation of Senate Bill 326, which for subdivisions – blah blah blah – residential stuff, it kind of renders our land use plans kind of useless. But from the sounds of it, the little commercial enterprise that they are talking about is going to provide some jobs to an area so, yeah it may increase traffic, traffic is increasing anyway and I've never seen this Board other than once, consider traffic in your decisions for approving or denying subdivisions. Only once have I seen it and that was the Lolo Flats area. But when you are looking at creating some jobs, such as something like the country inn and the restaurant and things of that nature in that area, that's giving some people in that area, youth and what not, a place to work without having to drive too far away from home. And you are creating some jobs that are fairly sustainable compared to everything that's related around construction-oriented economic development, such as building houses and subdivisions and the surveyors and everything that go along with all that. Personally I think that's a pretty good use for that little section of land and provides a service. I mean how nice would it be to be in that neighborhood area and be able to go, hey, let's go to the inn and have dinner, we could walk to it.

Commissioner Evans: And they can still do that at the corner of Kona and Mullan, it doesn't have to be –

Michele Landquist: I think you are limiting the amount of commercial and things for the people to do in that area and creating more traffic by people having to drive further for those kinds of services and such. So just thought I would throw that out to you.

Chair Curtiss: Thanks Michele. So just to clarify the point of the book that Elaine pointed out on page – if you start at Page 7-7, it's talking about cluster, so this neighborhood commercial is listing on 7-8 and goes on to 7-9, is within the cluster, right Laval? I was just trying to clarify that.

Laval Means: Yes it is, right.

Chair Curtiss: So the bed and breakfast, personal services, I would think spa could fit under that. Would that be right?

Laval Means: You know some of it just again, has to be determined as a project is proposed, as to the appropriate scale. The scale in character will be a significant part of it. So that it doesn't override the residential character of the proposal.

Chair Curtiss: So I think the idea the things they are proposing, an inn, a spa, a restaurant could be fit within a cluster development rather than needing the indicator?

Laval Means: There is nothing – it talks about a deli or neighborhood café, there is nothing explicate about an inn or restaurant. But I think one of the measurements of this is what a neighborhood is? What is something that serves a neighborhood verses what is something that serves the larger community? That is something that is described in that neighborhood center land use type. So it does kind of become a scale element and some of that we have to just see when the development plan is put in there.

Commissioner Evans: It's just this particular location, next to the bridge, that I can't support.

Commissioner Carey: But if that was more of a neighborhood in character, I think, I share Nick's concerns, frankly, but I also think that what Elaine is asking for is not mutually incompatible with that concern. I don't know the language to suggest, but they don't seem like it has to be either/or.

Chair Curtiss: But if they come forward with a proposal, it would probably a Planned Unit Development thing that would have, but then you would evaluate the whole plan based on its merits and then it would probably fit so. It seems like another indicator is not needed that close to it.

Laval Means: To one we are showing.

Commissioner Carey: Right.

Chair Curtiss: And it doesn't seem like what you are really talking about is the neighborhood commercial as much as some other sort of commercial that could fit in, in here. Any other comments on adding another indicator in this area? Elaine.

Elaine McLaughlin: Sorry, I'm going to try again. I guess what we are getting at is the reason that there is a concern about actually placing that star on there, is that on that page I was pointing to, it says for bed and

breakfast in locations other than neighborhood commercial, and then it really limits the criteria of what can be acceptable as a bed and breakfast or as an inn, for example. And that's why we felt strongly that it needed to be on there.

Chair Curtiss: So where are you reading that Elaine?

Elaine McLaughlin: It's under building development and cluster and so it's at the bottom of 7-9.

Chair Curtiss: Okay.

Elaine McLaughlin: And I know it's something that probably sounds a little unique and slightly scary without seeing some examples of it and that's what I was kind of hoping we could do and we probably need a little more time to do that as Barbara acknowledged yesterday.

Commissioner Evans: Part of my concern here, folks, is it has to do with the Kona Bridge, the continuing request for a bypass and adding more traffic to that segment of the road. I just can't, in good conscience, support putting that next to the bridge.

Commissioner Carey: I guess, I don't know. I don't see a – maybe I've got the wrong mental image of this but I don't see a major regional kind of commercial endeavor.

Chair Curtiss: So Laval, could you give us a little bit of background as to why it – maybe what we need to be looking at instead is amending the building development section as to why – I don't picture most bed and breakfasts as being in a neighborhood commercial area. I think most of the time when people go to a bed and breakfast, they kind of want to be more secluded. So could you give us some rationale as to the description that is here?

Laval Means: I think that the idea with that was that if a bed and breakfast is located in other areas, say with residential around it, one of the sites that overlooks the river or something, that we establish some criteria for how large it gets, so again that it doesn't overcome –

Chair Curtiss: Doesn't overcome the neighbors.

Commissioner Carey: Like Goldsmiths.

Laval Means: Overcome the residential. It was something that we looked at actually, frankly, with Lolo Plan and how to address other types of uses that might be happening in residential areas to some degree. And I can't recall but this type of limitation – do you remember if it's something that is being explored written into some of our regs?

Colleen Dowdall: The limitations.

Laval Means: It says limit to four rooms for rent?

Colleen Dowdall: We have struggled with bed and breakfast for years because there is nothing in current zoning that allows a bed and breakfast, and it's really difficult to determine where it is appropriate, because bed and breakfast is, for instance in Helena, bed and breakfasts are in residential neighborhoods, in some of the old mansions. In Missoula, that has been very difficult to accomplish. I think up in the Rattlesnake there was a request that went through a lot of process and was eventually approved, but it is something that is difficult to find a place for it. I think the neighborhood centers are intended to be a part of the residential neighborhood, with more like the corner store, so having the bed and breakfast in that location is compatible. The concern I have with putting this as a neighborhood center is, I think more related to the river location and not knowing exactly what the topography is like there and whether it would be appropriate to have commercial development in that location on the river. Because although, if we put a neighborhood center, that's what we have to expect, is whatever neighborhood commercial is permitted and I keep – regardless of what the plan says – I keep going back to what the zoning allows in neighborhood commercial, because that is what we have and it's a retail food store with a maximum floor area of 3,500 feet, personal service, general merchandising, hardware store, clothing shop and tailoring services. Conditional uses are professional, business and government offices, repair services except automotive repair, eating establishments except drive-in establishments, commercial mini-warehouses and then special exceptions include public and quasi-public buildings, automobile service stations, multiple family dwellings, other retail trades and services with no outdoor display or storage and public utility installation. And I'm

just not sure those are uses that we want on the river and if you try to equate this to the long Lolo plan process that we did and imagine doing that on the Bitterroot River, it would have been a tough sale.

Chair Curtiss: Okay so here is my other question. Bonnie has just passed around for us to look at, her conceptual plan for that area that has some nice looking things. If this – to me, most of this should be decided through the subdivision process when you can actually look at the whole thing and weigh things out. If a subdivision comes in for this piece of property that is along the river there and there is a proposal to add some nice commercial use like an inn, but not a gas station and some of the other things that we probably don't want there, because it's – if it was zoned cluster, one per acre or two per acre, whatever, how would we be able to weigh that, because this area is zoned which, Michele, is different than Lolo, we haven't got you zoned yet?

Colleen Dowdall: I think the Comp Plan would be the cluster recommendation. We don't have a cluster zone that equates to this. If it was recommended for development with the cluster, then it would be a rezoning that would be evaluated against that recommendation for land uses. There are, in any commercial use on this property, except for the part that is already zoned commercial, is going to require a rezoning, either a PUD or to commercial. That is what still needs to comply with the plan. When you zone, you need to give some adherence to the plan.

Chair Curtiss: And this plan with the cluster doesn't really go towards commercial, it's really more towards a neighborhood center?

Laval Means: It doesn't go towards community commercial, when it talks about neighborhood commercial as one of the recommended uses, it does it in a pretty limited way that establishes that it should occur at main crossroads. But until the planning is well along, I say such as Kona and Mullan, but there may be another one, I don't know where it will be. So as a main crossroad perhaps the idea that it be part of a focal point for the development but with a look at how much of this is a community draw verses a draw for the neighborhood and how does character get approached and you get to see that as a project is developed.

Chair Curtiss: Right, I guess what I'm looking at is so what if a project came in that we thought was a neat project but we've limited them totally if we haven't gotten some sort of outlet for commercial, do we consider a bed and breakfast a community commercial, seems to me like it's a more limited destination then – it's not the community, it's more, but I guess if you add a restaurant, it would be.

Colleen Dowdall: And again, it would be the zoning, because in subdivision we wouldn't be approving uses necessarily, but the zoning can be fairly limiting if it's part of a PUD or something like that. But if it was for just a commercial zone, you would have to know that any of these things could happen in that zone.

Laval Means: And the recommended uses that we have listed here are a list, it's not zoning, it's a guide to tell you these are the kind of things and within that parameter, is there something that might also fit? It does include bed and breakfast in it as a neighborhood commercial in some context. So I don't know if that's the scale of the country inn and I don't know if the neighborhood deli will be the scale of a restaurant, so we have to work with that through the character piece. And again, it's maybe that location element you know, is it allowing some connectivity throughout, is it at a crossroad, those are some of the criteria that we will be looking at.

Colleen Dowdall: Also the white star is broad enough that it could be argued that anywhere within that area would be appropriate for a neighborhood center. But when you try to determine where that is, I mean, this one was easy because it's zoned commercial already, but you would look to see what meets the criteria for neighborhood center. So if this was even across Kona Bridge Road, it might be less likely to meet it because that's where the zoning and the land uses are less dense. So you want it to serve an area.

Chair Curtiss: So what you are saying is the commercial could actually be somewhere along there, not exactly at the corner.

Colleen Dowdall: Correct.

Laval Means: Especially if it's part of an overall package of what the development is.

Chair Curtiss: Okay. Is there any other comments?

Elaine McLaughlin: I need to request clarification where we are headed with this. Because I'm not clear where we are headed, to be honest.

Chair Curtiss: I think what was just said is that because the Kona Ranch encompasses the area along the Clark Fork and the area at the corner, if you came in with a comprehensive plan that showed some use in a different spot on the Ranch, it could all be weighed if it was kind of close to that area.

Elaine McLaughlin: So it precludes more than one neighborhood commercial or --

Chair Curtiss: It doesn't mean that we need to have two stars. I think is what it means.

Colleen Dowdall: But having only one star doesn't mean that you only have one opportunity for neighborhood commercial.

Elaine McLaughlin: I'm wondering if there is a way to articulate that into the plan somehow so that later on when we've all moved on somebody else is sitting at the microphone --

Colleen Dowdall: We are never leaving.

Elaine McLaughlin: It could all be clear.

Chair Curtiss: Okay it is all part of the public record.

Elaine McLaughlin: Okay, thanks.

Chair Curtiss: Thanks Elaine.

Colleen Dowdall: I was just going to look at the language.

Chair Curtiss: Any other comments about this white star indicating a neighborhood commercial use or neighborhood center, I mean? Did you have something to add Colleen?

Colleen Dowdall: I was just reading the language in the plan about the neighborhood center and then, have we added some description of the star.

Laval Means: Yes.

Colleen Dowdall: Maybe if we share that with the Commissioners then that will provide the comfort level that Elaine is looking for.

Chair Curtiss: Right she wasn't here when we talked about the description to go with the star.

Elaine McLaughlin: Is it possible to add to the recommended uses the bullet points that describe the different types of uses; could we add that country inn and restaurant as well? There is a personal services.

Chair Curtiss: Under neighborhood center?

Commissioner Evans: I don't see anywhere a description between a country inn and a hotel. The picture that I've seen does not meet my comprehension of a country inn, which would be a small establishment, the picture that is going around looks like a major hotel. So I would like a clarification before we put it in. What does that mean three rooms, six rooms, twenty rooms, what?

Colleen Dowdall: I don't think it's a term that we have in any of our regulatory documents.

Commissioner Evans: I don't think so either.

Elaine McLaughlin: Or maybe an inn. We are just trying to figure out a way that we can make it work and if it looks too big, we would be willing to work with you on what the character should be, but let's say we set it at a certain number of rooms, at some point in the future would we still be able to do that?

Commissioner Evans: I'm not willing to vote to put it by the Kona Bridge, period. But you've got lots of acreage and lots of potential for putting it somewhere. I don't have a problem with it somewhere. I just can't support putting it by the Kona Bridge.

Chair Curtiss: And I think the whole thing is that it has to be considered as a project and not as a part of this plan. We can't design the plan to – just so you don't have a six story with a sign on top.

Elaine McLaughlin: Right, exactly.

Colleen Dowdall: Not our problem.

Commissioner Evans: Not our problem.

Commissioner Carey: Nick wants to say something.

Chair Curtiss: Nick, did you want to add something?

Laval Means: I hope these are the most current part of the neighborhood center.

Chair Curtiss: Oh, Bonnie.

Bonnie Snavelly: I just in total respect of what Commissioner Evans is saying about – I'm hearing what she is saying about not next to the river issue but, with the public park directly across, which is a County park, not very well maintained, they are now putting a boat launch into the river. My car has been stolen out of my home, my computers were stolen, my mother's jewelry was taken. The isolation creates more crime. I intend to live in the family home the rest of my life. I certainly don't want to see something go in that's different. But the drag racing that's occurring along Kona Ranch Road at 1:00 – 1:30 in the morning and you absolutely can call the Sheriff's Department and the Highway Patrol to cohabitate this. The accidents that are happening off the end of the corner of Mullan and Kona are relevant. A little more activity, a little less isolation, is going to be absolutely an amenity to the community. My mailboxes were blown up with dynamite about a month and a half ago, amazing explosion, the middle mailbox, it does a lot to a lot of things around there. It certainly was not a personal thing because directly across the street just a few days ago, that neighbor's mailbox was blown up by dynamite. So to have a little bit of activity along that riverfront stops the homeless people living under the bridge, the drugs, we've found voodoo relics on the island – whatever your perspective is of that. It frankly is, we are in an urban area and it's that remoteness, that isolation, the lack of activity, that is creating a real crime issue and I would invite you to investigate that.

Chair Curtiss: Thank you, Bonnie.

Commissioner Evans: Just for the record, I lived on 56th Street and my mailbox was blown up as well. And on Whitaker Drive it was blown up as well. I don't think it was political, I think kids were having a great time with fireworks, so even in a heavy residential area, they get their kicks by blowing up mailboxes.

Chair Curtiss: Nick, did you have something you wanted to add now? Okay. So Laval has handed us a copy explaining the indicators, so I will read that so Elaine can hear it.

Chair Curtiss: So this is the neighborhood center. The indicator is a symbol that describes an intention to support or plan for neighborhood center uses, allowing for flexibility regarding their exact location as long as they are established in proximity to the indicator and to residential development. Existing as well as potential neighborhood center indicators are shown on the land use map. The existing neighborhood center indicators reflect areas that either exist as such or are zoned accordingly – and that's why we would put the one at the corner of Kona and Mullan. Potential neighborhood center indicators reflect the possibility of considering such uses when planning in those areas. Then there is some new clarification in the neighborhood center intent, we added some language, allows alternative modes of transportation including bicycle and pedestrian and then the other addition is, neighborhood centers may be located at the interface of residential areas and other land uses, employees from a work center have the same need for a quiet place to contemplate during lunch break, get a hair cut or sit down for a healthy lunch, as inhabitants of a residential neighborhood. Locating a neighborhood center at an interface improves the economic viability of the neighborhood center. And interface in that line needs a "t." Recommended uses, we added daycare and mail pickup centers. We don't want gas stations, fast food or casinos. Does that help Elaine for you to understand the -- okay. Alright, Michele.

Michele Landquist: Sorry, here we go with some of my favorite, flexible, fluid-type language. When you say established in proximity – in two miles proximity, three miles – that to me leaves an awful lot to interpretation, not only today because you are here but, two years from now when you are not here or ten years from now. What

does “in proximity” mean? Just as long as, you said earlier, well you would always have the record to go back on, so if you won’t put something to clarify that in this plan, at least put it on today’s record what “in proximity” means, please.

Chair Curtiss: Laval would you like to address how we usually translate that.

Laval Means: I think that we are going to be looking at it in terms of what is contributing to the neighborhood in that area, and there is within the plan, a neighborhood map, a potential neighborhoods map, that helps to contribute to that sense. So it’s – we previously wrestled with I think adding more to the proximity term. At one point it said “close proximity” and was deleted so we didn’t want go to even establishing – giving the flexibility for within the vicinity, within that sense of a neighborhood. And then what we think helps to visualize it and communicate the notion of it is us going through the exercise of showing a few potential locations. So that helps to give us – without that, I guess I would say – without that, we really are sort of struggling with, well how can a neighborhood center be a part of urban residential. The indicator helps us to at least give us a sense of – think about it as you are thinking about the residential in that vicinity but, we didn’t want to get down to dimensions and something more specific. We wanted to think of it in terms of as the neighborhood develops.

Chair Curtiss: So Michele, I don’t know if you have a copy of the plan, but one of the things in the plan is a map that shows potential neighborhoods. So the neighborhood centers would be to try to serve those potential neighborhoods. So part of it gets evaluated, of course, when somebody comes in with a plan to show what their new neighborhood looks like or how it fits into an existing neighborhood and we see how it fits in. So there are about 12 different neighborhood areas within the plan.

Laval Means: And some are of different scales and that’s where the conversation about neighborhood commercial comes into play. This plan carries some flexibility for the idea of neighborhood commercial within more primarily the urban residential land use designations, so that’s where the conversation built into walkable neighborhoods, communicating the sense of neighborhood center within those areas, and then the ability for neighborhood commercial within the cluster gets worked into the cluster land use designation itself. And then other neighborhoods are more of a different scale, of a one dwelling unit per acre has different one and two acre parcels has a different scale and slightly sense of different needs. So those are your existing neighborhoods, less of a concept certainly within the rural residential for that type of use and then even less so within the commercial neighborhood, so there is a scale of different kinds of neighborhoods too.

Chair Curtiss: Michele.

Michele Landquist: Michele Landquist again for the record. My concern is, because I’ve lived through this fluid, flexible language and already seen how it backfires in such a short term, my concern is that we say what we mean and mean what we say. So in the glossary of terms, when you say “in proximity,” it should be spelled out just exactly what Laval said, that it could be subject to change depending on location but this is what we mean it to be. Because I know as fast as some of these planners at OPG change and stuff, in the next couple years, somebody is going to come up with a plan and they are going to move that star a little bit this way and a little bit this way and they are going to go, I don’t think that’s what this proximity means, I think that’s way out of line. Say what you mean. And I will give you a good example of this okay? The subdivision that has broken the hearts of many people in Lolo, the Lolo Creek Trails subdivision, Laval said, we tried to fight saying six to the acre at this juncture. Oh, that’s for twenty years down the road, we were told, nothing is going to build up that dense. Everything around here is building up that dense – as dense as they are allowed too. Or as dense as whatever is recommended in whatever land use plan based on if proper infrastructure is available. No where in there did she say in the plan, this property is meant to be in keeping with the rural characteristics of the area and at some point in time, it may be developed into some larger lots, larger acreage lots and then, as the need arises, infill could take place and more subdividing could take place. No, we got, bam right away, realtors advertising that lot, taking our land use plan out of context, where it said land use plan recommends or says the density could be as high as six to the acre, providing proper infrastructure is in place. It didn’t say at some point in time 20 years from now, that’s as much as it could be built up. That’s what we were told off the record, what got put in the land use plan gets taken out of place, I’ve got the realtor ads where they say land use calls for – land use plan says – it can be this much – they take it out of context and that’s part of – Commissioner Evans, my heart breaks for the people in this area who can’t afford homes, who both mom and dad have to work and the family values are out the window, because both mom and dad have to work, not one mom or dad can’t stay home and raise the kids and get them involved in 4-H, we are not creating anything more like that now. Everything is high density, high density, two income, three income, not affordable housing. We need to at some point down the road look at our land use plans and say, what is wrong with this picture, if we start bringing things back into check saying yeah, in the here and now, this land because of the neighborhood characteristics, for the next X amount of years perhaps, in

keeping with the neighborhood characteristics, should only be five, ten, twenty acre lots. And then, as people subdivide, do family transfers, whatever and the City grows further out that way, then yes infill, just like what's going on in Missoula. But, in keeping with the neighborhood characteristics, not the way some of the Missoula infill has not kept with neighborhood characteristics. I really do appreciate the time that you've given me today. I've been sitting at home silent for too long, busy putting out fires for other neighbors and their other plights and I came here today with some other neighbors who called me and so I saw what was on the agenda and decided to stay, because like I said, I have been following this along on MCAT and some of the other issues that are facing Missoula County, and my heart is breaking for Missoula County, I've worked too hard to get back here as a youth and been here now almost 30 years as an adult. My heart is breaking for Missoula County and I've been silent too long. Please, in these land use plans, say what you mean to say, even if it takes a few more words and a few more trees, please don't do this to another land use plan in Missoula County. I'm urging you, it's not fair to the land owners – you are not protecting us by doing it with your fluid, flexible language. I totally disagree. Please say what you mean – define it. Thank you.

Chair Curtiss: Thank you Michele.

Bonnie Snavely: I don't know Michele at all, I concur whole heartedly with what she is saying. My mission, my goal, is before I die, with this ranch to leave a footprint that we can all stand back 20 or 30 years later and say we were part of this in doing something that stood to give something to this community for which it's becoming known on a regional and a national basis. We are the community the river runs through it. Our trail system downtown, I mean, we have these segments that work, but it's not when it's fragmented. I brought what – my land use is underneath this, which is fragmented 20 acre parcels, and with your indulgence let me show you this.

Chair Curtiss: If you want to take the microphone with you Bonnie.

Bonnie Snavely: My ownership, which is residual out of my family, this represents approximately half of what was originally Kona Ranch because I was the child who chose and wanted to keep it intact as my mother did at the end of her life, it's the reason I was left as trustee. It didn't work out that way because of some horrific litigation which is irrelevant to our discussion today because what I can talk about is what is personally under my ownership. These are all my 20 acre parcels. They are zoned one unit per acre, I can go out and put a sign, Barbara, that says one unit per acre and sell those puppies like there is no tomorrow. The sewer runs through it. Instead, I went to land use planners around the western United States seeking to bring something wonderful to what is my family home, my lineage, I am third generation Montanan, I'm old ranching. My father, when he purchased this property in the mid 1950's, envisioned it as something for ranchers to retire too. It's special, it's unique, things changed dramatically with this complete bisection of the property. I really have too separately distinct chunks of property. The biggest thing with the planners was – how do you make it fit, how do you make it work? So out of a whole bunch of lemons, I've tried to make some lemonade. What Michele is saying, the rubble, you do the 5 or the 10 acres, you deal with it later. There are going to be a whole lot of people that dealing with exactly what I dealt with when my mother passed away, estate taxes, where these things have dramatically appreciated and the inheritance taxes don't wait. We happen to be going through a time that the taxes are going the opposite way, but you know what, if you die after 2009, you've got a big problem, because we are back to the estate taxes as they existed years ago. You all are, I just admire so much of what I've seen, I may disagree with your issues, but with the County Commissioners, City Council, OPG, the PAZ, what you are giving back to this community – I think I'm one of the few people, there are a couple of us, other people here too who come from old ranching families and I think that we are really trying to bring something – to leave something that is respectable, it's commendable. Would I prefer to leave the ranch intact and never touch it? Unquestionably. My childhood footsteps go across that land. The respect for it I bring is immense. It's the reason I hired the planning firm in Boulder, we've been working for a year and a half and no we didn't slam bang a plan together and bring it to you. It's thoughtful, we know the economics behind it, we know what works. I've had four letters of intent from developers and the reason I am asking for modifications of it is because, and I want to bring that caliber of money to this project so that it works, so that it isn't a failure. There is nothing worse then starting and not being able to complete infrastructure. There is a big scare through this property at this time, okay and how to make it work, that's what I worked with DTJ to say, how do I make this function. That small country inn, if you look at the book, if we could present it to you, in addition as a scholars retreat, in conjunction with the University. The University is very well involved, I've done some work already, some rather large things with the foundation that none of you probably even know about. Do we step back as a community and start saying we are going to make a difference or do we run down this same rabbit path that we've been running to, that we are trying to stop and I would beg you to broaden your horizons, broaden your vision, Missoula is worthy of it. We live in a very special place and when you get the landowners that want to bring it to you, please listen to us. I'm not talking about putting this big hotel in down below with my home up on top and Barbara, I don't know if you have ever been out there but –

Commissioner Evans: I've been in your home.

Bonnie Snavely: I'm sure you have with mother. And I intend to be there and I do. It's – surely 50 years counts for something and I hope you all know me well enough to know that my passion, my heart, my commitment has been behind this. So thank you.

Chair Curtiss: Thank you Bonnie.

Bonnie Snavely: Just please remember, I can sell those 20's, once the ranch is beginning to be fragmented, it's lost and none of us will ever get it back. Thanks.

Chair Curtiss: Okay. Any other comment on the neighborhood center indicator on the Kona Ranch. So it's proposed to show an indicator at the corner where it's already zoned for that with the language that says proximity – undefined.

Commissioner Evans moved that the Board of County Commissioners move to approve the use of indicators with approved language on the zoning map. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Okay I think there was one other neighborhood center indicator that we talked about yesterday in regard to the Deschamps property.

Laval Means: We could segue into that.

Chair Curtiss: Yes and then hopefully we will click through some of these other things. We've stayed on this item longer than I thought we would. Okay. So this one is –

Commissioner Evans: There is something else I would like to say and that is, the other day I felt that we should hold off and not do any delineations on the Kona Ranch. And I'm persuaded by what the staff has said, that that should come with subdivision review, not from the Mullan plan. And given that I've seen over the years three or four different plans for the Kona Ranch and since I would like to look at it in its entirety when there is something that is firm to bring to us, I'm going to move that we leave the one per acre zoning as it currently is, and I'm going to change my mind and include cluster as well, which I wasn't intending to do, because that does give them more flexibility and so that's my motion.

Chair Curtiss: So, just to understand – your motion is to leave it zoned one per acre, not change it to the cluster one per acre.

Commissioner Evans: No, I decided I would include cluster one per acre, but leave it as it is until we get a subdivision or a Master Plan to look at, and then go ahead and adopt the plan, the entire Wye-Mullan Plan, instead of waiting. Staff has convinced me that that should be done, looking at it as a subdivision, PUD, whatever it is that they bring it in, in a final form for us to look at. So that's my motion.

Chair Curtiss: Dave could you put it back to the one that showed the Kona Ranch? So, staff is there some other properties that were recommended for cluster, I believe Valeo's Ranch?

Laval Means: And I believe what I am hearing is no change to the land use designation – cluster one dwelling unit per acre – the way it is currently shown. So this is the Valeo's property over here and that would be no change.

Commissioner Evans: I would like to hear what Marcie has to say about it, it's her land. I've never heard her speak. Is that what you want, one per acre clustered, Marcie?

Marcie Valeo: Marcie Valeo. We, I think one per acre is the underlying zoning at the moment and the cluster one per acre would work. I've been thinking about this a lot, I've had some time to think. I guess I don't understand why there is a differentiation between the one per acre, the cluster one per acre on the thousand acres that Bonnie and we own totally, versus the four per acre that we just gave Charlie Deschamps. Now there is a river and if the river is what is the driving force, then we should be putting something somewhere that protects the river and how far you can build back from the or build too the river and things like that but, it just seems that Bonnie has been bringing this – we have no plans at the moment to do anything with our property and I can't tell you what

will happen in the future, but right now it's not relevant. Bonnie has been talking and discussing and the conversations are going back and forth about what it should be and Charlie, bless his heart, comes in and says well I think mine ought to be four per acre, and fine Charlie, it's four per acre. So what I guess I'm asking is, what is the difference in the properties that's propelling the difference in discussions?

Colleen Dowdall: Is Charlie here? I was going to say it was his good looks and charm but. I think that for one, I think we didn't, he didn't get four per acre on all of that parcel it was – a new analysis was done looking at land use, or the topography, adjoining uses is that – Laval can –

Laval Means: (inaudible) the Old Milwaukee and what you are looking at and considering is, that's anything new, is to go from the portion here that was public, quasi-public, to the possibility of four dwelling units per acre and that, I think, is driven by the fact that in this vicinity we were looking at a land use designation similar and saying well that land terrain is pretty similar to that piece and it is within the sewer service area and it is adjacent to some of this development portions here that are at two dwelling units per acre already and a land use designation here on the Phantom Hills at two dwelling units per acre. So it has the collector street grid road, a collector road planned through the area, so it has some connectivity to the main collector system as well. Then once we go back over towards the east, we started to look at not the four that was being suggested initially, but really something more in the area of the cluster. In this particular place, talking about it as a cluster, two per one, given that a portion of it again, is within the sewer service area and a portion of it isn't. Then if we – I think that highlights some of the features that were thought of as a shift, if you will, right here in this particular piece and that actually is the airport owned land that has some challenge to it, but it is currently airport owned. So this is a portion that is owned by Charlie Deschamps here, and that was four dwelling units per acre, and this is a portion over in here that we are looking at cluster and then of course there is still some Open and Resource that comes through with a main drainage and floodplain portion. So down to the southwest area; in this area here, I think we looked at the cluster coming out of Planning Board without any revision to it yet. So it was the cluster with the one dwelling unit per acre, and you have the vicinity with it, a pattern that is more in ones and two acre parcels, but with El Mar Estates up here that is at four dwelling units per acre. So this area here doesn't have an overall master road system planned through it and at the earlier discussion, I mentioned that our earlier version of the cluster did establish a base of cluster at two dwelling units per acre but was changed, based on comment from people and reviewed by Planning Board to it being one dwelling unit per acre. So that's kind of – I think it in a nutshell – there is a portion of this that is within the sewer service area, similar to like you are saying up here, and I think the boundary line comes through here. This portion is not in the sewer service area as well. This portion is now, right in here, where the Stillwaters on the Clark Fork is. So this would need to go through an amendment process.

Commissioner Evans: It seems to me that the further you get out, the less dense it ought to be. To put – and I hear this at every meeting when we are discussing subdivisions – to put heavy density further out makes no sense. You do heavy density here, a little less density here and a little less density here the further out you get. That's what makes sense to me.

Chair Curtiss: Bonnie.

Bonnie Snavely: El Mar Estates is four units per acre, I don't believe that there is a vacant lot that – if there is one there it may be like a contiguous owner, it's been built out for years, absolutely contiguous to my land. The Phantom Hills – when the sewer came through, certainly no one told me there was going to be less density and more constrictions, and in fact, Denise Alexander assured me that getting increased density would be no problem because of the sewer. Sewer is an urban infrastructure system. What has happened in the middle with the bisection of the ranch has absolutely created a different scenario. And this is not the edge of rural Missoula County anymore, not even remotely that and I would invite you to come out and drive by the commercial corner, drive by the signage, drive by the neon lights, the halogen lights that are streaming up and creating light pollution in the sky and see the difference, it's very, very dramatic, it's exceedingly dramatic. And so, this is an infill project and that's been the comment over and over from the developers coming in. It's got a lot of incredibly wonderful significant characteristics but, I'm in the urban area, I'm in the urban area the way it drawn. 230 acres of mine is in sewer, Laval, and then the rest is in extended sewer and now there is the swath that's served by Contract Sewer Committee here, so essentially the ranch is –

Chair Curtiss: Bonnie you got to take the microphone with you.

Bonnie Snavely: Essentially the ranch is completely under sewer. And I initially started out with less and I end up with a whole lot more, the Yellow Stone Fly stuff bringing it on through. This is absolutely an urban environment, thank you.

Commissioner Evans: And when you are finished with your subdivision plan and you bring it to us in its final form, if you have something that needs a rezoning and a change, we will look at it at that time. But I've seen three or four plans that you've had for the ranch. Nothing has ever been done that I am aware of and when you get one that is finished and you plan to do something, that's when we ought to make those decisions.

Bonnie Snavelly: Commissioner Evans, with all due respect, this is the first Master Plan that has ever come into fruition on the ranch in my lifetime. I've lived on the ranch since 1956.

Commissioner Evans: You brought one in with Dick Ainsworth, you came in with a Seattle firm and you came in maybe with a Bozeman one, I'm not sure.

Bonnie Snavelly: No, no, no, no. None of those – those were letters of intent, but not plans, never planning. Okay. I started Kona East on the east side that ended up, with which I worked with WGM on that project and that ended up – I did the first four lots and then ownership changed. So no, there has never been a comprehensive plan.

Commissioner Evans: Well when you are ready to bring it in, we will look at it in its entirety.

Bonnie Snavelly: It's quite discriminatory if my land is being treated differently from anyone else because in no way am I hearing that Master Plans need to be brought in for other property. I would respectfully ask you to please treat my land the way others are being treated, with respect to the infrastructure that is to the site. Thank you.

Chair Curtiss: Thanks Bonnie. Any other discussion about – we've jumped from the indicator to the land use density on the Kona Ranch.

Elaine McLaughlin: Elaine McLaughlin, just echoing what Bonnie said, we had understood that Mr. Deschamps' property didn't have a Master Plan attached to it when that became 2 dwelling units per acre and 4 dwelling units per acre and the 2 dwelling units per acre may be a more appropriate scenario in this condition, I don't know but when you think in terms of half acre lots in this location, or even quarter acre lots, it's not as dense as one would imagine, given the conversation and the direction we are headed. But you know, like Bonnie said, Phantom Hills and also El Mar Estates being right adjacent to it, and also a nearly 2 dwelling units per acre with the adjacent Yellow Stone Fly property, is pretty much contiguous in surroundings, so it does seem to make sense to go to at least 2 dwelling units per acre.

Chair Curtiss: When I took math, you had to have 1.5 to round to 2, but it was 1.3.

Elaine McLaughlin: It was 1.83.

Chair Curtiss: No 1.3.

Elaine McLaughlin: Oh 1.3.

Chair Curtiss: Yeah and that's Yellow Stone Fly --

Colleen Dowdall: Which is per one acre not – so what I wanted to illustrate and I'm sure Nick was going to also, is that in Missoula County, our zoning is gross density, so you can have half acre lots and quarter acre lots and still have a development that results in one dwelling unit per acre, and that is what has occurred in the Phantom Hills, it's what has occurred in most of the subdivisions out there. Most of them have a gross density that is not reflective of lot size. We do not have zoning hardly anywhere that has a minimum lot size. So you have lots of options still, to develop consistent with what's out there.

Chair Curtiss: Mr. Kaufman did you want to make a comment?

Nick Kaufman: For the record, Nick Kaufman. The question was asked earlier, I think by Mrs. Valeo, for a comparison between the Kona Ranch and Charlie Deschamps' property. On the north side of the Milwaukee railroad, in the environs between West Broadway and Mullan Road, there has been extensive infrastructure plan. One of the things that Kona Ranch benefits from, and that area benefits from, is the extension of public sewer. The second thing that Mr. Deschamps' land benefits from, that is not apparent on the Kona Ranch but may be coming with their planning, that would be nice to see, is the grid system road plan which is adopted by the City

and County. You may or may not be aware that Mountain Water Company, several years ago also, traded a land use plan for the extension of water services in that area. So for infrastructure you have a street system, you have sewer and you have water. Thank you.

Chair Curtiss: Thank you. You know I think we need to – we are going to be here all day on this one subject. Bonnie.

Bonnie Snavely: We can't, I would ask, that since we have spent so much time word snipping seven little words or whatever yesterday about the airport, please give me a little bit of time. But, we are going to be leaving shortly because Elaine's leaving. But the group that I am working with, we already know the costs and have met with Mountain Water about bringing public water to the site, so this is the ultimate in responsible development and I am very deeply saddened if my property is not accorded the same treatment as everything else in this plan, given the infrastructure that is on-site and the current zoning. Thank you.

Chair Curtiss: Thank you. Ms. Fisher.

Jeri Fisher: Jeri Fisher, Commissioners. I would just like to comment please. The Wye-Mullan Plan and the 1998 Growth Policy both envisioned a change taking place in this geographical area from four dwelling units per acre to a rural character with large amounts of open space. Recent developments approved by the City Council and you as the Board of Commissioners, Phantom Hills and Stillwaters, both conform to these policies. To change the rules in the middle of the game and quadruple, or increase in any manner, the density of the Kona Ranch, in the face of a decade of community planning, is inappropriate for this rural area and the citizens who reside here and have built a rural life style based upon expectations for future plans, meaning land use plans. Further, it's contrary to the policies to which other landowners have been required to adhere to in their planning and development. I request that you deny any increased density on the Kona Ranch. Thank you.

Chair Curtiss: Thank you Mrs. Fisher.

Commissioner Evans: Didn't I have a motion –

Chair Curtiss: Yes, and I don't think it got seconded yet. So the motion was to leave the density as shown in that area of the Kona Ranch and Valeo Ranch, one acre cluster.

Chair Curtiss: Is there a second?

Commissioner Carey: I will second that because I don't believe that it precludes something different when the time comes for a proposal to actually be in front of us.

Chair Curtiss: Any further discussion? All in favor?

Commissioner Evans: Aye.

Commissioner Carey: Aye.

Chair Curtiss: Aye.

The motion carried on a vote of 3-0.

Chair Curtiss: And again that doesn't mean that you don't or can't have smaller lot sizes, it's just the overall density, and cluster is defined in the plan. Okay, can we quick bounce back to that neighborhood center on the airport/Deschamps property, right there. So yesterday, we talked about adding a neighborhood center there. We know that property is in airport ownership at this time. If they sell in the future, it seemed like it might be needed to serve a neighborhood.

Commissioner Carey moved that the Board of County Commissioners place a neighborhood center indicator in the area of the airport/Deschamps property. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Sorry I didn't give anybody a chance to discuss it. We can check two things off our list. The next issue is to redefine the land uses west of the airport. This is one we've discussed at a couple of work sessions.

This is on the east end of the airport, if you could show us that Dave. It changes that cluster designation and low intensity commercial –

Laval Means: West end.

Chair Curtiss: West end! It says east on this paper.

Laval Means: Does it? I'm sorry.

Chair Curtiss: Right. I'm terrible with directions and then when you write the wrong thing, I'm really goofed up. So this is the center spot that has yellow stripes on it and we were just changing it to all match and then there was a little – so that piece and then that triangle, would all be changed to be the red stripe, right?

Laval Means: Commercial industrial is grey and red. Dave why don't you go ahead and record – show that so we can have a mapping of it. Well that and the other piece they would all be the same land use. Yes.

Chair Curtiss: Thank you. Okay is there any discussion on changing this land use to match the rest of the land use around it?

Commissioner Evans: So tell me what we are changing it too? The little triangle, we are making that the same as the red stripe, is that correct?

Chair Curtiss: And the yellow stripe ends up being a red stripe too.

Laval Means: It was actually the commercial industrial, so both the little triangle and the bigger piece has commercial industrial.

Chair Curtiss: And it just doesn't say low intensity, we take that word out, right?

Laval Means: Right.

Chair Curtiss: Okay. Is there a motion?

Commissioner Evans: Have we heard any discussion on this?

Chair Curtiss: We did only from staff it's just to match what is really – the one is in the 65 DNL so it needed to be in there.

Laval Means: The low intensity commercial industrial was established to reflect a certain sub-area within the California model. And it has, when you read through the land use type for it, has a lot of reference to the people per acre intensity and things like that. So we are taking that people per acre intensity reference out and then it ends up trying to treat it in the same vein as the east end with the same land use designation, the commercial industrial.

Commissioner Evans: And the land itself lends itself to that?

Laval Means: You know, closest to Rollercoaster Road and off the end of the runway, well you wouldn't want to put any residential in that vicinity anyways and it's adjacent to Highway 10 West, so both in those veins, that end of the Rollercoaster Road lends itself to it. You know, we use plain light industrial as a layer beyond the highway corridor, if you will, for commercial and industrial. When we did an actual windshield survey of that area, we found that it was really hard to establish a distinction between, well is there some retail going on with that type of use that makes it more commercial, or is it light industrial, so that's kind of where we even thought of using the commercial industrial. It kind of captures both things along the roadway system for us and then it eliminates a little more of that retail as you go further west into just the light industrial with the plain red. So that kind of gives you a whole story there but, it also helps fill in for you what would work instead of that low intensity piece.

Commissioner Evans: I don't have a problem with that. I just didn't understand – I don't see making it totally consistent on one end if the land is not consistent on the other.

Chair Curtiss: I think the one thing though they are trying to accomplish too is to get – the California model that we didn't really care for, that talked about how many people per acre, it's pretty hard to judge – gets rid of that.

Commissioner Carey moved that the Board of County Commissioners redefine the land uses west of the airport. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Charlie is waiving, Lynn is waiving. Is there something you want us to jump to, Lynn?

Lynn Fagan: No I actually just wanted to clarify, Lynn Fagan, Airport Council, for the record. The EADA in that area, is it still going to have some language about limiting large groups of people? I'm just kind of confused as where we went.

Laval Means: Yes.

Chair Curtiss: It does still limit the large groups.

Lynn Fagan: That's all I wanted to know. Thank you.

Chair Curtiss: Now it matches the other end, which does the same.

Laval Means: Yeah, and we have commercial industrial on the east end, so we have that reference that we will be working on anyway.

Lynn Fagan: Okay.

Chair Curtiss: Are there any issues on the list that anybody would like us to move to, to get to quicker? Should we just keep chugging? Okay. Next one is to clarify the policy on the EADA for the main and proposed runway, as well as the boundary for EADA. This is an order to align with the land use discussions. Laval would you like to tell us where we want to be on this, the other end.

Laval Means: This actually is addressing the language revisions to the airport section. And that gives you –

Chair Curtiss: Okay, so this is the handout that we were given today?

Laval Means: You'll find that we have a new date for this document so, it's 7-6, reflective of today. Under the notes piece, we've added the revisions based on our 7-5 work session and they are showing up in bold and dark grey.

Chair Curtiss: Okay.

Laval Means: So I hope this is reflective of the work session yesterday.

Chair Curtiss: Okay, so we worked through all these issues yesterday, does anybody have anything that they would like to add so we can just – I think everybody that's here was here yesterday, I don't remember if Mike was here but –

Commissioner Evans: It reflects what I remember from yesterday.

Chair Curtiss: Any new public comment? Okay, if not we could have a motion to accept the revisions dated 7/6/05.

Commissioner Evans moved that the Board of County Commissioners accept the revisions for the EADA policy dated 7/6/05. Commissioner Carey seconded the motion.

Laval Means: One of the things I'm going to ask you to look at and it actually will come with review of this overview piece. It has to do with the mixed use within the EADA and making sure that we are clear about where residential should and should not occur within the EADA of the main runway. So, I think fundamentally this is working, but I just want to let you know as we look at this relationship between land use types in this language now, we may have to go in and add another word or something like that. I just wanted you to know that as we talk about it in more detail.

Chair Curtiss: Okay.

Commissioner Evans: So how do we do a motion that allows for changes later?

Laval Means: It would be just another motion, wouldn't it?

Colleen Dowdall: Yeah, you would just have to make the motion.

Laval Means: I'm sorry, but we did that with the neighborhood center, where we revised and had to add another piece to it.

Commissioner Evans: That's fine.

Chair Curtiss: Okay and so you are talking about where it can be, but also, I know that the City Council has also limited how much density could be within the – in a couple of areas. So it's been moved and seconded on this paper. All in favor?

The motion carried with a vote of 3-0.

Chair Curtiss: Okay. Yea! We are actually clicking some off. Clarify the placement of the indicator for limiting the intensity of uses within the EADA on commercial industrial and community commercial uses off the main runway. This is a language thing that we are working on, right?

Laval Means: Well it has to do with, in the earlier land use plan we had an indicator, we had a symbol, on our land use map that said, in that vicinity, there is restrictions based on the EADA, go look at that thing. And the plan before that, the version of land use before that, we had an outline that showed the EADA. It seems as though the direction we are heading is to not do that, but rely on the land use types themselves to make sure that when someone is reading through it, it'll say something about assembly uses not recommended, you know, that kind of thing, within particular land use types. So, that was kind of the direction we were heading was not showing any indicator and not showing any boundary line of an EADA, because the thought is that the airport environs map is a supporting map and it's information that comes from the airport, and then, here is how we deal with it in this land use type. So it also kind of leads into this overview piece that gives you the details, the particular details about –

Chair Curtiss: Is that something you gave us today?

Laval Means: I gave it to you yesterday and we haven't had a chance to talk about any of this so I don't know how much –

Chair Curtiss: Oh this is the one, the overview.

Commissioner Carey: Okay.

Chair Curtiss: Okay this is a sheet that was handed out yesterday that says "Overview of Airport Related Issues." We didn't get time to get to it yesterday. So it's talking about land use types, but does it then also refer to this land use type in the EADA might not be as appropriate. Yeah, assembly, runway protection zones. Let's just make it a work session and a decision time, here.

Laval Means: There is still one part that we have gone through and you have discussed already and that is the land use north of the Old Milwaukee, if you want to kind of wrap up things you have discussed and then we can move into the work session.

Chair Curtiss: Okay.

Laval Means: Does that make sense then?

Commissioner Carey: Sure.

Chair Curtiss: Sure.

Laval Means: And I mean that map that we have already shown a potential indicator for a neighborhood center, but now show the rest of the land uses.

Chair Curtiss: So move down to the other land uses beyond the 4300?

Laval Means: Yes, those two pieces, and then maybe we will come back to this airport piece, because you have at least looked at and talked about that.

Chair Curtiss: Right, that's a good idea. Okay so the other land use options – we've looked at this a couple times; we've looked at it today – is the four per one, some of that land is now owned by the airport and some of it is owned by private parties, so the four per one, the cluster, over here the one per five, and then open and resource, public/quasi-public.

Commissioner Evans: We have adopted this.

Laval Means: No.

Chair Curtiss: Not yet.

Commissioner Evans moved that the Board of County Commissioners adopt the other land uses beyond the 4300. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans: What else would you like to get over?

Chair Curtiss: Right, keep going. So that includes both of those things actually, the rural residential number two we did that one. I think that we could probably also hit that transportation map, isn't that pretty much telling staff to show the dedicated right-of-ways on the transportation map.

Laval Means: We want to do that. We didn't do that before, we want to do that. We also would like to add the volumes that are projected from the 2004 Urban Transportation Plan on some of those roadways and name some more of the roadways to help give people their bearings. There was a couple places where we know that the way we've been showing the transportation map and the way that it is being even dedicated, we would like to line those up so that they are matching. And that was kind of part of the dialogue that I wanted to have with you about that, should we make this revision in a particular area or that one in a particular area? Do you want me to show you that transportation map?

Chair Curtiss: I think that could be a quick thing, don't you?

Laval Means: Can we find it?

Chair Curtiss: So, this is the one that Barbara has referred to more than once, saying please take that little section off that goes –

Laval Means: Yeah, we don't show that.

Chair Curtiss: We don't have that, good.

Commissioner Evans: They made that very clear at the transportation meeting we had last week, that that was not intended in any way as a bypass, but it could be intended as a little road – a little road.

Chair Curtiss: An alley.

Commissioner Evans: Yes an alley. And I have no problem with showing a road that is not intended as a bypass. So they told me I was wrong, it broke my heart, but that's okay.

Laval Means: The one that shows the WGM layer along with this one. This is the transportation map the way we have it now. Okay?

Chair Curtiss: Okay.

Laval Means: And it's a component, that transportation map shows the trails – the one that had the WGM layer on it as well and show the dedicated routes.

Chair Curtiss: The little purple guys.

Mike Flynn: Jean.

Chair Curtiss: Yes.

Mike Flynn: Roundup Drive –

Chair Curtiss: You've got to stand by the microphone there Mr. Flynn.

Mike Flynn: Mike Flynn. Is that on?

Chair Curtiss: Yes.

Mike Flynn: That still shows Roundup Drive in its present location and Roundup Drive has moved – no wait, right there, right there. And Roundup Drive has been moved to the east and lines up with –

Chair Curtiss: But it hasn't technically happened, right?

Nick Kaufman: You are mostly correct. Roundup Drive is Roundup Drive and it's shown correctly. The indicator for the collector street has moved to the east about 230 feet.

Chair Curtiss: So we can add that.

Nick Kaufman: Yeah, I would move the collector designation over.

Chair Curtiss: But Roundup is still where it's at?

Mike Flynn: Then the other thing that I wanted to say was, yesterday I had, Lynn told me this afternoon that she had talked with Joe, I guess, and that nobody has approached the airport, to the best of their knowledge, on giving the easements for the rest of the road grid, and I think that should be done sooner than later. Thank you.

Commissioner Evans: And that would likely be Greg Robertson.

Laval Means: Okay, so on the road systems, the places besides – there is a broader line here that shows where we have things dedicated to a certain date and we will say that's to that date. Then the light black lines are showing the way that we've been showing it on our transportation map in the Wye-Mullan. And the purple dashed lines come from a WGM layer and that is the one shows this coming out further and down and all that. And it sounds as though that kind of got generated by a contract with the airport, working with them on their access and transportation planning for their system. The places that I wanted to just – besides showing the dedications and writing some volume number on some of these roads that are projected and putting names, we also wanted to do a little clean up on the routes in a few areas. I mean we know that the transportation plan, reflective of the street grid resolution, is proximate also and there is some plus or minus. Like in this vicinity, if WGM shows it a little further north and we are showing it here, I think that's close enough. In this particular one, I would like to revise that, because you can see that the dedication goes right to the edge of the property of the airport ownership and just get those lined up, reflective of this WGM layer. That's one of the pieces that I would like to revise. This, right in this vicinity, I say we are close enough, let's wait and see what's going on in here, because the location the way it is shown on WGM's piece brings it a lot closer – this system – a lot closer to a potential, whatever improvements happen to the Grant Creek system and right now this plan shows a potential route that is a little further away having the ability to develop this in more of a vein of a community park or whatever. We don't know enough about that particular area and so I'm just sensing it's close enough. The place that I wanted to bring up, as you mentioned, was being reflective of what we currently know and that is, that this system right up here, adjacent or parallel to Roundup and coming in with a new collector. Dave why don't you go ahead and draw a couple places that I am talking about right now as a revision. Like this one over at that place, showing that one. And then bring in Roundup, because I want to hear from Nick whether I'm showing that properly the way that it meets whatever happens. No please I want you showing it following the old magenta broken line here.

Laval Means: Yeah, so to start at about that same intersecting point, right Nick?

Nick Kaufman: Yes, start at the same intersection point to go up parallel about 230 feet (inaudible) and there is barely a space there.

Laval Means: So up this way – up and then where do we bring it back to this system?

Nick Kaufman: Straight up to the (inaudible) street.

Laval Means: Potentially going straight –

Nick Kaufman: There might be a reverse curve but –

Laval Means: Yeah.

Nick Kaufman: There you go. There may be a reverse curve there –

Chair Curtiss: That looks like a pretty bumpy road, Nick.

Laval Means: That would create, I think, a scribble? To be clear, would that create a scribble on the place that we are showing it as dedicated? What I thought I heard from the landowners up above north of you Mike, was that this should actually jog back in this vicinity.

Nick Kaufman: That's what I'm saying – I can provide you with a better map. What Tom McArthur in our office has drawn, Laval, and if Mike can show you where the north line of Forty Four Ranches is, then Dave Grey can draw in the reverse curve. But what we are going to do is we're going to trade around the dedications, vacate portions and it will go north, Dave, to the north line of Forty Four Ranch, and then it will do a reverse curve back to the alignment where your pencil is now, so if you just want to pencil in a reverse curve in that location, I can send you the alignment. Yeah and go back to the left, a reverse curve.

Chair Curtiss: So basically, from the Commission you just need – is there any others that you need to point out, I mean I think that we can just give you the okay to make corrections as needed and move –

Commissioner Evans: This is conceptual?

Chair Curtiss: Right.

Laval Means: Right.

Commissioner Evans: Do we need to do a motion on that?

Laval Means: No, I don't know, just showing the changes that I've shown here, this particular one and this one here and find out that you are okay with us staying with the way we had it before. Now this piece here though, I mean, this doesn't come out through the community process and that's partly why I was staying with the way we have it with the street grid resolution which is somewhere in this vicinity and –

Chair Curtiss: And so can you mark the purple as a conceptual plan from the airport, so that people know it might be out there but they don't have those right-of-ways or anything either, right? It's just an idea. Nick, do you have those right-of-ways or that's just the plan? He needs the microphone.

Nick Kaufman: Would you repeat the question Commissioner?

Chair Curtiss: The purple lines coming off from the airport and all of that, are those –

Nick Kaufman: Those have not been dedicated. The only dedicated is what you have in the dark, wider grey.

Chair Curtiss: But there is some planning that you've done for the airport?

Nick Kaufman: Correct. That was part of a contract to do what's called the Land Side Transportation Planning for the airport. That component of the airport that is not directly related to the functioning of the airport, but the lands and their environs and ownership.

Commissioner Evans: So, shall we call it a conceptual idea for –

Nick Kaufman: You can call it, you could correctly call it the conceptual road alignments contained in the Land Side Plan of the Missoula International Airport.

Laval Means: Or do we even need to show that off to the east end and stay strictly with a street grid resolution – I mean off the west end.

Commissioner Evans: I think we should show it.

Chair Curtiss: I do too.

Commissioner Carey: Yeah.

Laval Means: So some component with like a break line that says, this piece here comes from the Land Side Study and cite it accordingly.

Commissioner Evans: Right. Conceptual only.

Chair Curtiss: Mr. Kaufman.

Nick Kaufman: Just a point of clarification for understanding. There is a purple line, it extends from a road which is almost parallel to the Milwaukee railroad grade, to more of a northerly, northeasterly, southwesterly road. If you take your pencil and move it to the left, up and to the left – Dave, keep going, up and to the left, up and to the left – go to your closest intersection, come down, come down to the left, now follow that line left, left, left, stop. Where Laval's laser pointer is, down to Mullan Road, is that connection intended to stay in the plan. There was lots of discussion about that at previous meetings. Is that connection, just from Dave's pencil down to Mullan Road, all the way down to Mullan Road, that's Milwaukee Railroad grade.

Laval Means: There hasn't been dialogue about that type of a route in our community planning process meetings out at Hellgate. There was talk about it with MDT at a meeting last week.

Nick Kaufman: Again, I have no feelings about it one way or the other. I thought it was removed with Commissioner Evans concern about a bridge crossing, but I could be wrong about that.

Commissioner Evans: It was from Mullan to the bridge that I was most concerned about.

Nick Kaufman: Thank you, we are fine then. Thank you.

Chair Curtiss: Because that is part of the plan that you did with the airport. Yeah, okay. It seems like the more things people have to know that are out there, the better. Okay and I think that – any other transportation things that you needed.

Laval Means: One of the other little pieces here, is how ever this gets shown, I think right now we are showing this George Elmer going straight up to Highway 10, but still with this route coming from here, just recognizing and we even write about it, the exploration of the idea of getting it all the way to Airway Boulevard, but we don't have a particular design for it. So WGM's layer shows it in slightly a different configuration than ours. And are you fine with the way we show it?

Commissioner Evans: I would just like it to conceptually show there might be a couple of ways to accomplish it. But the thought of us ever getting everything on the airport moved in order to get directly across from Airway Boulevard, I think that's a long way down the road if we ever accomplish it. Because I believe it requires moving Denny Washington's hanger and I can't imagine he's going to really want to do that.

Chair Curtiss: Oh really, I didn't know that was in there. Okay.

Commissioner Evans: That was what I've been told all these years. Now that could be different, where they've put the line, but that's what I'm told.

Chair Curtiss: Okay and the MDOT letter, I think we addressed all of that through these things, right? Okay. So I think you got the nod from the Commission to correct the maps as needed, add those volumes from the transportation plan, putting more names on roads. Okay, so let's jump back to this list. We might actually get through this. (inaudible) overview of Airport related. This is one that we haven't had a work session on yet, we have had it on our list, but we haven't got to, so this will be kind of a work session and hopefully decision. Laval.

Laval Means: Right. What this does is maybe help to put all the pieces that we've been looking at in a little bit of context. First off, you've looked at the land uses on the other side of the airport to the south of the airport and made some land use revisions. Second off, we've been looking at our language related to the airport section and getting some policy and some concept directions on how we want to treat the idea of an EADA on a main runway. We've had some dialogue about the airport environs map even. So thirdly, while Colleen and I were going through the revision for the airport section and sort of flipping back and forth between the land use types in the airport section, and actually during work sessions previously, there has been some talk about assembly uses and how we doing on that language for those things. So what I wanted to do is establish for you almost like a list of all the different other places that we'd need to clean up and make some revisions to for primarily, in this case pertaining to the land use types, and still do a little bit of checking back and forth to that airport language section that you've just approved. Okay?

Chair Curtiss: Yes.

Laval Means: So, the first one has to do with really the introductory portion of the land use types. We have a paragraph at the very end of that introduction on Page 7-2, that had a lot of reference to sub-areas and stuff like that. Now these are proposed revisions that we're putting out here as an alternative approach for you to consider. And part of it is with regards to the reference to the very first sentence – and the proposed second runway addresses public health and safety concerns based – you know what we had before, concerns posed by intense commercial use and high residential density. I think we need to strike that because we may have, based on the language revisions, Urban Residential within that area, but still say that we've looked at the balancing of all issues given the public health and safety concerns plus consideration of other plan goals and objectives. The next revision is that I had the map number wrong, so I'm really glad we got to look at this again. And then finally just stopping, if this next sentence has to do with airport environs, for the delineation of the extended approach and departure areas, delete all the rest of it that shows – that talks about it showing the sub-areas and all that other kind of stuff and just go straight to – the map shows us the extended approach and departure areas, runway protection zones and the noise contours that are considered with the airport layout plan. Just again linking it again to the airport layout plan.

Chair Curtiss: And again the airport environs map does show a possible future runway and that's the only place we show it, right, is on the map?

Laval Means: That would be. And that is a really great explicit way of saying it.

Chair Curtiss: Okay.

Laval Means: I actually have copies of the airport environs map, so it's a little easier for you to see this than flipping back to the page. Because at some point we need to make sure we are clear on what we are showing and aren't showing on that map.

Chair Curtiss: So this map, to me, I don't know how you do it when you are drawing all the black and white, but it's hard for me to decipher. I mean, I know which ones they are, but it's hard to show that the other one is a future map.

Laval Means: Oh, this map would need some revision, because we are talking about a different boundary now. We would still want to show the RPZ, the noise contour and EADA, and I believe the direction is to show it on both a future runway and a main runway. But we would have to simplify the list, I don't need all this table in here anymore and delete the reference to the California Airport Land Use Handbook on it, and state that really it comes from, you know, the references, the airport plan. We jumped ahead a little bit, Barbara, and in some respects, we are looking now at the airport environs map that needs to be cleaned up and revised.

Commissioner Evans: Well then why don't you just do it.

Laval Means: Okay.

Chair Curtiss: So basically the three that will show, it will be that Runway Protection Zone, the 65 DNL and the EADA. We won't have all of these other little inner and outer turning and all of that, right?

Laval Means: Yeah, and we can continue to show airport ownership, the future boundary and the airport influence area, those pieces are still important.

Chair Curtiss: And will there be some – is this map in color in the book?

Laval Means: It's not.

Chair Curtiss: So we need to be able to show that future and existing so that you know that there is a future and an existing. Mike, could you come to the microphone?

Laval Means: That's a good idea.

Commissioner Evans: Do we have a color copier or color printer at your office somewhere? It's distressing to me that we don't have a color machine anywhere in this County that I am aware of, except my own.

Laval Means: There is one, now, in the Grants Department.

Commissioner Evans: Well if it does require color, it would be nice if you had a place to do it.

Mike Flynn: Does this environs map show the second parallel runway at 2800, or is this at 4300?

Laval Means: 2800.

Mike Flynn: This is at 2800.

Chair Curtiss: Okay, so we need to show that it's, somehow make sure that people realize it's at 2800 and that it's the future runway, that it doesn't exist. To look at this today, I would think that there were two out there.

Commissioner Evans: Yes.

Chair Curtiss: Lynn.

Lynn Fagan: I just wanted to let Laval know that on the – she's got 65 decibel contour and it really is – you can either put the DNL or, it stands for Day Night Level.

Chair Curtiss: Day Night Level?

Lynn Fagan: Right.

Chair Curtiss: And I've seen it both ways. Is DNL usually put in small case, or large?

Lynn Fagan: I think I've always seen it in large.

Chair Curtiss: That's what I thought, okay. So if we could make that correction. Okay, any other comments on the environs map and the language on the paper that we were handed today under introduction? Is there – everything else has been scratched, so those are the only changes, right? So we can – any comments on the airport overview? Lynn.

Lynn Fagan: I just wondered, in the very first sentence where it says, land use designations associated with proposed extended approach and departure areas, I'm just wondering if you need the "proposed," since you've actually adopted the EADA for the main runway. I guess that's my only comment.

Chair Curtiss: Okay thanks. Right, it seems like, because we've got "proposed" in the first part of the sentence and the second, so it probably doesn't need to be in the first one, the first one we should strike because – where are our word smiths? Colleen?

Colleen Dowdall: Take out the first proposed.

Chair Curtiss: Because you are talking about extended –

Laval Means: Yeah.

Chair Curtiss: Yeah. Thanks for pointing that out Lynn. And yesterday we added proposed second parallel runway. Do we want parallel in here? Since that's the only one we are considering in this map. It's fine without it or add it?

Colleen Dowdall: I think that we can add it. I think that that was what we talked about doing yesterday.

Chair Curtiss: Right, we did add it in the other piece somewhere.

Laval Means: Yes.

Chair Curtiss: So "proposed second parallel runway." So, I think unless there is any other comment, I think we are ready for a motion to accept, correct the map and –

Commissioner Evans moved that the Board of County Commissioners accept and correct the airport environs map. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Laval Means: So does that get you the revisions – all these revisions – or just the first one, the introduction part?

Chair Curtiss: I think all of them.

Commissioner Carey: I thought we were doing the whole thing.

Chair Curtiss: All of them or the rest of them.

Laval Means: Then I want to talk to you about – let's talk about residential for a minute. One of the things I've realized, there are three land use types right now, currently, that fall within the extended approach and departure area of the main runway and Dave if you could go to the east side again, it's just the most exemplary area for us. And within our land use types book here, chapter, for each of those three areas, so within the EADA of this new boundary, we have this commercial industrial land use type, we have community commercial here and we have some light industrial, maybe that's over on the flange here and possibly on the other side, so those are the three right now that are within the EADA. One of the places we don't reference concerns over assembly uses is within the mixed use portion. So I want to talk about that for a minute, because there is a little bit of mixed use that's still here and up on the Dougherty land and this vicinity right in here, just a little triangle on both ends here, that are within the mixed use components. So I want to talk with you about that and I wanted to talk with you about those first three areas. So commercial industrial, community commercial and light industrial. Within our land use types there is a portion, there is a piece here that says, that we're striking, that said, limit the intensity to those number of people per acre. That is gone on each of those three, but there is also within there, the uses not recommended. There wouldn't need to be any revisions, because we already have it for those three. And those uses that are not recommended, but I noticed one thing that we didn't pick up when we were looking at this earlier and it says, the way it reads right now, is for example Page 7-16 for the community commercial, assembly uses including schools, churches, large office complexes, big box retail, large daycare centers, hospitals, nursing homes or large entertainment facilities in the extended approach and departure area. I think we should add "of the main runway" on that, so it's very clear that this isn't about the second one.

Commissioner Evans: I agree. Right.

Laval Means: And then the other thing that I want to focus on with this is residential, because what this piece says here, it says it within it, but it's not clear, especially with regards to the community commercial use. So I want to make sure that it is clear, that when you are on one side of Flynn Lane, when you are on the west side of Flynn Lane, we do not want to recommend residential within the extended approach and departure area. When you are on the other side of Flynn Lane, residential, because it's either zoned – we had the terms in it worked out, and it had to deal with existing development and recent zoning kind of stuff on this side. But once you are on this side, not wanting to encourage the residential. The problem is, is that the community commercial recommended uses includes residential for a single dwelling, two dwelling townhouse, so perhaps for just that community commercial one, we need to include residential as a not recommended use.

Commissioner Carey: And be specific about that.

Laval Means: Yes, for the community commercial. When you look at the commercial industrial, we don't reference residential again in that long list. When you look at the light industrial, we don't include residential. But in the community commercial, there is that possibility unless we are explicit. So I would suggest that under the

community commercial we include under uses not included, residential within the EADA. Maybe we need to say, well there is no problem with it being on the other side of Flynn Lane, because there is no designation on the other side of Flynn Lane. Okay.

Commissioner Carey: Right, so it's within the EADA?

Laval Means: Of the main runway.

Commissioner Carey: Of the main runway, sure.

Laval Means: And it doesn't need to be explicit for just west of Flynn Lane, because it isn't or doesn't occur east of Flynn Lane. Do you see what I'm saying?

Commissioner Carey: Yeah sure.

Commissioner Evans: That's fine. I so move.

Commissioner Evans moved that the Board of County Commissioners approve the changes in the language regarding residential uses within the EADA of the main runway west of Flynn Lane. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Laval Means: Then the other component of the mixed use piece, the other piece that I wanted to talk with you about is mixed use. And I kind of wish Allen McCormick and those folks were here for me to talk about to some degree. Like I pointed out, this little portion right here that is currently within the extended EADA. And essentially we have two approaches to go on it and the portion that is in the overview that I gave you and it is number 6, is that right? Mixed use – it has to do with the land use type it's on the backside there and it's item 6. Right now we don't have a list of not recommending certain uses within the EADA for mixed use, because we didn't have a mixed use in there before. So our option is, as this shows, add it to this list and include no residential to it or change the land use type to be community commercial and then we don't have to add mixed use to all this stuff for mixed use.

Chair Curtiss: So what's the difference between mixed use and community commercial?

Laval Means: Just the residential component.

Chair Curtiss: Okay.

Commissioner Carey: So if we call it community commercial, then we've covered it.

Chair Curtiss: Then we have covered it.

Laval Means: Well you've covered it through the cautions that you are placing on the community commercial part. I'm only saying that about this little triangle here and that way and for this triangle, this way. The rest of that would just stay mixed use. I don't know if we want to go back to that. The alternative approach is to just use this uses not recommended and add residential to it.

Commissioner Evans: That would be fine, I so move.

Chair Curtiss: Under mixed use?

Commissioner Evans: Under mixed use on those two little triangles.

Chair Curtiss: Okay, on the EADA.

Laval Means: And not change the land use in those triangles to community commercial.

Chair Curtiss: Okay.

Commissioner Evans: We may have told folks mixed use and I don't want to go back on what we said.

Commissioner Carey: However, what is the difference in the number of people that could congregate in the two different – does mixed use allow for more people to be in one place at one time?

Laval Means: Only with there being the residential part of it.

Commissioner Carey: So if you took out the residential –

Laval Means: Are you trying to answer this too?

Colleen Dowdall: Well I think that it doesn't matter if we change the language, because the only difference is the residential.

Chair Curtiss: Are these the only places we have mixed use anyway?

Laval Means: Well and that's what I wanted to – no, because in this particular place now, off the main runway, we also have mixed use in this area, east of Flynn Lane, so then we need to also say, if we keep the land use designation as mixed use, we need to add that caution and we need to make sure that it includes no residential just within the EADA of the main runway caution also, for mixed use west of Flynn Lane.

Commissioner Carey: That's fine.

Chair Curtiss: So I guess, when we've had Allen and the folks that he has been representing here – mixed use is what they wanted. Would they be able to do the same things they are talking about in community commercial, would that be an easier way to do –

Colleen Dowdall: It is. Just for this little portion that would not be able to be developed with residential anyway because it's in the EADA. So I just think that we can do it either way.

Commissioner Evans: And I want to leave it at what I told them.

Chair Curtiss: And I think they all knew they couldn't put housing there, I mean, we've had that discussion, right. We are just clearing that up. So it would be in the EADA west of Flynn Lane.

Laval Means: In the main runway.

Commissioner Evans: In the main runway.

Chair Curtiss: In the main runway.

Laval Means: And no residential.

Commissioner Evans: I've got a dinner date and I'm leaving.

Colleen Dowdall: There is one other thing that I want to cover to make sure we have a good record on the differences between Charlie Deschamps property and Bonnie's. I think that some of the testimony reflected that, but her last statement was that she was being discriminated against and so there are lots of differences between those properties and I would just – I think Nick has compiled a nice little list and if we could put those on the record before we go, that would be cool.

Commissioner Evans: I would very much like to do that.

Colleen Dowdall: But you still need to vote on this one.

Chair Curtiss: Okay, so this – Mike did you want to talk to us about this before we vote?

Mike Flynn: Well I just have one question. On the existing runway, you took the California Model EADA away and you are using the airport's EADA, is that correct?

Chair Curtiss: Yes.

Mike Flynn: Okay.

Chair Curtiss: So now this would be to add the uses not recommended in mixed use in the EADA west of Flynn Lane and that same language, "off the main runway."

Commissioner Evans: Correct.

Chair Curtiss: So it's been so moved.

Commissioner Evans moved that the Board of County Commissioners amend language regarding uses not recommended in mixed use in the EADA off the main runway, west of Flynn Lane. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans: I would like Nick to read those –

Chair Curtiss: Did we get everything on this list?

Laval Means: Yeah there is that kind of coordination with the City Council and some of the revisions that they've made – they've made a little bit of revision to the language pertaining to crossing the Clark Fork River, transportation component. And it's something you can consider now, if you would like to, or consider it at a time when we are trying to balance differences in the plans.

Chair Curtiss: So I will have Nick read that. I thought I would just quickly, though, say that the media had called today and that was why Ann Mary came in and asked if we were going to make a decision on this today. Laval and I had talked a little bit before the meeting and because our agenda did not say Resolution of Intent to Adopt, I thought it was better, and I didn't know if we would get through it all anyway, decided that we should wait until next week to do that. So maybe we can just touch on those later. Nick if you would like to put yours on the record – we are probably going to be overloaded but –

Nick Kaufman: For the record, County Commissioners, my name is Nick Kaufman, I'm a land use planner here in Missoula employed with the engineering firm of WGM Group and I'm also a resident of the Wye-Mullan area and I've participated, for the last ten years, in discussions regarding the Wye-Mullan Plan. That's not just neighborhood meetings, but that's working sessions that this Commission has held, that have not been recorded or made a matter of record, but were public meetings where testimony was invited, including a recent public meeting that was taped with the Montana Department of Transportation last Thursday. In addition, I've attended numerous meetings regarding the Wye-Mullan Plan at the City Council PAZ meeting and City Council Public Hearings and I just want to establish for the record that has always been my assumption that reports made by the Office of Planning and Grants regarding discussions at PAZ, that the information contained in the working sessions, official letters and correspondences from citizens, as well as agencies, have all worked and played a part in the decisions that you've made today. Am I correct in that assumption?

Chair Curtiss: Yes.

Nick Kaufman: So, therefore, some of the things that have been talked about in those working sessions that I think are important to put on today's record are, Lynn Fagan, representing the Missoula County International Airport, and Joe Easton, the Acting Director, at a working session I attended, talked about the flexibility for property they are purchasing on the south side of the airport, to include not just residential uses, but other uses, as a function of where the second proposed runway may land, and that residential uses of two to four dwelling units per acre and/or commercial industrial or mixed use land uses might be a consideration of theirs in the future as a function of how they are planning and facilities at the airport progress. I also recall during discussions about land use designations on the northerly side of the Milwaukee Railroad grade, that portions of the property that we discussed today that are proposed for two and four dwelling units per acre, are now zoned light industrial?

Chair Curtiss: Correct.

Nick Kaufman: That a significant portion of the property we talked about in terms of density of two and four dwelling units per acre on the north side of Milwaukee grade is in the 201 sewer service area and we discussed that today but it's been discussed at length in other meetings. That during the meeting last Thursday from 10:00 to 12:00, including the City of Missoula and members of the County Commission, there was significant concern for traffic impacts on Mullan Road and that the property north of the Milwaukee Railroad grade includes numerous connections to West Broadway and that the property that we discussed about the Kona Ranch today and all the illustrations presented, does not show those potential connections and it's a more remote parcel from connections

to West Broadway. That during the Public Hearing for Stillwaters on the Clark Fork, that the attorney for Bonnie Snively testified to you that the easements shown on Certificates of Survey that would create connectivities and road systems, will be private roads and that they will never be dedicated as public roads. That the road called Amigo Drive would not be allowed to be a connection road and that, together with all the other recorded testimony – not recorded the other testimony at the working sessions – I think is an important basis for the decisions that were made today. Thank you very much.

Chair Curtiss: Thank you. Some of that was stated at the Public Meeting on the Stillwaters adoption.

Nick Kaufman: Correct.

Chair Curtiss: Okay, anybody else that wants to make a 2 second comment?

Laval Means: As you talk about the next meeting, next Hearing date, maybe it would be helpful to point out how a Resolution of Intent would be used.

Chair Curtiss: Right, that's what I was going to do. So I will recess this Public Hearing to be resumed next week, July 13th, and we will add to our agenda for that week a Resolution of Intent to Adopt.

Colleen Dowdall: Before you recess, what I was concerned about was whether – what I was hoping was, that if we had it advertised as a Resolution of Intent, that folks could come and comment on the plan. Once we've made all the changes we are going to make, whether there would be time to put something on the website that shows essentially how the plan would read, have a hearing on that, and then adopt it.

Chair Curtiss: Okay, so here was where Laval and I went today and you can correct me if you think that it should be different. We will continue the Hearing, there will be a few things to clean up with the City Council stuff, possibly. Then we would have a Resolution of Intent to Adopt which we would take public comment on. Then that gives the City Council something to respond to and then at some point, after they have worked through their stuff, we may have another joint meeting before we adopt.

Commissioner Carey: That makes sense.

Chair Curtiss: Does that make sense?

Commissioner Evans: Now keep in mind, I will be gone between the 20th and the 30th, if it was a matter of coming in –

Chair Curtiss: I don't think that they would get through with it until August, I would think.

Laval Means: And part of the thinking is the Resolution of Intent helps to put the package together and say this is the County's intent and then –

Chair Curtiss: And then that could be on the web.

Laval Means: And we would prepare the summary of changes for the public and City Council and when – to be efficient with the time for the citizens to comment, if at all possible at a joint Public Hearing, that gives them the opportunity to comment on the County's version and if there is a different one, the City's, all at the same time – helps for efficiency purposes and it sort of – intent stage for phase, I guess you might think of it that way.

Chair Curtiss: So Colleen, the legal question that we didn't know the answer to was, when we do an intent to create an RSID, for example, then a protest period begins and so you have a time clock. With this kind of Resolution of Intent, there is not a clock necessarily?

Colleen Dowdall: No.

Chair Curtiss: We would have a goal, but not a clock.

Colleen Dowdall: The language to do a Resolution of Intent for a plan, the only language that follows that for a possibility, is if you choose to put it on the ballot. So, it's like the language is borrowed from zoning, but it doesn't work because there is no protest period, so then usually we wait a week or so and do a Resolution to Adopt.

Chair Curtiss: And here I think we will be kind of waiting to see how the City Council works through it. We all have to adopt budgets –

Colleen Dowdall: That would work for me.

Chair Curtiss: And it seems like the middle of August is probably going to be our goal before Laval goes on vacation.

Laval Means: It gives us a chance to maybe advertise a final joint hearing and perhaps send postcards out to let people know and give them the time they need to look at what that will look like for County and City.

Chair Curtiss: Okay. So we have to continue the Public Hearing and then we will have that. But I just didn't think that, since it wasn't on our agenda today, I didn't think it would fair to the public, even if we did get through it all.

Commissioner Evans: And I would like to have a finished copy before we adopt it.

Chair Curtiss: Okay, any other business to come before the Commission?

There being no further business to come before the Board, the Commissioners were in recess at 5:05 p.m.